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## Legislation

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# EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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## I

(Legislative acts)

## REGULATIONS

**REGULATION (EU) No 375/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 3 April 2014  
establishing the European Voluntary Humanitarian Aid Corps ('EU Aid Volunteers initiative')**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 214(5) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure <sup>(1)</sup>,

Whereas:

- (1) Solidarity is a fundamental value of the Union and there is potential for further developing means of expressing solidarity of Union citizens with people in third countries vulnerable to or affected by man-made crises or natural disasters. Moreover, the Union as a whole is the world's largest humanitarian aid donor, providing almost 50 % of global humanitarian aid.
- (2) Volunteering is a concrete and visible expression of solidarity allowing individuals to dedicate their knowledge, skills and time to the service of fellow human beings, without pecuniary motivation.
- (3) There is a need to further develop solidarity with victims of crises and disasters in third countries as well as to raise both awareness levels and visibility of humanitarian aid and volunteering in general among the Union's citizens.
- (4) The Union's vision of humanitarian aid, including a common objective, principles and good practice and a common framework to deliver the Union's humanitarian aid, is set out in the Joint Statement by the Council and the Representatives of the Governments of the Member States meeting with the Council, the European Parliament and the European Commission entitled 'The European Consensus on Humanitarian Aid' <sup>(2)</sup>. The European Consensus on Humanitarian Aid underlines the Union's firm commitment to a needs-based approach as well as to upholding and promoting the fundamental humanitarian principles of humanity, neutrality, impartiality and independence. The actions of the European Voluntary Humanitarian Aid Corps ('the EU Aid Volunteers initiative') should be guided by the European Consensus on Humanitarian Aid.
- (5) The Union's humanitarian aid is delivered in situations where other instruments related to development co-operation, crisis management and civil protection may operate. The EU Aid Volunteers initiative should work in a coherent and complementary manner and avoid overlaps with relevant Union policies and instruments, in

<sup>(1)</sup> Position of the European Parliament of 25 February 2014 (not yet published in the Official Journal) and decision of the Council of 18 March 2014.

<sup>(2)</sup> OJ C 25, 30.1.2008, p. 1.

particular with the Union's humanitarian aid policy, development cooperation policy and the Union Civil Protection Mechanism established by Decision No 1313/2013/EU of the European Parliament and of the Council <sup>(1)</sup>, the Emergency Response Coordination Centre established by that Decision and with the European External Action Service (EEAS) and the EU Delegations in order to coordinate the Union's response to humanitarian crises in third countries.

- (6) The EU Aid Volunteers initiative should contribute to efforts to strengthen the Union's capacity to provide needs-based humanitarian assistance and to strengthen the capacity and resilience of vulnerable or disaster-affected communities in third countries. It is furthermore important to foster cooperation with relevant international organisations and other humanitarian partners and local and regional actors. That cooperation should be pursued in accordance with the actions undertaken by the United Nations, in order to support the central and overall coordinating role of the United Nations Office for the Coordination of Humanitarian Affairs (UN-OCHA).
- (7) The number, scope and complexity of humanitarian crises worldwide, both natural and man-made, have increased significantly over the years and that trend is likely to continue, leading to a rising demand on humanitarian actors to provide an immediate, effective, efficient and coherent response and to support third country local communities in order to make them less vulnerable and to strengthen their resilience to disasters.
- (8) Volunteers can contribute to strengthening the Union's capacity to provide needs-based and principled humanitarian aid and contribute to enhancing the effectiveness of the humanitarian sector when they are adequately selected, trained and prepared for deployment so as to ensure that they have the necessary skills and competences to help people in need in the most effective way, provided that they can count on sufficient on-site support and supervision.
- (9) Volunteering schemes exist in Europe and worldwide focusing on third country deployment. These are often national schemes which focus mainly or exclusively on development projects. The EU Aid Volunteers initiative should, therefore, add value by providing opportunities for volunteers to jointly contribute to humanitarian aid operations, thus reinforcing active European citizenship. The EU Aid Volunteers initiative can also add value by fostering transnational cooperation of organisations participating in the implementation of the actions under the EU Aid Volunteers initiative, thereby improving international relations, projecting a positive image of the Union in the world and fostering interest in pan-European humanitarian projects.
- (10) The EU Aid Volunteers initiative should be cost-effective, should complement existing national and international voluntary schemes without duplicating them, and should be focused on addressing concrete needs and gaps in the humanitarian field.
- (11) As highlighted in the Commission Communication of 23 November 2010 entitled 'How to express EU citizens' solidarity through volunteering: First reflections on a European Voluntary Humanitarian Aid Corps', there are gaps in the current landscape of humanitarian volunteering which the EU Aid Volunteers initiative can fill with the volunteers with the right profiles deployed at the right time to the right place. This could be achieved notably through providing European standards and procedures on identification and selection of humanitarian volunteers, commonly agreed benchmarks for training and preparation of humanitarian volunteers for deployment, a database of potential volunteers who are identified based on the needs in the field, and opportunities for volunteers to contribute to humanitarian operations not only by deployment but also through back-office support and online-volunteering activities.
- (12) Appropriate training, as well as the security and safety of the volunteers should remain of paramount importance and be subject to regular exchange of information, including with Member States. EU Aid Volunteers should not be deployed to operations conducted in the theatre of international and non-international armed conflicts.
- (13) The Union carries out its humanitarian aid operations based on needs and in partnership with implementing organisations. Those organisations should play a significant role in implementing the EU Aid Volunteers initiative in order to ensure ownership by the actors in the field and to maximise the potential uptake of the actions under that initiative. The Union should entrust such organisations notably with the identification, selection, preparation and deployment of EU Aid Volunteers, as well as with follow-up during and after assignments, in accordance with standards and procedures established by the Commission. The Commission should, where appropriate, be able to draw upon successfully trained and prepared volunteers for deployment to its field offices for support tasks.

<sup>(1)</sup> Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

- (14) The Commission Communication of 25 October 2011 entitled 'A renewed EU strategy 2011-14 for Corporate Social Responsibility' states that private companies can play an important role and contribute to the Union's humanitarian operations, in particular through employee volunteering.
- (15) The EU Aid Volunteers initiative should help Europeans of all ages to demonstrate active European citizenship. The initiative should thus contribute to promoting volunteering across the Union and to the personal development and intercultural awareness of participating volunteers, thereby improving their competences and employability in the global economy.
- (16) The Union's principles of equal opportunities and non-discrimination suggest that Union citizens and long-term residents in the Union of all walks of life and age should be able to engage as active citizens. Given the specific challenges of the humanitarian context, EU Aid Volunteers should have a minimum age of 18 years and could represent a wide diversity of profiles and generations, including experts and skilled retirees.
- (17) A clear legal status is a crucial precondition for volunteers to participate in deployment in countries outside the Union. The terms of deployment of the volunteers should be defined contractually, including standards for protection and safety of the volunteers, responsibilities of the sending and hosting organisations, insurance coverage, coverage of subsistence, accommodation and other relevant expenses. Volunteers' deployment in third countries should be subject to adequate safety and security arrangements.
- (18) The recommendations contained in the Policy Agenda for Volunteering in Europe and the work of European and international volunteering organisations and the United Nations Volunteers programme should, where relevant, be taken into account in the actions under the EU Aid Volunteers initiative.
- (19) The EU Aid Volunteers initiative should support needs-based actions aimed at strengthening the hosting organisations' capacity for humanitarian aid in third countries in order to enhance local preparedness and response to humanitarian crises and to ensure the effective and sustainable impact of the EU Aid Volunteers' work on the ground through disaster risk management, preparedness and response, coaching, training in volunteer management, and other relevant areas.
- (20) The EU Aid Volunteers initiative should, where relevant, aim to contribute to strengthening the gender perspective in Union humanitarian aid policy, promoting adequate humanitarian responses to the specific needs of women and men of all ages. Special attention should be paid to cooperation with women's groups and networks in order to promote the participation and leadership of women in humanitarian aid and to draw on their capacities and expertise to contribute to recovery, peace-building, disaster risk reduction and building resilience of affected communities.
- (21) This Regulation lays down, for the entire duration of the financial period, a financial envelope which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management <sup>(1)</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (22) The allocation of financial assistance should be implemented in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(2)</sup>. Due to the specific nature of the actions under the EU Aid Volunteers initiative, it is appropriate to provide that financial assistance may be awarded to natural persons and legal persons governed by public or private law. It is also important to ensure that the rules of that Regulation are respected, in particular regarding the principles of economy, efficiency and effectiveness laid down therein.

<sup>(1)</sup> OJ C 373, 20.12.2013, p. 1.

<sup>(2)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (23) Improving implementation and quality of spending should constitute guiding principles for achievement of the objectives of the EU Aid Volunteers initiative, while ensuring optimal use of financial resources.
- (24) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, penalties. Appropriate measures should be taken to prevent irregularities and fraud and the necessary steps taken to recover funds lost, wrongly paid or incorrectly used in accordance with Council Regulation (EC, Euratom) No 2988/95 <sup>(1)</sup>, Council Regulation (Euratom, EC) No 2185/96 <sup>(2)</sup> and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(3)</sup>.
- (25) Participation of third countries, in particular acceding countries, candidate countries, potential candidates, partner countries of the European Neighbourhood Policy and European Free Trade Association countries, should be possible on the basis of cooperation agreements.
- (26) Participating volunteers and organisations implementing the actions under the EU Aid Volunteers initiative, from cooperating countries, should also adhere to and advocate respect for the principles set out in the European Consensus on Humanitarian Aid, with emphasis on the protection of the 'humanitarian space'.
- (27) In order to allow for continuous feedback and improvement and to increase the flexibility and efficiency of their adoption, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of provisions relating to the standards for selection, management and deployment of EU Aid Volunteers, the amendment of the performance indicators and the thematic priorities and the adjustment of the percentages for allocation of the financial envelope for implementation of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (28) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(4)</sup>. The examination procedure should be used for the adoption of the procedures for selection, management and deployment of EU Aid Volunteers, the certification mechanism, the training programme and the annual work programme of the EU Aid Volunteers initiative.
- (29) This Regulation respects the fundamental rights and observes the principles which are recognised by the Charter of Fundamental Rights of the European Union.
- (30) The processing of personal data which is carried out within the framework of this Regulation does not go beyond what is necessary and proportionate for the purposes of ensuring the smooth running of the EU Aid Volunteers initiative. Any processing of personal data by the Commission will be governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council <sup>(5)</sup>. Any processing of personal data by organisations implementing the actions under the EU Aid Volunteers initiative, legally established in the Union, will be governed by Directive 95/46/EC of the European Parliament and of the Council <sup>(6)</sup>.

<sup>(1)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>(2)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>(3)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(4)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(5)</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

<sup>(6)</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

- (31) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on 23 November 2012 <sup>(1)</sup>.
- (32) It is appropriate to align the period of application of this Regulation with the Council Regulation (EU, Euratom) No 1311/2013 <sup>(2)</sup>. Therefore, this Regulation should apply as from 1 January 2014,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### INTRODUCTORY PROVISIONS

#### *Article 1*

#### **Subject matter**

This Regulation establishes a European Voluntary Humanitarian Aid Corps ('the EU Aid Volunteers initiative') as a framework for joint contributions from European volunteers to support and complement humanitarian aid in third countries.

This Regulation lays down the rules and procedures for the operation of the EU Aid Volunteers initiative and rules for the provision of financial assistance.

#### *Article 2*

#### **Scope**

This Regulation applies to:

- (1) selection, training and deployment of EU Aid Volunteers to support and complement humanitarian aid in third countries;
- (2) actions that support, promote and prepare the deployment of EU Aid Volunteers to support and complement humanitarian aid in third countries;
- (3) actions inside and outside the Union aimed at building the hosting organisations' capacity for humanitarian aid in third countries.

#### *Article 3*

#### **Definitions**

For the purposes of this Regulation, the following definitions apply:

- (a) 'volunteer' means a person who chooses freely and without pecuniary motivation to engage in activities that benefit a community and society at large;
- (b) 'candidate volunteer' means a person eligible in accordance with Article 11(3) to apply for participation in the actions under the EU Aid Volunteers initiative;
- (c) 'EU Aid Volunteer' means a candidate volunteer who has been selected, trained in accordance with the specific standards, procedures and reference criteria, assessed as eligible and registered as available for deployment to support and complement humanitarian aid in third countries;

<sup>(1)</sup> OJ C 100, 6.4.2013, p. 14.

<sup>(2)</sup> Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014–2020 (OJ L 347, 20.12.2013, p. 884).

- (d) 'humanitarian aid' means activities and operations in third countries intended to provide needs-based emergency assistance aimed at preserving life, preventing and alleviating human suffering, and maintaining human dignity in the face of man-made crises or natural disasters. It encompasses assistance, relief and protection operations in humanitarian crises or their immediate aftermath, supporting measures to ensure access to people in need and to facilitate the free flow of assistance, as well as actions aimed at reinforcing disaster preparedness and disaster risk reduction, and contributing towards strengthening resilience and capacity to cope with, and recover from, crises;
- (e) 'third country' means a country outside the Union where humanitarian aid activities and operations referred to in point (d) take place.

#### *Article 4*

### **Objective**

The objective of the EU Aid Volunteers initiative shall be to contribute to strengthening the Union's capacity to provide needs-based humanitarian aid aimed at preserving life, preventing and alleviating human suffering and maintaining human dignity and to strengthening the capacity and resilience of vulnerable or disaster-affected communities in third countries, particularly by means of disaster preparedness, disaster risk reduction and by enhancing the link between relief, rehabilitation and development. That objective shall be attained through the added value of joint contributions of EU Aid Volunteers, expressing the Union's values and solidarity with people in need and visibly promoting a sense of European citizenship.

#### *Article 5*

### **General principles**

1. The actions under the EU Aid Volunteers initiative shall be conducted in compliance with the humanitarian aid principles of humanity, neutrality, impartiality and independence and with the European Consensus on Humanitarian Aid.
2. The actions under the EU Aid Volunteers initiative shall respond to the humanitarian needs of local communities and the requirements of the hosting organisations and shall aim to contribute to enhancing the effectiveness of the humanitarian sector.
3. The safety and security of candidate volunteers and EU Aid Volunteers shall be a priority.
4. The EU Aid Volunteers initiative shall promote needs-based joint projects and transnational partnerships between participating volunteers from different countries and organisations implementing the actions under that initiative as referred to in Article 10.

#### *Article 6*

### **Coherence and complementarities of Union action**

1. In implementing this Regulation, coherence and complementarity shall be ensured with other instruments and areas of Union external action and with other relevant Union policies, in particular humanitarian aid policy, development cooperation policy and the Union Civil Protection Mechanism, while avoiding duplication and overlap, and recognising that humanitarian aid is governed by the humanitarian aid principles referred to in Article 5(1) of this Regulation. Particular attention shall be paid to ensure smooth transition between relief, rehabilitation and development.
2. The Commission and the Member States shall cooperate to achieve efficiency and effectiveness, by ensuring consistency and coherence between relevant national volunteering schemes and the actions under the EU Aid Volunteers initiative. Those actions shall build on relevant good practices and existing programmes and, where appropriate, make use of established European networks.
3. The Union shall foster cooperation with relevant international organisations, and other humanitarian partners and local and regional actors, in implementing the actions under the EU Aid Volunteers initiative.

In promoting a coherent international response to humanitarian crises, the actions under the EU Aid Volunteers initiative shall be in accordance with those undertaken by the United Nations, in order to support the central and overall coordinating role of UN-OCHA.



*Article 7***Operational objectives**

1. The EU Aid Volunteers initiative shall pursue the following operational objectives:

(a) Contribute to increasing and improving the capacity of the Union to provide humanitarian aid.

Progress towards the achievement of this operational objective shall be assessed on the basis of indicators, such as:

- the number of EU Aid Volunteers deployed or ready for deployment with the required qualifications and the number of EU Aid Volunteers who have completed their contracts of deployment;
- the number of people reached by humanitarian aid provided through the EU Aid Volunteers initiative and the average cost per person reached;
- the degree of satisfaction of EU Aid Volunteers deployed and of the sending and hosting organisations with regard to the effective humanitarian contribution of EU Aid Volunteers on the ground.

(b) Improve the skills, knowledge and competences of volunteers in the field of humanitarian aid and the terms and conditions of their engagement.

Progress towards the achievement of this operational objective shall be assessed on the basis of indicators, such as:

- the number of candidate volunteers trained and volunteers who have successfully passed the assessment after the training;
- the number of certified sending organisations applying the standards and procedures for management of candidate volunteers and EU Aid Volunteers;
- the degree of satisfaction of the volunteers trained and deployed, of the sending and hosting organisations with regard to the quality of the training, level of knowledge and competences of volunteers, the fulfilment and adequacy of the standards and procedures for management of candidate volunteers and EU Aid Volunteers.

(c) Build the capacity of hosting organisations and foster volunteering in third countries.

Progress towards the achievement of this operational objective shall be assessed on the basis of indicators, such as:

- the number and type of capacity building actions in third countries;
- the number of third country staff and volunteers participating in the capacity building actions;
- the degree of satisfaction of staff of the hosting organisations and volunteers from third countries participating in capacity building actions with regard to the quality and effectiveness of the actions carried out.

(d) Communicate the Union's humanitarian aid principles agreed in the European Consensus on Humanitarian Aid.

Progress towards the achievement of this operational objective shall be assessed on the basis of indicators, such as:

- the number, type and costs of information, communication and awareness-raising actions.

(e) Enhance coherence and consistency of volunteering across Member States in order to improve opportunities for Union citizens to participate in humanitarian aid activities and operations.

Progress towards the achievement of this operational objective shall be assessed on the basis of indicators, such as:

- the number of certified sending organisations;
- the number and type of technical assistance actions for sending organisations;
- dissemination and replication of the standards and procedures for management of candidate volunteers and EU Aid Volunteers by other volunteering schemes.

2. The indicators referred to in points (a) to (e) of paragraph 1 shall be used for the monitoring, evaluation and review of performance as appropriate. They are indicative and may be amended by means of delegated acts in accordance with Article 24 in order to take into account experience from the progress measurement.

## CHAPTER II

### ACTIONS UNDER THE EU AID VOLUNTEERS INITIATIVE

#### *Article 8*

#### **Actions under the EU Aid Volunteers initiative**

The EU Aid Volunteers initiative shall pursue the objectives referred to in Articles 4 and 7 through the following types of actions:

- development and maintenance of standards and procedures regarding candidate volunteers and EU Aid Volunteers;
- development and maintenance of a certification mechanism for sending and hosting organisations;
- identification and selection of candidate volunteers;
- establishment of a training programme and support for training and apprenticeship placements;
- establishment, maintenance and updating of a database of EU Aid Volunteers;
- deployment of EU Aid Volunteers to support and complement humanitarian aid in third countries;
- capacity building of hosting organisations;
- establishment and management of a network for the EU Aid Volunteers initiative;
- communication and awareness raising;
- ancillary activity that furthers the accountability, transparency and effectiveness of the EU Aid Volunteers initiative.

#### *Article 9*

#### **Standards and procedures regarding candidate volunteers and EU Aid Volunteers**

1. Building on existing relevant practices, the Commission shall establish standards and procedures covering the necessary conditions, arrangements and requirements to be applied by sending and hosting organisations when identifying, selecting, preparing, managing and deploying candidate volunteers and EU Aid Volunteers to support humanitarian aid operations in third countries.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 24 to set out standards concerning:

- a competence framework used for the identification, selection and preparation of volunteers as junior or senior professionals;
- provisions to ensure equal opportunities and non-discrimination in the identification and selection process;
- provisions to ensure compliance of sending and hosting organisations with relevant national and Union law and law of the hosting country;

- standards governing the partnerships between sending and hosting organisations;
  - provisions for recognition of the skills and competences acquired by EU Aid Volunteers in line with existing relevant Union initiatives.
3. The Commission shall be empowered to adopt implementing acts to set out the following:
- the procedures to be followed for the identification, selection and necessary pre-deployment preparation of candidate volunteers, including apprenticeship placements, where relevant;
  - provisions for the deployment and management of EU Aid Volunteers in third countries, including, inter alia, supervision in the field, continued support through coaching, mentoring, additional training, necessary working conditions, post deployment support;
  - the provision of insurance coverage and living conditions of volunteers including the coverage of subsistence, accommodation, travel and other relevant expenses;
  - procedures to be followed before, during and after deployment to ensure duty of care and appropriate safety and security measures, including medical-evacuation protocols and security plans that cover emergency evacuation from third countries, including the necessary procedures for liaison with national authorities;
  - procedures for monitoring and assessing the individual performance of EU Aid Volunteers.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

#### *Article 10*

##### **Certification mechanism for sending and hosting organisations**

1. The Commission shall develop a certification mechanism by means of implementing acts, with the involvement, if appropriate, of humanitarian partners, ensuring that sending organisations comply with the standards and procedures referred to in Article 9, and a differentiated certification mechanism for hosting organisations.

The Commission shall establish the procedure relating to the functioning of the certification mechanisms, building on existing relevant certification mechanisms and procedures, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

2. In designing the certification mechanism, the Commission shall seek synergies with the Commission's partnership instruments in the humanitarian field and existing humanitarian standards, with the aim of administrative simplification. The certification mechanism shall be inclusive and non-discriminatory as regards any type of eligible organisation.

3. Sending organisations shall be eligible for certification, if:

- (a) they adhere to the standards and procedures referred to in Article 9;
- (b) they are active in the field of humanitarian aid as defined in point (d) of Article 3; and
- (c) they belong to any of the following categories:
  - (i) non-governmental not-for-profit organisations formed in accordance with the law of a Member State and whose headquarters are located within the Union,
  - (ii) public law bodies of a civilian character governed by the law of a Member State,
  - (iii) non-governmental not-for-profit organisations established in the countries referred to in Article 23 under the conditions laid down in that Article and the agreements mentioned therein,
  - (iv) public law bodies of civilian character established in the countries referred to in Article 23 under the conditions laid down in that Article and the agreements mentioned therein,
  - (v) the International Federation of National Red Cross and Red Crescent Societies.

4. Organisations in third countries shall be eligible as hosting organisations if:
  - (a) they adhere to the standards and procedures referred to in Article 9;
  - (b) they are active in the field of humanitarian aid as defined in point (d) of Article 3; and
  - (c) they belong to any of the following categories:
    - (i) non-governmental not-for-profit organisations operating or established in a third country under the laws in force in that country,
    - (ii) public law bodies of a civilian character governed by the law of a third country,
    - (iii) international agencies and organisations.
5. Without prejudice to the requirements referred to in paragraphs 3 and 4, sending and hosting organisations may implement actions under the EU Aid Volunteers initiative in association with for-profit private organisations.
6. On the basis of a prior assessment of needs, sending organisations to be certified may benefit from technical assistance aimed at strengthening their capacity to participate in the EU Aid Volunteers initiative and to ensure compliance with the standards and procedures referred to in Article 9.

Hosting organisations to be certified may also benefit from the assistance referred to in the first subparagraph in the context of the actions referred to in Article 15.
7. The Commission shall publish the list of certified sending and hosting organisations in due time after certification.

#### *Article 11*

##### **Identification and selection of candidate volunteers**

1. On the basis of prior assessment of the needs in third countries by sending or hosting organisations or other relevant actors, certified sending organisations shall identify and select candidate volunteers for training.
2. The identification and selection of candidate volunteers shall comply with the standards and procedures referred to in Article 9 and respect the principles of non-discrimination and equal opportunities.
3. The following persons having a minimum age of 18 years shall be eligible to apply to be candidate volunteers:
  - (a) citizens of the Union;
  - (b) third country nationals who are long-term residents in a Member State; and
  - (c) citizens from countries referred to in Article 23(1) under the conditions referred to in that Article.

#### *Article 12*

##### **Training programme and support for training and apprenticeship placements**

1. Building on existing programmes and procedures and with the involvement, if appropriate, of specialised institutions, the Commission shall establish a training programme in order to prepare the candidate volunteers for deployment to support and complement humanitarian aid.
2. Candidate volunteers who have been identified and selected in accordance with Article 11 shall be eligible to participate in the training programme implemented by qualified organisations. The individual scope and content of the training each candidate volunteer needs to accomplish shall be established by the certified sending organisation concerned, in consultation with the certified hosting organisation, on the basis of needs, taking into account the prior experience of the candidate volunteer and the deployment envisaged.
3. As part of their training and particularly their preparation for deployment, candidate volunteers may be required to undertake apprenticeship placements in certified sending organisations, where possible in a country other than their country of origin.

4. Without prejudice to paragraph 3, candidate volunteers who have not benefited from an apprenticeship placement may receive, where appropriate, additional pre-deployment preparation specifically tailored to the needs and special circumstances of the deployment. This preparation and the apprenticeship placement shall comply with the standards and procedures for preparation referred to in Article 9.
5. The training programme shall include an assessment of the candidate volunteers' readiness to be deployed to support and complement humanitarian aid in third countries, and to meet the local needs. That assessment shall be performed in cooperation with the sending organisations.
6. The Commission shall adopt the arrangements for the training programme and the procedure for assessing the candidate volunteers' readiness to be deployed by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

#### Article 13

##### Database of EU Aid Volunteers

1. Candidate volunteers who have successfully passed the assessment referred to in Article 12(5) shall be considered to be EU Aid Volunteers and shall be eligible for deployment. They shall be included as such in the database of EU Aid Volunteers.
2. The Commission shall establish, maintain and update the database of EU Aid Volunteers, including as regards the availability and eligibility of EU Aid Volunteers for deployment, and shall regulate access to and the use of it. The processing of personal data collected in or for this database shall be carried out, where relevant, in accordance with Directive 95/46/EC and Regulation (EC) No 45/2001.

#### Article 14

##### Deployment of EU Aid Volunteers in third countries

1. EU Aid Volunteers included in the database may be deployed to support and complement humanitarian aid, as defined in point (d) of Article 3:
  - (a) by certified sending organisations to hosting organisations in third countries; or
  - (b) where appropriate, by the Commission to its humanitarian aid field offices for support tasks.
2. Deployments shall meet the real needs expressed at local level by the hosting organisations.
3. For deployment as referred to in point (a) of paragraph 1, certified sending organisations shall ensure compliance with the standards and procedures referred to in Article 9. EU Aid Volunteers shall not be deployed to operations conducted in the theatre of international and non-international armed conflicts.
4. Certified sending organisations shall inform the relevant national authorities of Member States and other participating countries in accordance with Article 23, before one of their citizens is deployed as an EU Aid Volunteer in accordance with the standards and procedures referred to in Article 9.
5. The specific terms of deployment and the role of EU Aid Volunteers shall be set out, in close consultation with the hosting organisations, in a contract between the sending organisations and EU Aid Volunteers, including the rights and obligations, the duration and location of deployment and the tasks of EU Aid Volunteers.
6. For deployment as referred to in point (b) of paragraph 1, the Commission shall sign a volunteer deployment contract with EU Aid Volunteers, defining specific terms and conditions of deployment. Volunteer deployment contracts shall not confer upon the volunteer rights and obligations arising from the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 <sup>(1)</sup>.

<sup>(1)</sup> Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

7. Each EU Aid Volunteer shall have a designated mentor from the hosting organisation to supervise and support the EU Aid Volunteer during deployment.

#### *Article 15*

### **Capacity building for humanitarian aid of hosting organisations**

On the basis of a prior assessment of needs in third countries by sending and hosting organisations or other relevant actors, the Commission shall support actions aimed at strengthening the hosting organisations' capacity for humanitarian aid in order to enhance local preparedness and response to humanitarian crises and to ensure effective and sustainable impact of the EU Aid Volunteers' work on the ground, including:

- (a) disaster risk management, preparedness and response, coaching, training in volunteer management, and other relevant areas for staff and volunteers from hosting organisations;
- (b) exchange of best practices, technical assistance, twinning programmes and exchange of staff and volunteers, creation of networks and other relevant actions.

#### *Article 16*

### **Network for the EU Aid Volunteers initiative**

1. The Commission shall establish and manage a network for the EU Aid Volunteers initiative composed of:
  - (a) candidate volunteers and EU Aid Volunteers who are participating or have participated in the initiative;
  - (b) sending and hosting organisations;
  - (c) representatives of the Member States and of the European Parliament.
2. The network for the EU Aid Volunteers initiative shall in particular:
  - (a) facilitate interaction and serve as a platform for sharing knowledge, consultation and dissemination of information, for the exchange of good practice as well as for the purposes of the needs assessment referred to in Article 21(3);
  - (b) facilitate partnership building and the development of joint projects for deployment and capacity-building activities involving sending organisations across the Union and hosting organisations in third countries;
  - (c) provide a basis upon which to build on the actions under the EU Aid Volunteers initiative with a view to ensuring continuous improvement and effective monitoring and evaluation;
  - (d) provide opportunities for on-line volunteering in projects related to the EU Aid Volunteers initiative.

#### *Article 17*

### **Communication and awareness raising**

1. The Commission shall support public information, communication and awareness raising actions, to promote a visible EU Aid Volunteers initiative and to encourage volunteering in humanitarian aid within the Union and its Member States as well as in the third countries benefitting from the actions under that initiative.
2. The Commission shall develop a communication plan on the objectives, actions and visible results of the EU Aid Volunteers initiative which shall define communication and dissemination activities towards the public, in particular towards future potential candidate volunteers and beneficiaries of the actions under that initiative. That communication plan shall be implemented by the Commission and by beneficiaries, particularly sending and hosting organisations, as well as EU Aid Volunteers.

## CHAPTER III

**PROGRAMMING AND ALLOCATION OF FUNDS***Article 18***Eligible actions**

1. The actions referred to in Article 8 shall be eligible for financial assistance, including the measures necessary for their implementation as well as necessary measures aimed at strengthening the coordination between the EU Aid Volunteers initiative and other relevant schemes at national and international level, building on existing good practices.
2. The financial assistance referred to in paragraph 1 may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities, which are required for the management of the EU Aid Volunteers initiative and the achievement of its objectives.
3. Expenses referred to in paragraph 2 may, in particular, cover studies, meetings of experts, information and communication actions as set out in Article 17, including corporate communication of the policy priorities of the Union, as far as they are related to the objectives of the EU Aid Volunteers initiative, expenses linked to IT networks focusing on information processing and exchange (including their interconnection with existing or future systems designed to promote cross-sectoral data exchange and related equipment), together with all other technical and administrative assistance expenses incurred by the Commission.

*Article 19***Financial beneficiaries**

Financial assistance under this Regulation may be awarded to natural persons and legal persons, whether governed by private or public law, which shall then be deemed financial beneficiaries within the meaning of Regulation (EU, Euratom) No 966/2012.

*Article 20***Financial envelope**

1. The financial envelope for the implementation of this Regulation for the period 1 January 2014 to 31 December 2020 shall be EUR 147 936 000 in current prices. Annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework. If necessary, payment appropriations could be entered in the budget beyond 2020 to cover similar expenses, in order to enable the payment management of actions not yet completed by 31 December 2020.
2. The financial envelope referred to in paragraph 1 shall be allocated, over the period 2014-2020, in accordance with the operational objectives, thematic priorities and percentages set out in the Annex.
3. The Commission shall be empowered to adopt delegated acts, in accordance with Article 24, to amend the priorities and adjust each of the figures in the Annex by more than 10 and up to 20 percentage points. Such adjustment shall only take place following the results of a Commission review of the thematic priorities and percentages set out in the Annex in the light of the outcome of the interim evaluation referred to in point (b) of Article 27(4), in which case the delegated acts shall be adopted by 30 June 2018.
4. Where, in the case of a necessary revision of the budgetary resources available for support for emergency response actions, imperative grounds of urgency so require, the Commission shall be empowered to adopt delegated acts to revise each of the figures set out in the Annex by more than 10 and up to 20 percentage points, within the available budgetary allocations and in accordance with the procedure provided for in Article 25.

*Article 21***Types of financial intervention and implementing procedures**

1. The Commission shall implement the Union's financial assistance in accordance with Regulation (EU, Euratom) No 966/2012.
2. Financial assistance under this Regulation may take any of the forms provided by the Regulation (EU, Euratom) No 966/2012.

3. In order to implement this Regulation, the Commission shall adopt an annual work programme of the EU Aid Volunteers initiative by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2). The annual work programme shall set out the objectives pursued, the expected results, the method of implementation and the amount of the related total expenditure. The annual work programme shall also contain the description of actions to be financed, an indication of the amount allocated to each action, taking where appropriate into account the assessed needs, and an indicative implementation timetable. For grants, the annual work programme shall include the priorities, the essential evaluation criteria and the maximum rate of co-financing. The annual work programme shall also set out the participation of third countries under the conditions referred to in Article 23.

#### Article 22

### Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under the EU Aid Volunteers initiative are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors, who have received Union funds under the EU Aid Volunteers initiative.
3. The European Anti-fraud Office (OLAF) shall be allowed to carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Regulation (Euratom, EC) No 2185/96 and Regulation (EU, Euratom) No 883/2013 with a view to establishing whether fraud, corruption or any other illegal activity has occurred affecting the financial interests of the Union in connection with a grant agreement, grant decision or a contract funded under the EU Aid Volunteers initiative.
4. Without prejudice to paragraphs 1 and 2, cooperation agreements with third countries and international organisations, grant agreements, grant decisions and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections with due respect to all relevant procedural guarantees.

#### CHAPTER IV

### COOPERATION WITH OTHER COUNTRIES

#### Article 23

### Cooperation with other countries

1. The EU Aid Volunteers initiative shall be open to participation of:
  - (a) citizens and sending organisations from acceding countries, candidate countries, potential candidates and partner countries of the European Neighbourhood Policy in accordance with the general principles and general terms and conditions for the participation of those countries in the Union's programmes established in the respective Framework Agreements and Association Council Decisions, or similar arrangements;
  - (b) citizens and sending organisations from European Free Trade Association countries which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA Agreement;
  - (c) citizens and sending organisations from other European countries, subject to the conclusion of bilateral agreements with those countries.
2. Participating volunteers and organisations implementing the actions under the EU Aid Volunteers initiative, from cooperating countries, shall also abide by the general principles outlined in Article 4.
3. Cooperation with participating countries referred to in paragraph 1 shall be based, where relevant, on additional appropriations from participating countries to be made available in accordance with procedures to be agreed with those countries.



## CHAPTER V

## DELEGATIONS OF POWER AND IMPLEMENTING PROVISIONS

## Article 24

**Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 7(2), Article 9(2) and Article 20(3) shall be conferred on the Commission for a period of seven years from 25 April 2014.
3. The delegation of power referred to in Article 7(2), Article 9(2) and Article 20(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 7(2), Article 9(2) and Article 20(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

## Article 25

**Urgency procedure**

1. In exceptional and duly justified circumstances delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 24(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

## Article 26

**Committee procedure**

1. The Commission shall be assisted by the committee established under Article 17(1) of Council Regulation (EC) No 1257/96 <sup>(1)</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

## CHAPTER VI

## MONITORING AND EVALUATION

## Article 27

**Monitoring and evaluation**

1. Actions under the EU Aid Volunteers initiative receiving financial assistance shall be monitored regularly in order to follow their implementation, and regularly evaluated through independent external evaluation to assess the efficiency, effectiveness and their impacts against the objectives of the EU Aid Volunteers initiative. The monitoring and evaluation shall include the reports referred to in paragraph 4 and other activities on specific aspects of this Regulation which may be launched at any time during its implementation.

<sup>(1)</sup> Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

2. Sending organisations deploying EU Aid Volunteers outside the Union shall be responsible for the monitoring of their activities and shall submit to the Commission monitoring reports on a regular basis safeguarding all rights of individual volunteers regarding personal data protection.
3. Evaluations shall make use of existing evaluation standards, including those developed by the Organisation for Economic Cooperation and Development's Development Assistance Committee, with the objective of measuring the long-term impact of the EU Aid Volunteers initiative on humanitarian aid. In the evaluation phase, the Commission shall ensure regular consultation of all relevant stakeholders, including volunteers, sending and hosting organisations, assisted local population and communities, humanitarian organisations and workers in the field. The results of the evaluation shall feed back into the programme design and resource allocation.
4. The Commission shall submit to the European Parliament and to the Council:
  - (a) annual reports examining the progress made in implementing this Regulation, including results and, as far as possible, the main outcomes;
  - (b) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of this Regulation, including on the impact of EU Aid Volunteers initiative in the humanitarian sector and the cost-effectiveness of the programme, during the first three years of its implementation no later than 31 December 2017;
  - (c) a Communication on the continued implementation of this Regulation based on the interim evaluation report referred to in point (b) of this paragraph no later than 31 December 2018;
  - (d) an *ex post* evaluation report for the seven-year financial period of implementation no later than 31 December 2021.
5. The Commission shall review the measures laid down in this Regulation by 1 September 2019 and shall, where appropriate following the conclusion of the interim evaluation report referred to in point (b) of paragraph 4 of this Article, accompany that review with a legislative proposal for amendment of this Regulation.
6. The Commission shall also regularly inform the EEAS about the activities of the EU Aid Volunteers initiative in accordance with relevant working arrangements.

#### CHAPTER VII

#### FINAL PROVISIONS

##### *Article 28*

##### **Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 April 2014.

*For the European Parliament*  
*The President*  
M. SCHULZ

*For the Council*  
*The President*  
D. KOURKOULAS

## ANNEX

**OPERATIONAL OBJECTIVES, THEMATIC PRIORITIES AND PERCENTAGES FOR ALLOCATION OF THE FINANCIAL ENVELOPE FOR IMPLEMENTATION OF THIS REGULATION***Thematic priority 1***Deployment of EU Aid Volunteers to support and complement humanitarian aid.**

This thematic priority shall address the operational objective under point (a) of Article 7(1) (Contribute to increasing and improving the capacity of the Union to provide humanitarian aid):

- Resilience building and disaster risk management in vulnerable, fragile or disaster affected countries and forgotten crises, including capacity building by EU Aid Volunteers and actions in the following stages of the disaster management cycle: disaster prevention, preparedness, disaster risk reduction and recovery from natural and man-made disasters: 31 % +/- 10 percentage points,
- Support for emergency response operations, including capacity building by EU Aid Volunteers and activities in logistics and transport, coordination, project management, finances and administration, communication and advocacy: 10 % +/- 8 percentage points;

*Thematic priority 2***Capacity building of EU Aid Volunteers and implementing organisations: 55 % +/- 10 percentage points**

This thematic priority shall address the operational objective under point (b) of Article 7(1) (Improvement of the skills, knowledge and competences of volunteers in the field of humanitarian aid and the terms and conditions of their engagement); point (c) of Article 7(1) (Building the capacity of hosting organisations and foster volunteering in third countries); and point (e) of Article 7(1) (Enhancement of coherence and consistency of volunteering across Member States in order to improve opportunities for Union citizens to participate in humanitarian aid activities and operations):

- Training and apprenticeship placements for candidate volunteers
- Capacity building of hosting organisations for humanitarian aid, including support to undergo certification
- Certification/Technical assistance for sending organisations;

*Thematic priority 3***Support measures: 4 % +/- 2 percentage points**

This thematic priority shall address the operational objective under point (d) of Article 7(1) (Communication of the Union's humanitarian aid principles as agreed in the European Consensus on Humanitarian Aid).

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**REGULATION (EU) No 376/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 3 April 2014**

**on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) A high general level of safety should be ensured in civil aviation in the Union and every effort should be made to reduce the number of accidents and incidents with a view to ensuring public confidence in aviation transport.
- (2) The rate of fatal accidents in civil aviation has remained fairly constant over the last decade. Nevertheless, the number of accidents could rise over the decades to come, due to an increase in air traffic and an increase in the technical complexity of aircraft.
- (3) Regulation (EU) No 996/2010 of the European Parliament and of the Council <sup>(3)</sup> aims to prevent accidents by facilitating the prompt holding of efficient and high-quality safety investigations. This Regulation should not interfere with the process of accident and incident investigations managed by national safety investigation authorities as defined in Regulation (EU) No 996/2010. In the event of an accident or a serious incident, notification of the occurrence is also subject to Regulation (EU) No 996/2010.
- (4) Existing legislative acts of the Union, in particular Regulation (EC) No 216/2008 of the European Parliament and of the Council <sup>(4)</sup> and its implementing regulations, impose obligations on certain organisations to establish occurrence reporting systems in the context of their safety management systems. Compliance with Regulation (EC) No 216/2008 and its implementing regulations should not exempt organisations from compliance with this Regulation. Likewise, compliance with this Regulation should not exempt organisations from compliance with Regulation (EC) No 216/2008 and its implementing regulations. However, this should not give rise to two parallel reporting systems, and Regulation (EC) No 216/2008, its implementing regulations, and this Regulation should be seen as complementary.
- (5) Experience has shown that accidents are often preceded by safety-related incidents and deficiencies revealing the existence of safety hazards. Safety information is therefore an important resource for the detection of potential safety hazards. In addition, whilst the ability to learn from an accident is crucial, purely reactive systems have been found to be of limited use in continuing to bring forward improvements. Reactive systems should therefore

<sup>(1)</sup> OJ C 198, 10.7.2013, p. 73.

<sup>(2)</sup> Position of the European Parliament of 26 February 2014 (not yet published in the Official Journal) and decision of the Council of 14 March 2014.

<sup>(3)</sup> Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (OJ L 295, 12.11.2010, p. 35).

<sup>(4)</sup> Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1).

be complemented by proactive systems which use other types of safety information to make effective improvements in aviation safety. The Union, its Member States, the European Aviation Safety Agency ('the Agency') and organisations should contribute to the improvement of aviation safety through the introduction of more proactive and evidence based safety systems which focus on accident prevention based on the analysis of all relevant safety information, including information on civil aviation occurrences.

- (6) In order to improve aviation safety, relevant civil aviation safety information should be reported, collected, stored, protected, exchanged, disseminated and analysed, and appropriate safety action should be taken on the basis of the information collected. This proactive and evidence-based approach should be implemented by the relevant aviation safety authorities of Member States, by organisations as part of their safety management system and by the Agency.
- (7) The imposition on organisations of occurrence reporting obligations should be proportionate to the size of the organisation concerned and the scope of its activity. It should therefore be possible, in particular for smaller organisations, to decide to join or merge functions related to occurrence handling within the organisation, to share occurrence reporting tasks with other organisations of the same nature or to outsource the collection, evaluation, processing, analysis and storage of details of occurrences to specialised entities approved by the competent authorities of the Member States. Such entities should comply with the protection and confidentiality principles established by this Regulation. The outsourcing organisation should maintain appropriate control of the outsourced tasks and should be ultimately accountable and responsible for the application of the requirements prescribed by this Regulation.
- (8) It is necessary to ensure that front-line aviation professionals report occurrences that pose a significant risk to aviation safety. Voluntary reporting systems should complement the mandatory reporting systems, and both should allow individuals to report details of aviation safety-related occurrences. Mandatory and voluntary reporting systems should be set up within organisations, the Agency and competent authorities of the Member States. The information collected should be transferred to the authority competent for appropriate monitoring in order to enhance aviation safety. Organisations should analyse those occurrences that could have an impact on safety, in order to identify safety hazards and take any appropriate corrective or preventive action. Organisations should send the preliminary results of their analyses to the competent authority of their Member States or to the Agency and should also send them the final results if those results identify an actual or potential aviation safety risk. The competent authorities of the Member States and the Agency should put in place a similar procedure for those occurrences that have been directly submitted to them and should adequately monitor the organisation's assessment and any corrective or preventive action taken.
- (9) Various categories of staff working or otherwise engaged in civil aviation witness events which are of relevance to accident prevention. They should therefore have access to tools enabling them to report such events, and their protection should be guaranteed. In order to encourage staff to report occurrences and enable them to appreciate more fully the positive impact which occurrence reporting has on air safety, they should be regularly informed about action taken under occurrence reporting systems.
- (10) The hazards and risk associated with complex motor-powered aircraft are very different from those associated with other types of aircraft. Therefore, while the entire aviation sector should be covered by this Regulation, the obligations imposed by it should be proportionate to the sphere of activity and the complexity of different types of aircraft. Accordingly, information collected on occurrences involving aircraft other than complex motor-powered ones should be subject to simplified reporting obligations which are better suited to that branch of aviation.
- (11) The development of other means of collecting safety information in addition to the systems required by this Regulation should be encouraged, with a view to collecting further information which could contribute to the improvement of aviation safety. Where organisations have existing and well-functioning safety information collection systems, they should be allowed to continue to use those systems alongside the systems to be established for the purpose of this Regulation.
- (12) Safety investigation authorities and any entity entrusted with regulating civil aviation safety within the Union should have full access to details of occurrences collected and occurrence reports stored by their Member States, in order to decide which incidents require a safety investigation, as well as to identify where lessons can be learned in the interest of aviation safety and to fulfil their oversight obligations.
- (13) It is essential to have high-quality and complete data, as analysis and trends derived from inaccurate data may show misleading results and may lead to effort being focused on inappropriate action. In addition, such inaccurate data may lead to a loss of confidence in the information produced by occurrence reporting schemes. In order to ensure the quality of occurrence reports, and to facilitate their completeness, they should contain certain minimum information, which may vary depending on the occurrence category. In addition, procedures should be

implemented for checking the quality of information and avoiding inconsistency between an occurrence report and the details of the occurrence that were initially collected. Moreover, with the support of the Commission, adequate guidance material should be developed, notably to ensure the quality and to facilitate the completeness of data as well as the consistent and uniform integration of data into databases. Workshops should also be organised, notably by the Commission, to provide necessary support.

- (14) The Commission should develop a common European risk classification scheme to ensure the identification of any rapid action needed when looking at high-risk individual safety occurrences. That scheme should also enable key risk areas to be identified from aggregated information. Such a scheme should help the relevant entities in their assessment of occurrences and in determining where best to focus their efforts. A common European risk classification scheme should facilitate an integrated and harmonised approach to risk management across the European aviation system and thus enable organisations, Member States, the Commission and the Agency to focus on safety improvement efforts in a harmonised manner.
- (15) A common European risk classification scheme should also both enable key risk areas within the Union to be identified on the basis of aggregated information from a European perspective and support the work done in the area of the European Aviation Safety Programme and the European Aviation Safety Plan. Appropriate support should be given by the Commission to ensure consistent and uniform risk classification across Member States.
- (16) To facilitate information exchange, occurrence reports should be stored in databases which should be compatible with the European Coordination Centre for Aircraft Incident Reporting Systems (ECCAIRS) (the software used by all Member States and by the European Central Repository to store occurrence reports) and with the ADREP taxonomy (the International Civil Aviation Organisation (ICAO) taxonomy, also used for the ECCAIRS software). The Agency and the Commission should provide technical support for the interoperability of the systems.
- (17) Organisations should store occurrence reports derived from details of occurrences collected under the mandatory and, where applicable, the voluntary reporting systems in one or more databases. It should be possible for the complexity of the database to be proportionate to the size of the organisation concerned and/or its significance with respect to the objectives of this Regulation, and it should at least consist of a data file containing common mandatory data fields and, where applicable, specific mandatory data fields.
- (18) An occurrence involving an aircraft registered in a Member State or operated by an organisation established in a Member State should be reported even if it happened outside the territory of that Member State.
- (19) Information on occurrences should be exchanged within the Union to enhance the detection of actual or potential hazards. This information exchange should also enable Member States to have access to all information on occurrences which occur on their territory or in their airspace but which are reported to another Member State. It should also allow the Agency to obtain precise information about occurrences and access to all occurrence reports collected in the Union in order, where necessary, to take corrective action to counteract a risk identified in the Union. This information exchange should enable the competent authorities of the Member States to obtain precise information about occurrences in their airspace and, where necessary, to take corrective action to counteract a risk identified on their territory.
- (20) The objective of the exchange of information on occurrences should be the prevention of aviation accidents and incidents. It should not be used to attribute blame or liability or to establish benchmarks for safety performance.
- (21) The most efficient way to ensure the exchange of large quantities of safety information between the Member States, the Commission and the Agency is through the European Central Repository, provided that the Member States, the Commission and the Agency have full access to it.
- (22) All safety-related information derived from occurrence reports collected in the Union should be transferred in the European Central Repository in a timely manner. This should include the collection of information on incidents but also information on accidents and serious incidents investigated pursuant to Regulation (EU) No 996/2010.
- (23) This Regulation should apply to information on occurrences which is stored in the databases of organisations, Member States or the Agency.

- (24) All safety-related information contained in the European Central Repository should be available to entities entrusted with regulating civil aviation safety within the Union, including the Agency, and to the authorities responsible for investigating accidents and incidents within the Union.
- (25) It should be possible for interested parties to request access to certain information contained in the European Central Repository, subject to the rules concerning the confidentiality of such information and the anonymity of the persons involved.
- (26) As national points of contact have the best knowledge of interested parties established in a given Member State, it should be for each national point of contact to deal with requests from interested parties established in the territory of its own Member State. The Commission should deal with requests from interested parties from third countries or from international organisations.
- (27) Information contained in occurrence reports should be analysed, and safety risks identified. Any appropriate consequent action for improving aviation safety should be identified and implemented in a timely manner. Information on the analysis and follow-up of occurrences should be disseminated within organisations, competent authorities of the Member States and the Agency, since providing feedback on occurrences that have been reported incentivises individuals to report occurrences. Where applicable and when possible, information on the analysis and follow-up of occurrences should also be provided to individuals who have directly reported occurrences to the competent authorities of the Member States or to the Agency. Such feedback should comply with the rules on confidentiality and protection of the reporter and the persons mentioned in occurrence reports pursuant to this Regulation.
- (28) This Regulation should assist Member States, the Agency and organisations in managing aviation safety risks. The safety management systems of organisations are complemented by the safety management systems of the Member States and of the Agency. While organisations manage safety risks associated with their specific activities, the competent authorities of the Member States and the Agency manage safety risks for the aviation systems of, respectively, entire Member States and of the Union as a whole, addressing common safety risks for aviation in the Member State concerned or at Union level. The responsibilities of the Agency and of the competent authorities of the Member States should not exonerate organisations from their direct responsibilities in managing safety inherent in the products and in the services they provide. For that purpose, organisations should collect and analyse information on occurrences in order to identify and mitigate hazards associated with their activities. They should also assess associated safety risks and allocate resources to take prompt and appropriate safety risk mitigation measures. The overall process should be monitored by the relevant competent authority, which should, when necessary, require that additional action be taken to ensure that the safety deficiencies are correctly addressed. On the other hand, the competent authorities of the Member States and the Agency should complement the safety management systems of the organisations at Member State and European levels respectively.
- (29) When determining the action to be included within their State Safety Programme and State Safety Plan, and in order to ensure that the action is evidence-based, Member States should use the information derived from the occurrence reports that have been collected and from their analysis. State Safety Programmes and State Safety Plans are complemented at European level by the European Aviation Safety Programme and the European Aviation Safety Plan.
- (30) Since the objective of aviation safety improvement cannot be sufficiently achieved by the Member States because reporting systems operated by Member States in isolation are less efficient than a coordinated network with exchange of information allowing identification of possible safety problems and key risk areas at Union level, analysis at national level should be complemented by analysis and follow-up at Union level in order to ensure better prevention of aviation accidents and incidents. This Union-level task should be carried out by a network of aviation safety analysts in coordination with the Agency and the Commission. It should be possible for that network to decide, by consensus, to invite observers to their meetings, including industry employees or representatives.
- (31) The European Aviation Safety Programme and the European Aviation Safety Plan should benefit in particular from the work of the network of aviation safety analysts for the purpose of determining what action needs to be implemented at Union level from an evidence-based perspective.
- (32) The general public should be provided with general aggregated information on the level of aviation safety in Member States and in the Union. That information should cover, in particular, trends and analysis deriving from the implementation of this Regulation by the Member States, as well as information in an aggregated form on the content of the European Central Repository, and may be provided by publishing safety performance indicators (SPI).

- (33) The civil aviation safety system is established on the basis of feedback and lessons learned from accidents and incidents. Occurrence reporting and the use of occurrence information for the improvement of safety depend on a relationship of trust between the reporter and the entity in charge of the collection and assessment of the information. This requires strict application of rules on confidentiality. The purpose of protecting safety information from inappropriate use, and of limiting access to the European Central Repository solely to interested parties participating in the improvement of civil aviation safety, is to ensure the continuing availability of safety information so that appropriate and timely preventive action can be taken and aviation safety improved. In this context, sensitive safety information should be protected in an appropriate way and its collection should be ensured by guaranteeing its confidentiality, protecting its source and ensuring the confidence of staff working in civil aviation in occurrence reporting systems. Appropriate measures should be put in place to ensure that information collected through occurrence reporting schemes is kept confidential and that access to the European Central Repository is restricted. National rules on freedom of information should take into account the necessary confidentiality of such information. The information collected should be adequately protected from unauthorised use or disclosure. It should be used strictly for the purpose of maintaining or improving aviation safety and should not be used to attribute blame or liability.
- (34) In order to ensure the confidence of employees or contracted personnel in the occurrence reporting system of the organisation, the information contained in occurrence reports should be protected appropriately and should not be used for purposes other than maintaining or improving aviation safety. The internal 'just culture' rules adopted by organisations pursuant to this Regulation should contribute in particular to the achievement of this objective. In addition, the limitation of the transmission of personal details, or of information allowing the identification of the reporter or of the other persons mentioned in occurrence reports, by a clear separation between the departments handling occurrence reports and the rest of the organisation, may be an efficient way to achieve this objective.
- (35) A reporter or a person mentioned in occurrence reports should be adequately protected. In this context, occurrence reports should be disidentified and details relating to the identity of the reporter and of the persons mentioned in occurrence reports should not be entered into databases.
- (36) In addition, the civil aviation system should promote a 'safety culture' facilitating the spontaneous reporting of occurrences and thereby advancing the principle of a 'just culture'. 'Just culture' is an essential element of a broader 'safety culture', which forms the basis of a robust safety management system. An environment embracing 'safety culture' principles should not prevent action being taken where necessary to maintain or improve the level of aviation safety.
- (37) A 'just culture' should encourage individuals to report safety-related information. It should not, however, absolve individuals of their normal responsibilities. In this context, employees and contracted personnel should not be subject to any prejudice on the basis of information provided pursuant to this Regulation, except in cases of wilful misconduct or where there has been manifest, severe and serious disregard with respect to an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or to property, or seriously compromising the level of aviation safety.
- (38) In order to encourage reporting of occurrences, it should be appropriate to protect not only reporters, but also persons mentioned in the occurrence reports concerned. However, such protection should not exonerate those persons from their reporting obligations under this Regulation. In particular, in a situation where a person is mentioned in an occurrence report and has himself or herself the obligation to report that same occurrence, and intentionally fails to report it, then that person should lose his or her protection and face penalties in application of this Regulation.
- (39) Without prejudice to national criminal law and the proper administration of justice, it is important to clearly demarcate the extent of the protection of the reporter and other persons mentioned in occurrence reports from prejudice or prosecution.
- (40) In order to enhance the confidence of individuals in the system, the handling of occurrence reports should be organised in such a way as to appropriately safeguard the confidentiality of the identity of the reporter and other persons mentioned in occurrence reports with regard to fostering a 'just culture'. The aim, wherever possible, should be to enable an independent occurrence handling system to be established.



- (41) Staff of organisations, of the competent authorities of the Member States and of the Agency who are involved in the evaluation, processing or analysis of occurrences have a significant role to play in the identification of safety hazards and safety deficiencies. Experience shows that when occurrences are analysed with the benefit of hindsight following an accident, the analysis leads to the identification of risks and deficiencies that might otherwise not have been identified. It is possible, therefore, that the persons involved in the evaluation, processing or analysis of occurrences may fear potential consequences in terms of prosecution before judicial authorities. Without prejudice to national criminal law and the proper administration of justice, Member States should not institute proceedings against persons who, in the competent authorities of the Member States, are involved in the evaluation, processing or analysis of occurrences in respect of decisions taken as part of their duties which subsequently, and with the benefit of hindsight, prove to have been erroneous or ineffective but which, when they were taken and on the basis of the information available at that time, were proportional and appropriate.
- (42) Employees and contracted personnel should have the opportunity to report breaches of the principles delimiting their protection as established by this Regulation, and should not be penalised for so doing. Member States should define the consequences for those who infringe the principles of protection of the reporter and of other persons mentioned in occurrence reports and should adopt remedies or impose penalties as appropriate.
- (43) Individuals may be discouraged from reporting occurrences by the fear of self-incrimination and the potential consequences in terms of prosecution before judicial authorities. The objectives of this Regulation can be achieved without interfering unduly with the justice systems of the Member States. It is therefore appropriate to provide that unpremeditated or inadvertent infringements of the law that come to the attention of the authorities of the Member States solely through reporting pursuant to this Regulation should not be the subject of disciplinary, administrative or legal proceedings, unless where otherwise provided by applicable national criminal law. However, the rights of third parties to institute civil proceedings should not be covered by this prohibition and should be subject only to national law.
- (44) Nevertheless, in the context of developing a 'just culture' environment, Member States should retain the option of extending the prohibition on using occurrence reports as evidence against reporters in administrative and disciplinary proceedings to civil or criminal proceedings.
- (45) In addition, the cooperation between safety authorities and judicial authorities should be enhanced and formalised by means of advance arrangements between themselves which should respect the balance between the various public interests at stake and which should in particular cover, for example, access to and the use of occurrence reports contained in the national databases.
- (46) To support the increased responsibilities of the Agency under this Regulation, it should be given sufficient resources to enable it to carry out the additional tasks assigned to it.
- (47) In order to supplement or amend this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (48) In applying this Regulation, the Commission should consult the Agency and the network of aviation safety analysts referred to herein.
- (49) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(1)</sup>.
- (50) The rules on data processing and the protection of individuals as laid down in Directive 95/46/EC of the European Parliament and of the Council <sup>(2)</sup> and in Regulation (EC) No 45/2001 of the European Parliament and of the Council <sup>(3)</sup> should be fully respected in the application of this Regulation. The rules on access to data as laid

(1) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(2) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

(3) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

down in Regulation (EC) No 1049/2001 of the European Parliament and of the Council <sup>(1)</sup> should be fully respected in the application of this Regulation except as regards the dissemination of data and information contained in the European Central Repository, which are protected under stricter access rules laid down in this Regulation.

- (51) Penalties should, in particular, be applicable against any person who or entity which, contrary to this Regulation, misuses information protected by this Regulation; acts in a prejudicial manner against the reporter or other persons mentioned in occurrence reports, except in cases where the exemptions laid down in this Regulation apply; does not establish an environment appropriate for allowing the collection of details of occurrences; does not analyse the information collected; does not act to address any safety or potential safety deficiencies detected; or does not share the information collected in application of this Regulation.
- (52) Since the objective of this Regulation, namely the establishment of common rules in the field of occurrence reporting in civil aviation, cannot be sufficiently achieved by the Member States but can rather, by reason of its Union-wide scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (53) Regulation (EU) No 996/2010 should therefore be amended accordingly.
- (54) Directive 2003/42/EC of the European Parliament and of the Council <sup>(2)</sup>, Commission Regulation (EC) No 1321/2007 <sup>(3)</sup> and Commission Regulation (EC) No 1330/2007 <sup>(4)</sup> should therefore be repealed.
- (55) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on 10 April 2013 <sup>(5)</sup>,

HAVE ADOPTED THIS REGULATION:

## Article 1

### Objectives

1. This Regulation aims to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed.

This Regulation ensures:

- (a) that, where appropriate, safety action is taken in a timely manner based on analysis of the information collected;
- (b) the continued availability of safety information by introducing rules on confidentiality and on the appropriate use of information and through the harmonised and enhanced protection of reporters and persons mentioned in occurrence reports; and
- (c) that aviation safety risks are considered and dealt with at both Union level and national level.
2. The sole objective of occurrence reporting is the prevention of accidents and incidents and not to attribute blame or liability.

<sup>(1)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

<sup>(2)</sup> Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation (OJ L 167, 4.7.2003, p. 23).

<sup>(3)</sup> Commission Regulation (EC) No 1321/2007 of 12 November 2007 laying down implementing rules for the integration into a central repository of information on civil aviation occurrences exchanged in accordance with Directive 2003/42/EC of the European Parliament and of the Council (OJ L 294, 13.11.2007, p. 3).

<sup>(4)</sup> Commission Regulation (EC) No 1330/2007 of 24 September 2007 laying down implementing rules for the dissemination to interested parties of information on civil aviation occurrences referred to in Article 7(2) of Directive 2003/42/EC of the European Parliament and of the Council (OJ L 295, 14.11.2007, p. 7).

<sup>(5)</sup> OJ C 358, 7.12.2013, p. 19.

*Article 2***Definitions**

For the purposes of this Regulation the following definitions apply:

- (1) 'reporter' means a natural person who reports an occurrence or other safety-related information pursuant to this Regulation;
- (2) 'aircraft' means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;
- (3) 'incident' means an incident within the meaning of Regulation (EU) No 996/2010;
- (4) 'serious incident' means a serious incident within the meaning of Regulation (EU) No 996/2010;
- (5) 'accident' means an accident within the meaning of Regulation (EU) No 996/2010;
- (6) 'disidentified information' means information arising from occurrence reports from which all personal data such as names or addresses of natural persons have been removed;
- (7) 'occurrence' means any safety-related event which endangers or which, if not corrected or addressed, could endanger an aircraft, its occupants or any other person and includes in particular an accident or serious incident;
- (8) 'organisation' means any organisation providing aviation products and/or which employs, contracts or uses the services of persons required to report occurrences in accordance with Article 4(6);
- (9) 'anonymisation' means the removal from occurrence reports of all personal details relating to the reporter and to the persons mentioned in occurrence reports and any details, including the name of the organisation(s) involved in the occurrence, which may reveal the identity of the reporter or of a third party or lead to that information being inferred from the occurrence report;
- (10) 'hazard' means a situation or an object with the potential to cause death or injury to a person, damage to equipment or a structure, loss of material, or a reduction of ability to perform a prescribed function;
- (11) 'safety investigation authority' means the permanent national civil aviation safety investigation authority conducting or supervising safety investigations as referred to in Article 4 of Regulation (EU) No 996/2010;
- (12) 'just culture' means a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated;
- (13) 'point of contact' means:
  - (a) where a request for information is made by an interested party established in a Member State, the competent authority designated by each Member State in accordance with Article 6(3);
  - (b) where a request for information is made by an interested party established outside the Union, the Commission;
- (14) 'interested party' means any natural or legal person or any official body, whether or not having its own legal personality, that is in a position to participate in the improvement of aviation safety by having access to information on occurrences exchanged by the Member States and which falls within one of the categories of interested parties set out in Annex II;
- (15) 'State Safety Programme' means an integrated set of legal acts and activities aimed at managing civil aviation safety in a Member State;
- (16) 'European Aviation Safety Plan' means safety issues assessment and the related action plan at European level;
- (17) 'European Aviation Safety Programme' means the integrated set of regulations at Union level, together with the activities and processes used to jointly manage the safety of civil aviation at European level;
- (18) 'safety management system' means a systematic approach to managing aviation safety including the necessary organisational structures, accountabilities, policies and procedures, and includes any management system that, independently or integrated with other management systems of the organisation, addresses the management of safety.

*Article 3***Subject matter and scope**

1. This Regulation lays down rules on:
  - (a) the reporting of occurrences which endanger or which, if not corrected or addressed, would endanger an aircraft, its occupants, any other person, equipment or installation affecting aircraft operations; and the reporting of other relevant safety-related information in that context;
  - (b) analysis and follow-up action in respect of reported occurrences and other safety-related information;
  - (c) the protection of aviation professionals;
  - (d) appropriate use collected safety information;
  - (e) the integration of information into the European Central Repository; and
  - (f) the dissemination of anonymised information to interested parties for the purpose of providing such parties with the information they need in order to improve aviation safety.
2. This Regulation applies to occurrences and other safety-related information involving civil aircraft, with the exception of aircraft referred to in Annex II to Regulation (EC) No 216/2008. Member States may decide to apply this Regulation also to occurrences and other safety-related information involving the aircraft referred to in Annex II to that Regulation.

*Article 4***Mandatory reporting**

1. Occurrences which may represent a significant risk to aviation safety and which fall into the following categories shall be reported by the persons listed in paragraph 6 through the mandatory occurrence reporting systems pursuant to this Article:
  - (a) occurrences related to the operation of the aircraft, such as:
    - (i) collision-related occurrences;
    - (ii) take-off and landing-related occurrences;
    - (iii) fuel-related occurrences;
    - (iv) in-flight occurrences;
    - (v) communication-related occurrences;
    - (vi) occurrences related to injury, emergencies and other critical situations;
    - (vii) crew incapacitation and other crew-related occurrences;
    - (viii) meteorological conditions or security-related occurrences;
  - (b) occurrences related to technical conditions, maintenance and repair of aircraft, such as:
    - (i) structural defects;
    - (ii) system malfunctions;
    - (iii) maintenance and repair problems;
    - (iv) propulsion problems (including engines, propellers and rotor systems) and auxiliary power unit problems;
  - (c) occurrences related to air navigation services and facilities, such as:
    - (i) collisions, near collisions or potential for collisions;
    - (ii) specific occurrences of air traffic management and air navigation services (ATM/ANS);
    - (iii) ATM/ANS operational occurrences;

- (d) occurrences related to aerodromes and ground services, such as:
- (i) occurrences related to aerodrome activities and facilities;
  - (ii) occurrences related to handling of passengers, baggage, mail and cargo;
  - (iii) occurrences related to aircraft ground handling and related services.
2. Each organisation established in a Member State shall establish a mandatory reporting system to facilitate the collection of details of occurrences referred to in paragraph 1.
3. Each Member State shall establish a mandatory reporting system to facilitate the collection of details of occurrences including the collection of details of occurrences collected by organisations pursuant to paragraph 2.
4. The European Aviation Safety Agency ('the Agency') shall establish a mandatory reporting system to facilitate the collection of details of occurrences, including the collection of details of occurrences collected pursuant to paragraph 2 by organisations which have been certified or approved by the Agency.
5. The Commission shall, by means of implementing acts, adopt a list classifying occurrences to be referred to when reporting occurrences pursuant to paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

The Commission shall include in those implementing acts a separate list classifying occurrences applicable to aircraft other than complex motor-powered aircraft. The list shall be a simplified version of the list referred to in the first subparagraph and shall, where appropriate, be adapted to the specificities of that branch of aviation.

6. The following natural persons shall report the occurrences referred to in paragraph 1 through the system established in accordance with paragraph 2 by the organisation which employs, contracts or uses the services of the reporter or, failing that, through the system established in accordance with paragraph 3 by the Member State of establishment of their organisation, or by the State which issued, validated or converted the pilot's licence, or through the system established in accordance with paragraph 4 by the Agency:
- (a) the pilot in command, or, in cases where the pilot in command is unable to report the occurrence, any other crew member next in the chain of command of an aircraft registered in a Member State or an aircraft registered outside the Union but used by an operator for which a Member State ensures oversight of operations or an operator established in the Union;
  - (b) a person engaged in designing, manufacturing, continuous airworthiness monitoring, maintaining or modifying an aircraft, or any equipment or part thereof, under the oversight of a Member State or of the Agency;
  - (c) a person who signs an airworthiness review certificate, or a release to service in respect of an aircraft or any equipment or part thereof, under the oversight of a Member State or of the Agency;
  - (d) a person who performs a function which requires him or her to be authorised by a Member State as a staff member of an air traffic service provider entrusted with responsibilities related to air navigation services or as a flight information service officer;
  - (e) a person who performs a function connected with the safety management of an airport to which Regulation (EC) No 1008/2008 of the European Parliament and of the Council <sup>(1)</sup> applies;
  - (f) a person who performs a function connected with the installation, modification, maintenance, repair, overhaul, flight-checking or inspection of air navigation facilities for which a Member State ensures the oversight;
  - (g) a person who performs a function connected with the ground handling of aircraft, including fuelling, loadsheet preparation, loading, de-icing and towing at an airport covered by Regulation (EC) No 1008/2008.
7. The persons listed in paragraph 6 shall report occurrences within 72 hours of becoming aware of the occurrence, unless exceptional circumstances prevent this.

8. Following notification of an occurrence, any organisation established in a Member State which is not covered by paragraph 9 shall report to the competent authority of that Member State, as referred to in Article 6(3), the details of occurrences collected in accordance with paragraph 2 of this Article as soon as possible, and in any event no later than 72 hours after becoming aware of the occurrence.

<sup>(1)</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

9. Following notification of an occurrence, each organisation established in a Member State which is certified or approved by the Agency shall report to the Agency the details of occurrences collected in accordance with paragraph 2 as soon as possible, and in any event no later than 72 hours after becoming aware of the occurrence.

#### Article 5

### Voluntary reporting

1. Each organisation established in a Member State shall establish a voluntary reporting system to facilitate the collection of:

- (a) details of occurrences that may not be captured by the mandatory reporting system;
- (b) other safety-related information which is perceived by the reporter as an actual or potential hazard to aviation safety.

2. Each Member State shall establish a voluntary reporting system to facilitate the collection of:

- (a) details of occurrences that may not be captured by the mandatory reporting system;
- (b) other safety-related information which is perceived by the reporter as an actual or potential hazard to aviation safety.

That system shall also include, but shall not be limited to, the collection of information transferred by organisations pursuant to paragraph 6.

3. The Agency shall establish a voluntary reporting system to facilitate the collection of:

- (a) details of occurrences that may not be captured by the mandatory reporting system;
- (b) other safety-related information which is perceived by the reporter as an actual or potential hazard to aviation safety.

That system shall also include, but shall not be limited to, the collection of information transferred by organisations certified or approved by the Agency pursuant to paragraph 5.

4. The voluntary reporting systems shall be used to facilitate the collection of details of occurrences and safety-related information:

- (a) not subject to mandatory reporting pursuant to Article 4(1);
- (b) reported by persons who are not listed in Article 4(6).

5. Each organisation established in a Member State and certified or approved by the Agency shall report to the Agency, in a timely manner, details of occurrences and safety-related information which have been collected pursuant to paragraph 1 and which may involve an actual or potential aviation safety risk.

6. Each organisation established in a Member State that is not certified or approved by the Agency shall, in a timely manner, report to the competent authority of that Member State, as designated pursuant to Article 6(3), the details of occurrences and other safety-related information which have been collected pursuant to paragraph 1 of this Article and which may involve an actual or potential aviation safety risk. Member States may require any organisation established in their territory to report the details of all occurrences collected pursuant to paragraph 1 of this Article.

7. Member States, the Agency and organisations may establish other safety information collection and processing systems to collect details of occurrences that might not be captured by the reporting systems referred to in Article 4 and in paragraphs 1, 2 and 3 of this Article. Those systems may include reporting to entities other than those set out in Article 6(3) and may involve the active participation of:

- (a) the aviation industry;
- (b) professional organisations of aviation staff.

8. Information received from voluntary and mandatory reporting may be integrated into a single system.

*Article 6***Collection and storage of information**

1. Each organisation established in a Member State shall designate one or more persons to handle independently the collection, evaluation, processing, analysis and storage of details of occurrences reported pursuant to Articles 4 and 5.

The handling of the reports shall be done with a view to preventing the use of information for purposes other than safety, and shall appropriately safeguard the confidentiality of the identity of the reporter and of the persons mentioned in occurrence reports, with a view to promoting a 'just culture'.

2. By agreement with the competent authority, small organisations may put in place a simplified mechanism for the collection, evaluation, processing, analysis and storage of details of occurrences. They may share those tasks with organisations of the same nature, while complying with the rules on confidentiality and protection pursuant to this Regulation.

3. Each Member State shall designate one or more competent authorities to establish a mechanism to independently collect, evaluate, process, analyse and store details of occurrences reported pursuant to Articles 4 and 5.

The handling of the reports shall be done with a view to preventing the use of information for purposes other than safety, and shall appropriately safeguard the confidentiality of the identity of the reporter and of the persons mentioned in occurrence reports, with a view to promoting a 'just culture'.

The authorities which may be designated pursuant to the first subparagraph, either jointly or separately, are the following:

- (a) the national civil aviation authority; and/or
- (b) the safety investigation authority; and/or
- (c) any other independent body or entity based in the Union that is entrusted with this function.

Where a Member State designates more than one body or entity, it shall designate one of them as point of contact for the transfer of information referred to in Article 8(2).

4. The Agency shall designate one or more persons to establish a mechanism to independently collect, evaluate, process, analyse and store details of occurrences reported in accordance with Articles 4 and 5.

The handling of the reports shall be done with a view to preventing the use of information for purposes other than safety, and shall appropriately safeguard the confidentiality of the identity of the reporter and of the persons mentioned in occurrence reports, with a view to promoting a 'just culture'.

5. Organisations shall store occurrence reports drawn up on the basis of details of occurrences collected in accordance with Articles 4 and 5 in one or more databases.

6. The competent authorities referred to in paragraph 3 shall store occurrence reports drawn up on the basis of details of occurrences collected in accordance with Articles 4 and 5 in a national database.

7. Relevant information on accidents and serious incidents collected or issued by safety investigation authorities shall also be stored in the national database.

8. The Agency shall store occurrence reports drawn up on the basis of details of occurrences collected in accordance with Articles 4 and 5 in a database.

9. Safety investigation authorities shall have full access to their respective national database referred to in paragraph 6 for the purpose of discharging their responsibilities pursuant to Article 5(4) of Regulation (EU) No 996/2010.

10. Civil aviation authorities of Member States shall have full access to their respective national database referred to in paragraph 6 for the purposes of their safety-related responsibilities.

*Article 7***Quality and content of occurrence reports**

1. Occurrence reports referred to in Article 6 shall contain at least the information listed in Annex I.
2. Occurrence reports referred to in paragraphs 5, 6 and 8 of Article 6 shall include a safety risk classification for the occurrence concerned. That classification shall be reviewed and if necessary amended, and shall be endorsed by the competent authority of the Member State or the Agency, in accordance with the common European risk classification scheme referred to in paragraph 5 of this Article.
3. Organisations, Member States and the Agency shall establish data quality checking processes to improve data consistency, notably between the information collected initially and the report stored in the database.
4. The databases referred to in paragraphs 5, 6 and 8 of Article 6 shall use formats which are:
  - (a) standardised to facilitate information exchange; and
  - (b) compatible with the ECCAIRS software and the ADREP taxonomy.
5. The Commission, in close cooperation with the Member States and the Agency through the network of aviation safety analysts, referred to in Article 14(2), shall develop a common European risk classification scheme to enable the organisations, Member States and the Agency to classify occurrences in terms of safety risk. In so doing, the Commission shall take into account the need for compatibility with existing risk classification schemes.

The Commission shall develop that scheme by 15 May 2017.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 to define the common European risk classification scheme.
7. The Commission shall, by means of implementing acts, adopt the arrangements for the implementation of the common European risk classification scheme. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).
8. The Commission and the Agency shall support the competent authorities of the Member States in their task of data integration, including for example in:
  - (a) the integration of the minimum information referred to in paragraph 1;
  - (b) the risk classification of occurrences referred to in paragraph 2; and
  - (c) the establishment of data quality checking processes referred to in paragraph 3.

The Commission and the Agency shall provide that support in such a way as to contribute to the harmonisation of the data entry process across Member States, in particular by providing to staff working in the bodies or entities referred to in Article 6(1), (3) and (4):

- (a) guidance material;
- (b) workshops; and
- (c) appropriate training.

*Article 8***European Central Repository**

1. The Commission shall manage a European Central Repository to store all occurrence reports collected in the Union.
2. Each Member State shall, in agreement with the Commission, update the European Central Repository by transferring to it all information relating to safety stored in the national databases referred to in Article 6(6).



3. The Agency shall agree with the Commission the technical protocols for transferring to the European Central Repository all occurrence reports collected by the Agency under Regulation (EC) No 216/2008 and its implementing rules, particularly for occurrences stored in the Internal Occurrence Reporting System (IORS), as well as the information collected pursuant to Articles 4(9) and 5(5).
4. The Commission shall, by means of implementing acts, adopt the arrangements for the management of the European Central Repository as referred to in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

#### Article 9

##### **Exchange of information**

1. Member States and the Agency shall participate in an exchange of information by making all information relating to safety stored in their respective reporting databases available to the competent authorities of the other Member States, the Agency and the Commission, through the European Central Repository.

Occurrence reports shall be transferred to the European Central Repository no later than 30 days after having been entered in the national database.

Occurrence reports shall be updated whenever necessary with additional information relating to safety.

2. Member States shall also transfer information related to accidents and serious incidents to the European Central Repository as follows:

- (a) during the course of the investigation: preliminary factual information on accidents and serious incidents;
- (b) when the investigation is completed:
  - (i) the final investigation report; and
  - (ii) when available, a summary in English of the final investigation report.

3. A Member State or the Agency shall forward all pertinent safety-related information to the relevant authority of the Member State or the Agency as soon as possible if, while collecting details of occurrences or when storing occurrence reports or carrying out an analysis in accordance with Article 13(6), it identifies safety matters which it considers either:

- (a) to be of interest to other Member States or the Agency; or
- (b) to possibly require safety action to be taken by other Member States or the Agency.

#### Article 10

##### **Dissemination of information stored in the European Central Repository**

1. Any entity entrusted with regulating civil aviation safety, or any safety investigation authority, within the Union shall have secure full online access to information on occurrences contained in the European Central Repository.

The information shall be used in accordance with Articles 15 and 16.

2. Interested parties listed in Annex II may request access to certain information contained in the European Central Repository.

Interested parties established within the Union shall address requests for information to the point of contact of the Member State in which they are established.

Interested parties established outside the Union shall address their request to the Commission.

The Commission shall inform the competent authority of the Member State concerned when a request is made pursuant to this paragraph.

3. Subject to Article 15(2) of Regulation (EU) No 996/2010, information contained in the European Central Repository relating to ongoing safety investigations conducted in accordance with that Regulation shall not be disclosed to interested parties pursuant to this Article.

4. For security reasons, interested parties shall not be granted direct access to the European Central Repository.

#### Article 11

### Processing of requests and decisions

1. Requests for information contained in the European Central Repository shall be submitted using forms approved by the point of contact. Those forms shall contain at least the items set out in Annex III.

2. A point of contact which receives a request shall verify that:

(a) the request is made by an interested party;

(b) it is competent to deal with that request.

Where the point of contact determines that another Member State or the Commission is competent to deal with the request, it shall transfer it to that Member State or to the Commission, as appropriate.

3. A point of contact which receives a request shall evaluate on a case-by-case basis whether the request is justified and practicable.

A point of contact may supply information to interested parties on paper or by using secure electronic means of communication.

4. Where the request is accepted, the point of contact shall determine the amount and the level of information to be supplied. Without prejudice to Articles 15 and 16, the information shall be limited to what is strictly required for the purpose of the request.

Information unrelated to the interested party's own equipment, operations or field of activity shall be supplied only in aggregated or anonymised form. Information in non-aggregated form may be provided to the interested party if it provides a detailed written justification. That information shall be used in accordance with Articles 15 and 16.

5. The point of contact shall supply interested parties listed in point (b) of Annex II only with information relating to the interested party's own equipment, operations or field of activity.

6. A point of contact receiving a request from an interested party listed in point (a) of Annex II may take a general decision to supply information on a regular basis to that interested party, provided that:

(a) the information requested is related to the interested party's own equipment, operations or field of activity;

(b) the general decision does not grant access to the entire content of the database;

(c) the general decision relates only to anonymised information.

7. The interested party shall use the information received pursuant to this Article subject to the following conditions:

(a) the interested party shall use the information only for the purpose specified in the request form, which should be compatible with the objective of this Regulation as stated in Article 1; and

(b) the interested party shall not disclose the information received without the written consent of the information provider and shall take the necessary measures to ensure appropriate confidentiality of the information received.

8. The decision to disseminate information pursuant to this Article shall be limited to what is strictly required for the purpose of its user.

*Article 12***Record of requests and exchange of information**

1. The point of contact shall record each request received and the action taken pursuant to that request.

That information shall be transmitted in a timely manner to the Commission whenever a request is received and/or action is taken.

2. The Commission shall make available the updated list of requests received and action taken by the various points of contact and by the Commission itself to all points of contact.

*Article 13***Occurrence analysis and follow-up at national level**

1. Each organisation established in a Member State shall develop a process to analyse occurrences collected in accordance with Articles 4(2) and 5(1) in order to identify the safety hazards associated with identified occurrences or groups of occurrences.

Based on that analysis, each organisation shall determine any appropriate corrective or preventive action, required to improve aviation safety.

2. When, following the analysis referred to in paragraph 1, an organisation established in a Member State identifies any appropriate corrective or preventive action required to address actual or potential aviation safety deficiencies, it shall:

- (a) implement that action in a timely manner; and
- (b) establish a process to monitor the implementation and effectiveness of the action.

3. Each organisation established in a Member State shall regularly provide its employees and contracted personnel with information concerning the analysis of, and follow-up on, occurrences for which preventive or corrective action is taken.

4. Where an organisation established in a Member State which is not covered by paragraph 5 identifies an actual or potential aviation safety risk as a result of its analysis of occurrences or group of occurrences reported pursuant to Articles 4(8) and 5(6), it shall transmit to the competent authority of that Member State, within 30 days from the date of notification of the occurrence by the reporter:

- (a) the preliminary results of the analysis performed pursuant to paragraph 1, if any; and
- (b) any action to be taken pursuant to paragraph 2.

The organisation shall report the final results of the analysis, where required, as soon as they are available and, in principle, no later than three months from the date of notification of the occurrence.

A competent authority of a Member State may request organisations to transmit to it the preliminary or final results of the analysis of any occurrence of which it has been notified but in relation to which it has received no follow-up or only the preliminary results.

5. Where an organisation established in a Member State and certified or approved by the Agency identifies an actual or potential aviation safety risk as a result of its analysis of occurrences or group of occurrences reported pursuant to Articles 4(9) and 5(5), it shall transmit to the Agency, within 30 days from the date of notification of the occurrence by the reporter:

- (a) the preliminary results of the analysis performed pursuant to paragraph 1, if any; and
- (b) any action to be taken pursuant to paragraph 2.

The organisation certified or approved by the Agency shall transmit to the Agency the final results of the analysis, where required, as soon as they are available and, in principle, no later than three months from the date of notification of the occurrence.

The Agency may request organisations to transmit to it the preliminary or final results of the analysis of any occurrence of which it has been notified but in relation to which it has received no follow-up or only the preliminary results.

6. Each Member State and the Agency shall develop a process to analyse the information relating to occurrences which are directly reported to them in accordance with Articles 4(6), 5(2) and 5(3) in order to identify the safety hazards associated with those occurrences. Based on that analysis, they shall determine any appropriate corrective or preventive action required to improve aviation safety.

7. When, following the analysis referred to in paragraph 6, a Member State or the Agency identifies any appropriate corrective or preventive action required to address actual or potential aviation safety deficiencies, it shall:

- (a) implement that action in a timely manner; and
- (b) establish a process to monitor the implementation and effectiveness of the action.

8. For each occurrence or group of occurrences monitored in accordance with paragraph 4 or 5, each Member State and the Agency shall have access to the analysis made and shall appropriately monitor action taken by the organisations for which it is respectively responsible.

If a Member State or the Agency concludes that the implementation and the effectiveness of the reported action is inappropriate to address actual or potential safety deficiencies, it shall ensure that additional appropriate action is taken and implemented by the relevant organisation.

9. Where available, information relating to the analysis and the follow-up of individual occurrences or groups of occurrences obtained pursuant to this Article shall be stored in the European Central Repository, in accordance with Article 8(2) and (3), in a timely manner and no later than two months after their storage in the national database.

10. Member States shall use information obtained from the analysis of occurrence reports to identify remedial action to be taken, if any, within the State Safety Programme.

11. In order to inform the public of the level of safety in civil aviation, each Member State shall publish a safety review at least once a year. The safety review shall:

- (a) contain aggregated and anonymised information on the type of occurrences and safety-related information reported through its national mandatory and voluntary reporting systems;
- (b) identify trends;
- (c) identify the action it has taken.

12. Member States may also publish anonymised occurrence reports and risk analysis outcomes.

#### Article 14

### Occurrence analysis and follow up at Union level

1. The Commission, the Agency and the competent authorities of the Member States shall, in collaboration, participate regularly in the exchange and analysis of information contained in the European Central Repository.

Without prejudice to the confidentiality requirements laid down in this Regulation, observers may be invited on a case-by-case basis, where appropriate.

2. The Commission, the Agency and the competent authorities of the Member States shall collaborate through a network of aviation safety analysts.

The network of aviation safety analysts shall contribute to the improvement of aviation safety in the Union, in particular by performing safety analysis in support of the European Aviation Safety Programme and the European Aviation Safety Plan.

3. The Agency shall support the activities of the network of aviation safety analysts by, for example, providing assistance for the preparation and organisation of the meetings of the network.
4. The Agency shall include information about the result of information analysis referred to in paragraph 1 in the annual safety review referred to in Article 15(4) of Regulation (EC) No 216/2008.

#### Article 15

### Confidentiality and appropriate use of information

1. Member States and organisations, in accordance with their national law, and the Agency shall take the necessary measures to ensure the appropriate confidentiality of the details of occurrences received by them pursuant to Articles 4, 5 and 10.

Each Member State, each organisation established in a Member State, or the Agency shall process personal data only to the extent necessary for the purposes of this Regulation and without prejudice to national legal acts implementing Directive 95/46/EC.

2. Without prejudice to the provisions relating to the protection of safety information in Articles 12, 14 and 15 of Regulation (EU) No 996/2010, information derived from occurrence reports shall be used only for the purpose for which it has been collected.

Member States, the Agency and organisations shall not make available or use the information on occurrences:

- (a) in order to attribute blame or liability; or
  - (b) for any purpose other than the maintenance or improvement of aviation safety.
3. The Commission, the Agency and the competent authorities of the Member States, when discharging their obligations under Article 14 in relation to the information contained in the European Central Repository, shall:
    - (a) ensure the confidentiality of the information; and
    - (b) limit the use of the information to what is strictly necessary in order to discharge their safety-related obligations without attributing blame or liability; in this respect, the information shall be used in particular for risk management and for analysis of safety trends which may lead to safety recommendations or actions, addressing actual or potential safety deficiencies.
  4. Member States shall ensure that their competent authorities referred to in Article 6(3) and their competent authorities for the administration of justice cooperate with each other through advance administrative arrangements. These advance administrative arrangements shall seek to ensure the correct balance between the need for proper administration of justice, on the one hand, and the necessary continued availability of safety information, on the other.

#### Article 16

### Protection of the information source

1. For the purposes of this Article, 'personal details' includes in particular names or addresses of natural persons.
2. Each organisation established in a Member State shall ensure that all personal details are made available to staff of that organisation other than persons designated in accordance with Article 6(1) only where absolutely necessary in order to investigate occurrences with a view to enhancing aviation safety.

Disidentified information shall be disseminated within the organisation as appropriate.

3. Each Member State shall ensure that no personal details are ever recorded in the national database referred to in Article 6(6). Such disidentified information shall be made available to all relevant parties, for example to allow them to discharge their obligations in relation to aviation safety improvement.

4. The Agency shall ensure that no personal details are ever recorded in the Agency database referred to in Article 6(8). Such disidentified information shall be made available to all relevant parties, for example to allow them to discharge their obligations in relation to aviation safety improvement.

5. Member States and the Agency shall not be prevented from taking any action necessary for maintaining or improving aviation safety.

6. Without prejudice to applicable national criminal law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported pursuant to Articles 4 and 5.

The first subparagraph shall not apply in the cases referred to in paragraph 10. Member States may retain or adopt measures to strengthen the protection of reporters or persons mentioned in occurrence reports. Member States may in particular apply this rule without the exceptions referred to in paragraph 10.

7. If disciplinary or administrative proceedings are instituted under national law, information contained in occurrence reports shall not be used against:

(a) the reporters; or

(b) the persons mentioned in occurrence reports.

The first subparagraph shall not apply in the cases referred to in paragraph 10.

Member States may retain or adopt measures to strengthen the protection of reporters or persons mentioned in occurrence reports. Member States may in particular extend that protection to civil or criminal proceedings.

8. Member States may adopt or maintain in force legislative provisions ensuring a higher level of protection for reporters or for persons mentioned in occurrence reports than those established in this Regulation.

9. Except where paragraph 10 applies, employees and contracted personnel who report or are mentioned in occurrence reports collected in accordance with Articles 4 and 5 shall not be subject to any prejudice by their employer or by the organisation for which the services are provided on the basis of the information supplied by the reporter.

10. The protection under paragraphs 6, 7 and 9 of this Article shall not apply to any of the following situations:

(a) in cases of wilful misconduct;

(b) where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of aviation safety.

11. Each organisation established in a Member State shall, after consulting its staff representatives, adopt internal rules describing how 'just culture' principles, in particular the principle referred to in paragraph 9, are guaranteed and implemented within that organisation.

The body designated pursuant to paragraph 12 may ask to review the internal rules of the organisations established in its Member State before those internal rules are implemented.

12. Each Member State shall designate a body responsible for the implementation of paragraphs 6, 9 and 11.

Employees and contracted personnel may report to that body alleged infringements of the rules established by this Article. Employees and contracted personnel shall not be penalised for reporting alleged infringements. Employees and contracted personnel may inform the Commission about such alleged infringements.

Where appropriate, the designated body shall advise the relevant authorities of its Member State concerning remedies or penalties in application of Article 21.

13. On 15 May 2019 and every five years thereafter, each Member State shall send the Commission a report on the application of this Article, and in particular on the activities of the body designated pursuant to paragraph 12. The report shall not contain any personal data.

#### Article 17

##### Updating of the annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 18 in order to:

- (a) update the list of mandatory data fields in occurrence reports laid down in Annex I where, in the light of experience gained in the application of this Regulation, changes prove necessary in order to improve aviation safety;
- (b) update the request for European Central Repository information form provided in Annex III, to take account of experience gained and of new developments;
- (c) align any of the Annexes with the ECCAIRS software and the ADREP taxonomy, as well as with legal acts adopted by the Union and with international agreements.

With a view to updating the list of mandatory fields, the Agency and the network of aviation safety analysts referred to in Article 14(2) shall provide the Commission with appropriate opinion(s).

#### Article 18

##### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 7(6) and Article 17 shall be conferred on the Commission for a period of five years from the entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 7(6) and Article 17 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 7(6) and Article 17 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### Article 19

##### Committee procedure

1. The Commission shall be assisted by the committee established by Article 65 of Regulation (EC) No 216/2008. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

*Article 20***Access to documents and protection of personal data**

1. With the exception of Articles 10 and 11, which establish stricter rules on access to the data and information contained in the European Central Repository, this Regulation shall apply without prejudice to Regulation (EC) No 1049/2001.
2. This Regulation shall apply without prejudice to national legal acts implementing Directive 95/46/EC and in accordance with Regulation (EC) No 45/2001.

*Article 21***Penalties**

Member States shall lay down the rules on penalties applicable to infringements of this Regulation. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify to the Commission those provisions and any subsequent amendment affecting them.

*Article 22***Amendment to Regulation (EU) No 996/2010**

Article 19 of Regulation (EU) No 996/2010 is deleted.

However, that Article shall remain applicable until the date of application of this Regulation in accordance with Article 24(3).

*Article 23***Repeals**

Directive 2003/42/EC, Regulation (EC) No 1321/2007 and Regulation (EC) No 1330/2007 are repealed. They shall remain applicable until the date of application of this Regulation in accordance with Article 24(3).

*Article 24***Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. By 16 November 2020, the Commission shall publish and send to the European Parliament and to the Council an evaluation report on the implementation of this Regulation. That report shall cover, in particular, the contribution made by this Regulation to reducing the number of aircraft accidents and related fatalities. If appropriate and on the basis of that report, the Commission shall make proposals for amending this Regulation.
3. This Regulation shall apply from 15 November 2015 and not before the entry into force of the implementing measures referred to in Article 4(5). Article 7(2) shall apply once the delegated and implementing acts specifying and developing the European common risk classification scheme referred to in Article 7(6) and (7) enter into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 April 2014.

*For the European Parliament*  
The President  
M. SCHULZ

*For the Council*  
The President  
D. KOURKOULAS



## ANNEX I

**LIST OF REQUIREMENTS APPLICABLE TO THE MANDATORY AND VOLUNTARY OCCURRENCE REPORTING SCHEMES**

*Note:* The data fields must be completed with the information requested. If it is not possible for the competent authorities of the Member States or the Agency to include that information because it has not been provided by the organisation or the reporter, the data field may be completed with the value 'unknown'. However, with a view to ensuring that the appropriate information is transmitted, use of that 'unknown' value should, to the best extent possible, be avoided, and the report should, where possible, be completed with the information later.

**1. COMMON MANDATORY DATA FIELDS**

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations, Member States and the Agency must ensure that occurrence reports recorded in their databases contain at least the following information:

**(1) Headline**

— Headline

**(2) Filing Information**

— Responsible Entity

— File Number

— Occurrence Status

**(3) When**

— UTC Date

**(4) Where**

— State/Area of Occurrence

— Location of Occurrence

**(5) Classification**

— Occurrence Class

— Occurrence Category

**(6) Narrative**

— Narrative Language

— Narrative

**(7) Events**

— Event Type

**(8) Risk classification****2. SPECIFIC MANDATORY DATA FIELDS****2.1. Aircraft-related data fields**

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations, Member States and the Agency must ensure that occurrence reports recorded in their databases contain at least the following information:

**(1) Aircraft Identification**

— State of Registry

— Make/Model/Series

- Aircraft serial number
- Aircraft Registration
- Call sign
- (2) Aircraft Operation
  - Operator
  - Type of operation
- (3) Aircraft Description
  - Aircraft Category
  - Propulsion Type
  - Mass Group
- (4) History of Flight
  - Last Departure Point
  - Planned Destination
  - Flight Phase
- (5) Weather
  - Weather relevant

## 2.2. Data fields relating to air navigation services

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations, Member States and the Agency must ensure that occurrence reports recorded in their databases contain at least the following information:

- (1) ATM relation
  - ATM contribution
  - Service affected (effect on ATM service)
- (2) ATS Unit Name

### 2.2.1. Separation Minima Infringement/Loss of Separation and Airspace Infringement-related data fields

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations, Member States and the Agency must ensure that occurrence reports recorded in their databases contain at least the following information:

- (1) Airspace
  - Airspace type
  - Airspace class
  - FIR/UIR name

## 2.3. Aerodrome-related data fields

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations, Member States and the Agency must ensure that occurrence reports recorded in their databases contain at least the following information:

- (1) Location Indicator (ICAO indicator of the airport)
- (2) Location on the aerodrome

**2.4. Aircraft damage or personal injury-related data fields**

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations, Member States and the Agency must ensure that occurrence reports recorded in their databases contain at least the following information:

**(1) Severity**

- Highest Damage
- Injury Level

**(2) Injuries to persons**

- Number of injuries on ground (fatal, serious, minor)
  - Number of injuries on aircraft (fatal, serious, minor)
-

## ANNEX II

**INTERESTED PARTIES**

- (a) List of interested parties which may receive information on the basis of a case-by-case decision under Article 11(4) or on the basis of a general decision under Article 11(6):
1. Manufacturers: designers and manufacturers of aircraft, engines, propellers and aircraft parts and appliances, and their respective associations; designers and manufacturers of air traffic management (ATM) systems and constituents; designers and manufacturers of systems and constituents for air navigation services (ANS); designers and manufacturers of systems and equipment used on the air side of aerodromes
  2. Maintenance: organisations involved in the maintenance or overhaul of aircraft, engines, propellers and aircraft parts and appliances; in the installation, modification, maintenance, repair, overhaul, flight checking or inspection of air navigation facilities; or in the maintenance or overhaul of aerodrome air side systems, constituents and equipment
  3. Operators: airlines and operators of aircraft and associations of airlines and operators; aerodrome operators and associations of aerodrome operators
  4. Air navigation services providers and providers of ATM-specific functions
  5. Aerodrome service providers: organisations in charge of ground handling of aircraft, including fuelling, loadsheet preparation, loading, de-icing and towing at an aerodrome, as well as rescue and firefighting, or other emergency services
  6. Aviation training organisations
  7. Third-country organisations: governmental aviation authorities and accident investigation authorities from third countries
  8. International aviation organisations
  9. Research: public or private research laboratories, centres or entities; or universities engaged in aviation safety research or studies
- (b) List of interested parties which may receive information on the basis of a case-by-case decision under Article 11(4) and (5):
1. Pilots (on a personal basis)
  2. Air traffic controllers (on a personal basis) and other ATM/ANS staff carrying out safety-related tasks
  3. Engineers/technicians/air traffic safety electronics staff/aviation (or aerodrome) managers (on a personal basis)
  4. Professional representative bodies of staff carrying out safety-related tasks
-

## ANNEX III

## REQUEST FOR INFORMATION FROM THE EUROPEAN CENTRAL REPOSITORY

## 1. Name:

Function/position:

Company:

Address:

Tel.:

E-mail:

Date:

Nature of business:

Category of interested party (see Annex II to Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation <sup>(1)</sup>):

## 2. Information requested (please be as specific as possible; include the relevant date/period in which you are interested):

## 3. Reason for the request:

## 4. Explain the purpose for which the information will be used:

## 5. Date by which the information is requested:

## 6. The completed form should be sent, via e-mail, to: (point of contact)

## 7. Access to information

The point of contact is not required to supply any requested information. It may do so only if it is confident that the request is compatible with Regulation (EU) No 376/2014. The requestor commits itself and its organisation to restrict the use of the information to the purpose it has described under point 4. It is also recalled that information provided on the basis of this request is made available only for the purposes of flight safety as provided in Regulation (EU) No 376/2014 and not for other purposes such as, in particular, attributing blame or liability or for commercial purposes.

The requestor is not allowed to disclose information provided to it to anyone without the written consent of the point of contact.

Failure to comply with these conditions may lead to a refusal of access to further information from the European Central Repository and, where applicable, to the imposition of penalties.

## 8. Date, place and signature:

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<sup>(1)</sup> OJ L 122, 24.4.2014, p. 18.

**REGULATION (EU) No 377/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 3 April 2014**  
**establishing the Copernicus Programme and repealing Regulation (EU) No 911/2010**  
**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 189(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) Global Monitoring for Environment and Security (GMES) was an Earth monitoring initiative led by the Union and carried out in partnership with the Member States and the European Space Agency (ESA). The origins of GMES date back to May 1998, when institutions involved in the development of space activities in Europe made a joint declaration known as the 'Baveno Manifesto'. The Manifesto called for a long-term commitment to the development of space-based environmental monitoring services, making use of, and further developing, European skills and technologies. In 2005, the Union made the strategic choice of developing jointly with ESA an independent European Earth observation capacity to deliver services in the environmental and security fields.
- (2) Building on that initiative, Regulation (EU) No 911/2010 of the European Parliament and of the Council <sup>(3)</sup> established the European Earth monitoring programme (GMES) and the rules for the implementation of its initial operations.
- (3) While the programme set up under Regulation (EU) No 911/2010 should continue under the multiannual financial framework 2014-2020, established by Council Regulation (EU, Euratom) No 1311/2013 <sup>(4)</sup>, the acronym 'GMES' should be replaced by the name of 'Copernicus' in order to facilitate the communication with the public at large. The Commission has registered the trademark so that it can be used by the Union institutions and licensed to other interested users, in particular the providers of core services.
- (4) The Copernicus programme (Copernicus) is based on a partnership between the Union, ESA and the Member States. Hence, it should build on existing European and national capacities and should complement them by new assets developed in common. In order to implement this approach, the Commission should endeavour to maintain a dialogue with ESA and Member States owning relevant space and in situ assets.
- (5) In order to attain its objectives, Copernicus should ensure an autonomous Union capacity for spaceborne observations and provide operational services in the field of the environment, civil protection and civil security, fully respecting national mandates on official warnings. It should also make use of the available contributing missions and in situ data provided mainly by the Member States. To the greatest extent possible, Copernicus should make use of capacities for spaceborne observations and services of Member States. Copernicus should also make use of the capacities of commercial initiatives in Europe, thereby also contributing to the development of a viable commercial space sector in Europe. In addition, systems to optimise the transmission of data should be promoted to further enhance capabilities in response to growing user demand for near real-time data.

<sup>(1)</sup> Opinion of 16 October 2013.

<sup>(2)</sup> Position of the European Parliament of 12 March 2014 (not yet published in the Official Journal) and decision of the Council of 24 March 2014.

<sup>(3)</sup> Regulation (EU) No 911/2010 of the European Parliament and of the Council of 22 September 2010 on the European Earth monitoring programme (GMES) and its initial operations (2011 to 2013) (OJ L 276, 20.10.2010, p. 1).

<sup>(4)</sup> Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

- (6) To promote and facilitate the use of Earth observation technologies both by local authorities and by small and medium-sized enterprises (SMEs), dedicated networks for Copernicus data distribution, including national and regional bodies, should be promoted.
- (7) The objective of Copernicus should be to provide accurate and reliable information in the field of the environment and security, tailored to the needs of users and supporting other Union policies, in particular relating to the internal market, transport, environment, energy, civil protection and civil security, cooperation with third countries and humanitarian aid.
- (8) Copernicus should be considered as a European contribution to building the Global Earth Observation System of Systems (GEOSS) developed within the framework of the Group on Earth Observations (GEO).
- (9) Copernicus should be implemented consistently with other relevant Union instruments and actions, in particular with environmental and climate change actions, and instruments in the field of security, protection of personal data, competitiveness and innovation, cohesion, research, transport, competition and international cooperation, and with the European satellite navigation systems (Galileo and EGNOS). Copernicus data should be compliant with Member States' spatial reference data as well as with implementing rules and technical guidelines of the infrastructure for spatial information in the Union established by Directive 2007/2/EC of the European Parliament and of the Council <sup>(1)</sup>. Copernicus should also complement the Shared Environmental Information System (SEIS), as referred to in the Commission Communication of 1 February 2008 entitled: Towards a Shared Environmental Information System (SEIS), and Union activities in the field of emergency response. Copernicus should be implemented in accordance with the objectives of Directive 2003/98/EC of the European Parliament and of the Council <sup>(2)</sup> on the re-use of public sector information, in particular transparency, the creation of conditions conducive to the development of services, and contributing to economic growth and job creation. Copernicus data and Copernicus information should be available freely and openly to support the Digital Agenda for Europe, as referred to in the Commission Communication of 26 August 2010 entitled: A Digital Agenda for Europe.
- (10) Copernicus is a programme to be delivered under the Europe 2020 strategy for smart, sustainable and inclusive growth (the 'Europe 2020 strategy'). It should benefit a wide range of Union policies and contribute to reaching the objectives of the Europe 2020 strategy, in particular by developing an effective space policy to provide the tools to address some of the key global challenges and meet the targets on climate change and energy sustainability. Copernicus should also support the implementation of the European space policy and support the growth of European markets for space-based data and services.
- (11) Copernicus should also benefit from the results provided by Horizon 2020, established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council <sup>(3)</sup>, in particular through its activities in research and innovation for future Earth Observation technologies and applications using remote sensing, airborne and in situ technologies and data to respond to the major societal challenges. The Commission should ensure appropriate synergy, transparency and clarity regarding the different aspects of Copernicus.
- (12) The evolution of the Copernicus space component should be based on an analysis of options to meet evolving user needs, including procurement from national/public missions and commercial providers in Europe, specification of new dedicated missions, international agreements ensuring access to non-European missions, and the European Earth observation market.
- (13) For the sake of clarity and in order to facilitate cost control, the maximum amount allocated by the Union to implement the Copernicus activities should be broken down into various categories. Nonetheless, in the interest of flexibility and to ensure the smooth running of Copernicus, the Commission should be able to re-allocate funds from one category to another.

<sup>(1)</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

<sup>(2)</sup> Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90).

<sup>(3)</sup> Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

- (14) The provision of operational services depends on the good functioning, continued availability and safety of the Copernicus space component. The increasing risk of collision with other satellites and space debris is a serious threat to the Copernicus space component. Therefore, the Copernicus activities should include the protection of the Copernicus space component and its operations, including during the launch of satellites. In this respect, a proportionate contribution to the costs of services capable of providing such protection could be financed by the budget allocated to Copernicus insofar as possible following rigorous cost management and full compliance with the maximum amount of EUR 26,5 million in current prices established in this Regulation. Such contribution should be used only for the provision of data and services and not for the purchase of infrastructure.
- (15) With a view to improving the implementation of Copernicus and its long-term planning, the Commission should adopt an annual work programme, including an implementation plan of the actions required to meet the objectives of Copernicus. That implementation plan should be forward-looking and should describe the actions needed to implement Copernicus taking into account evolving user needs and technological developments.
- (16) The implementation of the Copernicus service component should be based on technical specifications given the complexity and resources allocated to Copernicus. This would also facilitate the public uptake of services as users would be able to anticipate the availability and evolution of services as well as cooperation with Member States and other parties. Therefore, the Commission should adopt and update, as necessary, technical specifications for all Copernicus services addressing aspects such as scope, architecture, technical service portfolios, indicative cost break-down and planning, performance levels, space and in situ data access needs, evolution, standards, archiving and dissemination of data.
- (17) The implementation of the Copernicus space component should be based on technical specifications given the complexity and resources allocated to Copernicus. Therefore, the Commission should adopt and update, as necessary, technical specifications detailing the activities to be supported under the Copernicus space component and their indicative cost break-down and planning. Since Copernicus should build on investments made by the Union, ESA and Member States in the context of the Global Monitoring for Environment and Security, the activities under the Copernicus space component should take into consideration, where appropriate, elements of the ESA Long-Term Scenario (LTS) which is a document prepared and updated by ESA, establishing an overall framework for the Copernicus space component.
- (18) Copernicus should be user-driven, thus requiring the continuous, effective involvement of users, particularly regarding the definition and validation of service requirements.
- (19) The international dimension of Copernicus is of particular relevance in the exchange of data and information, as well as in access to observation infrastructure. Such exchange is more cost-efficient than data-buy schemes and strengthens the global dimension of Copernicus.
- (20) The European Economic Area (EEA) Agreement and the Framework Agreements with candidate countries and potential candidates provide for participation by those countries in Union programmes. Participation by other third countries and international organisations should be made possible by the conclusion of international agreements to that effect.
- (21) Member States, third countries and international organisations should be free to contribute to the programmes on the basis of appropriate agreements.
- (22) The Commission should have overall responsibility for Copernicus. It should define the priorities and ensure the overall coordination and supervision of Copernicus. That should also include special efforts leading to raising public awareness about the importance of space programmes for European citizens. It should provide the European Parliament and the Council with all relevant information pertaining to Copernicus in a timely manner.
- (23) In the implementation of Copernicus, the Commission should rely, where appropriate, on European intergovernmental organisations with whom it has already established partnerships, in particular ESA for the technical coordination of the Copernicus space component, the definition of its architecture, the development and procurement of space assets, data access and the operation of dedicated missions. In addition, the Commission should also rely on the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) for the operation of dedicated missions in accordance with its expertise and mandate.



- (24) Taking into account the partnership dimension of Copernicus and in order to avoid duplication of technical expertise, the implementation of Copernicus should be delegated to entities with the appropriate technical and professional capacity. Such entities should be encouraged to open the execution of those tasks to competition up to an adequate level in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(1)</sup> ('the Financial Regulation').
- (25) Copernicus should include a service component ensuring delivery of information in atmosphere monitoring, marine environment monitoring, land monitoring, climate change, emergency management and security. In particular, Copernicus should deliver information on the state of the atmosphere including at the local, national, European and global scale; information on the state of the oceans, including through the setting-up of a dedicated European grouping for marine monitoring; information in support of land monitoring supporting the implementation of local, national and European policies; information in support of climate change adaptation and mitigation; geospatial information in support of emergency management, including through prevention activities, and civil security including support for the Union's external action. The Commission should identify appropriate contractual arrangements fostering the sustainability of service provision.
- (26) In the implementation of Copernicus service component, the Commission may rely, where duly justified by the special nature of the action and specific expertise, on competent entities, such as the European Environment Agency, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), the European Maritime Safety Agency (EMSA) and the European Union Satellite Centre (SATCEN), the European Centre for Medium-Range Weather Forecasts (ECMWF), other relevant European agencies, groupings or consortia of national bodies, or any relevant body potentially eligible for a delegation in accordance with the Financial Regulation. The choice of the entity should take due account of the cost efficiency of entrusting those tasks and the impact on the entity's governance structure and on its financial and human resources.
- (27) The Joint Research Centre (JRC) of the Commission has been actively involved in the GMES initiative and in the implementation of the GMES initial operations established under Regulation (EU) No 911/2010. The Commission should continue relying on the JRC's scientific and technical support for the implementation of Copernicus.
- (28) Public procurement of the entities entrusted with the implementation of Copernicus should be compatible with Union rules or equivalent international standards, to the extent allowable by the provisions on public contracts in the Financial Regulation. Specific adjustments necessary to these rules, as well as the arrangements for the prolongation of the existing contracts, should be defined in the corresponding delegation agreements. It should aim, first and foremost, to obtain best value for money, control costs, mitigate risks, improve efficiency and reduce reliance on a single supplier. Open access and fair competition throughout the supply chain and the balanced offering of participation opportunities to industry at all levels, including, in particular, new entrants and SMEs, should be ensured. Possible abuse of dominant position and of long-term reliance on single suppliers should be avoided. In order to mitigate programme risks, to avoid reliance on a single source of supply and to ensure better overall control of Copernicus and its costs and schedule, multiple sourcing should be pursued, wherever appropriate. Moreover, the development of European industry should be preserved and promoted in all areas relating to Earth observation, in accordance with international agreements to which the Union is Part.
- (29) The risk of poor contract performance or of non-performance should be mitigated as much as possible. To that end, contractors should demonstrate the sustainability of their contractual performance with respect to the commitments undertaken and the duration of the contract. Therefore, contracting authorities should, wherever appropriate, specify requirements relating to the reliability of supplies and of the provision of services. In addition, in the case of the purchase of goods and services of a sensitive nature, contracting authorities may subject such purchase to specific requirements, particularly with a view to ensuring security of information. Union industries should be permitted to rely on non-Union sources for certain components and services where substantial advantages are demonstrated in terms of quality and costs, taking account, however, of the strategic nature of Copernicus and of Union security and export control requirements. Advantage should be taken of public sector investment and industrial experience and competence, while ensuring that the rules on competitive tendering are not contravened.

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (30) In order to better evaluate the total cost of a product, service or work being tendered, including its long term operational cost, the total cost over the useful lifecycle of the product, service or work being tendered should be taken into account wherever appropriate during the procurement, by using a cost effectiveness approach such as lifecycle costing when pursuing procurement based on the criterion of the most economically advantageous tender award. For that purpose, the contracting authority should make sure that the methodology intended to compute the costs for the useful lifecycle of a product, service or work is expressly mentioned in the contract documents or the contract notice and that it allows the accuracy of the information supplied by the tenderers to be verified.
- (31) The contracting authority should be able to restore a level playing-field when one or more companies have, prior to a call for tenders, privileged information on the activities associated with the call for tender. It should be possible to award a contract in the form of a conditional stage-payment contract, introduce an amendment, under certain conditions, in the context of its performance, or even impose a minimum level of subcontracting. Finally, due to the technological uncertainties that are a feature of Copernicus, contract prices cannot always be forecast accurately and it is therefore desirable to conclude contracts in a specific form that do not stipulate a firm fixed price and include clauses to safeguard the financial interests of the Union.
- (32) With a view to keeping Copernicus in its maximum amount by reducing to the largest extent technical and schedule risks and their associated cost and ensuring sustained reliability of supply, Copernicus should make maximum use of prior public sector financial and infrastructure investments as well as of the industrial experience and competence acquired through such investments in GMES. This should be particularly true for what concerns the recurrent space and ground segment components developed by ESA and its Participating States in the context of the GMES Space Component optional programme with a financial participation of the Union. In the latter case use of the negotiated procedure without prior publication of a contract notice or its equivalent should be duly considered by the contracting authority.
- (33) In order to achieve the objectives of Copernicus on a sustainable basis, it is necessary to coordinate the activities of the various partners involved in Copernicus, and to develop, establish and operate a service and observation capacity meeting the demands of users. In this context, a committee (the Copernicus Committee) should assist the Commission in ensuring the coordination of contributions to Copernicus by the Union, the Member States and inter-governmental organisations as well as coordination with the private sector, making the best use of existing capacities and identifying gaps to be addressed at Union level. It should also assist the Commission in monitoring the coherent implementation of Copernicus. As sound public governance requires uniform management of Copernicus, faster decision-making and equal access to information, representatives of entities entrusted with budget implementation tasks should be able to take part as observers in the work of the Copernicus Committee. For the same reasons, representatives of third countries and international organisations who have concluded an international agreement with the Union should be able to take part in the work of the Copernicus Committee subject to security constraints and as provided for in the terms of such agreement. Such representatives should not be entitled to take part in the Copernicus Committee voting procedures.
- (34) The work of the entities to which the Commission has delegated implementation tasks should also be measured against performance indicators. This would provide the European Parliament and the Council with an indication of the progress of the Copernicus operations and Copernicus implementation.
- (35) The Commission Delegated Regulation (EU) No 1159/2013 <sup>(1)</sup> has established the registration and licensing conditions for GMES users and has defined criteria for restricting access to GMES dedicated data and GMES service information.
- (36) The data and information produced in the framework of Copernicus should be made available on a full, open and free-of-charge basis subject to appropriate conditions and limitations, in order to promote their use and sharing, and to strengthen European Earth observation markets, in particular the downstream sector, thereby enabling growth and job creation.

(<sup>1</sup>) Commission Delegated Regulation (EU) No 1159/2013 of 12 July 2013 supplementing Regulation (EU) No 911/2010 of the European Parliament and of the Council on the European Earth monitoring programme (GMES) by establishing registration and licensing conditions for GMES users and defining criteria for restricting access to GMES dedicated data and GMES service information (OJ L 309, 19.11.2013, p. 1).

- (37) The Commission should work with data providers to agree licensing conditions for third-party data to facilitate their use within Copernicus, in compliance with this Regulation and applicable third-party rights.
- (38) The access rights to Copernicus Sentinel data granted under the GMES Space Component Programme as approved by the ESA Programme Board on Earth Observation on 24 September 2013 should be taken into account.
- (39) Since Copernicus is a civil programme under civil control, priority should be given to the acquisition of data and the production of information, including high-resolution images, that do not constitute a risk or threat for the security of the Union or its Member States. However, as some Copernicus data and Copernicus information may require protection, to ensure the secure circulation of such information, within the scope of this Regulation, all participants in Copernicus should ensure a degree of protection of EU classified information equivalent to that provided by the rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom <sup>(1)</sup> and by the security rules of the Council set out in the Annexes to Council Decision 2013/488/EU <sup>(2)</sup>.
- (40) As some Copernicus data and Copernicus information, including high-resolution images, may have an impact on the security of the Union or its Member States, in duly justified cases, the Council should be empowered to adopt the measures in order to deal with risks and threats to the security of the Union or its Member States.
- (41) The Union should be the owner of all tangible and intangible assets created or developed under Copernicus. In order to comply fully with any fundamental rights relating to ownership, the necessary arrangements should be made with existing owners. It should be understood that the provisions on ownership of intangible assets laid down in this Regulation do not cover intangible rights that are not transferable under relevant national laws. Such ownership by the Union should be without prejudice to the possibility for the Union, in accordance with this Regulation and where it is deemed appropriate on the basis of a case-by-case assessment, to make those assets available to third parties or to dispose of them. In particular, the Union should be able to transfer the ownership of, or license the intellectual property rights arising from, work under Copernicus in the interest of a strong uptake of Copernicus services by downstream users.
- (42) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with the Financial Regulation.
- (43) Since Copernicus is a complex programme, the Commission should be assisted by independent experts from a broad constituency of stakeholders, including in particular experts nominated by Member States on security issues, representatives of relevant national entities responsible for space and Copernicus users, to provide it with the necessary technical and scientific expertise, as well as inter-disciplinary and cross-sectoral perspectives, taking account of relevant existing initiatives at Union, national and regional levels.
- (44) In order to ensure uniform conditions for the implementation of this Regulation as regards the adoption of the annual work programme, the technical specifications for the service and space components, security aspects and the measures to promote the convergence of Member States in the use of Copernicus data and Copernicus information and their access to the technology and development in Earth Observation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(3)</sup>.
- (45) Since Copernicus is user driven, it requires the continuous, effective involvement of users, particularly regarding the definition and validation of service requirements. In order to increase the value of users, their input should be actively sought through regular consultation with end-users from the public and private sectors. For that purpose, a working group (the 'User Forum') should be set up to assist the Copernicus Committee with the identification of user requirements, the verification of service compliance and the coordination of public sector users.

<sup>(1)</sup> Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal Rules of Procedure (OJ L 317, 3.12.2001, p. 1).

<sup>(2)</sup> Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

<sup>(3)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (46) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the data requirements necessary for the evolution of operational services, the conditions and procedures regarding access to, registration and use of Copernicus data and Copernicus information, the specific technical criteria necessary to prevent the disruption of Copernicus data and Copernicus information and the criteria for the restriction of acquisition or dissemination of Copernicus data and Copernicus information due to conflicting rights. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (47) The actions financed under this Regulation should be monitored and evaluated in order to allow for readjustments and new evolutions. In particular, the evaluation should assess the effects of the Copernicus data and Copernicus information policy on stakeholders, downstream users, the influence on business as well as on national and private investments in Earth observation infrastructures. The evaluation should also address the possible future involvement of relevant European agencies, such as the European GNSS Agency. In order to maximise the results and capitalise on the knowledge and expertise acquired through the implementation phases of Copernicus, new organisation models should be explored for future planning, ensuring long-term economic commitment.
- (48) Since the objective of this Regulation, namely the establishment of Copernicus, cannot be sufficiently achieved by the Member States because it will also comprise pan-European capacity and depend on the coordinated provision of services throughout the Member States that needs to be coordinated at Union level, but can rather, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (49) This Regulation lays down a financial envelope, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management <sup>(1)</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (50) It is appropriate to align the period of funding of this Regulation with that provided for in Regulation (EU, Euratom) No 1311/2013. Therefore, this Regulation should apply from 1 January 2014.
- (51) It is also necessary to repeal Regulation (EU) No 911/2010 in order to establish an appropriate framework for governance and funding and to ensure a fully operational Copernicus. Any measure adopted on the basis of Regulation (EU) No 911/2010 should remain valid in order to ensure its continuity,

HAVE ADOPTED THIS REGULATION:

#### CHAPTER I

### GENERAL AND FINANCIAL PROVISIONS

#### *Article 1*

#### **Subject matter**

This Regulation establishes Copernicus, the Union Earth observation and monitoring programme, (Copernicus), and lays down the rules for its implementation.

#### *Article 2*

#### **Scope**

1. Copernicus is a civil, user driven programme under civil control, building on the existing national and European capacities, as well as ensuring continuity with the activities achieved under the Global Monitoring for Environment and Security.

<sup>(1)</sup> OJ C 373, 20.12.2013, p. 1.

2. Copernicus consists of the following components:
  - (a) a service component ensuring delivery of information in the following areas: atmosphere monitoring, marine environment monitoring, land monitoring, climate change, emergency management and security;
  - (b) a space component ensuring sustainable spaceborne observations for the service areas referred to in point (a);
  - (c) an in situ component ensuring coordinated access to observations through airborne, seaborne and ground based installations for the service areas referred to in point (a).
3. Appropriate links and interfaces between the components referred to in paragraph 2 shall be established.

### *Article 3*

#### **Definitions**

For the purposes of this Regulation the following definitions apply:

- (1) 'dedicated missions' means the space-based Earth observation missions for use and operated in Copernicus, in particular the Sentinel missions;
- (2) 'contributing missions' means space-based Earth observation missions providing data to Copernicus complementing data provided by the dedicated missions;
- (3) 'dedicated mission data' means spaceborne Earth observation data from dedicated missions for use in Copernicus;
- (4) 'contributing mission data' means spaceborne Earth observation data from contributing missions licensed or provided for use in Copernicus;
- (5) 'in situ data' means observation data from ground-, sea- or air-borne sensors as well as reference and ancillary data licensed or provided for use in Copernicus;
- (6) 'third party data and information' means data and information created outside the scope of Copernicus and necessary for the implementation of its objectives;
- (7) 'Copernicus data' means dedicated mission data, contributing mission data and in situ data;
- (8) 'Copernicus information' means information from the Copernicus services referred to in Article 5(1) following processing or modelling of Copernicus data;
- (9) 'Copernicus users' means:
  - (a) Copernicus core users: Union institutions and bodies, European, national, regional or local authorities entrusted with the definition, implementation, enforcement or monitoring of a public service or policy in the areas referred to in point (a) of Article 2(2);
  - (b) research users: universities or any other research and education organisations;
  - (c) commercial and private users;
  - (d) charities, non-governmental organisations and international organisations.

### *Article 4*

#### **Objectives**

1. Copernicus shall contribute to the following general objectives:
  - (a) monitoring the Earth to support the protection of the environment and the efforts of civil protection and civil security;
  - (b) maximising socio-economic benefits, thereby supporting the Europe 2020 strategy and its objectives of smart, sustainable and inclusive growth by promoting the use of Earth observation in applications and services;
  - (c) fostering the development of a competitive European space and services industry and maximising opportunities for European enterprises to develop and provide innovative Earth observation systems and services;

- (d) ensuring autonomous access to environmental knowledge and key technologies for Earth observation and geoinformation services, thereby enabling Europe to achieve independent decision-making and action;
  - (e) supporting and contributing to European policies and fostering global initiatives, such as GEOSS.
2. In order to attain the general objectives set out in paragraph 1, Copernicus shall have the following specific objectives:
- (a) delivering accurate and reliable data and information to Copernicus users, supplied on a long-term and sustainable basis enabling the services referred to in Article 5(1) and responding to the requirements of Copernicus core users;
  - (b) providing sustainable and reliable access to spaceborne data and information from an autonomous European Earth observation capacity with consistent technical specifications and building on existing European and national assets and capabilities, complementing them whenever necessary;
  - (c) providing a sustainable and reliable access to in situ data, relying, in particular, on existing capacities operated at European and national levels, and on global observation systems and networks.
3. The achievement of the objectives set out in paragraphs 1 and 2 shall be measured by the following result indicators:
- (a) Copernicus data and Copernicus information made available in accordance with the respective service-level delivery requirements for the environment, civil protection and civil security;
  - (b) increased demand for Copernicus data and Copernicus information measured by the progression in number of users, by the volume of accessed data and added-value information, by the increased number of downstream services, and by the widening of distribution across Member States and the Union;
  - (c) use of Copernicus data and Copernicus information by Union institutions and bodies, international organisations and European, national, regional or local authorities, including the level of user uptake and satisfaction, and the benefits provided to European societies;
  - (d) market penetration, including expansion of the existing markets and creation of new markets and competitiveness of the European downstream operators;
  - (e) sustained availability of Copernicus data supporting Copernicus services.

#### *Article 5*

#### **Copernicus service component**

1. The Copernicus service component shall consist of the following services:
- (a) the atmosphere monitoring service, which is to provide information on air quality on a European scale, and the chemical composition of the atmosphere on a global scale. It shall in particular provide information for air quality monitoring systems run at the local to national scales, and contribute to the monitoring of atmospheric composition climate variables, including, where feasible, the interaction with forest canopies;
  - (b) the marine environment monitoring service, which is to provide information on the state and dynamics of physical ocean and marine ecosystems for the global ocean and the European regional marine areas, in support of marine safety, contribution to monitoring of waste flows, marine environmental, coastal and polar regions, and of marine resources as well as meteorological forecasting and climate monitoring;
  - (c) the land monitoring service, which is to provide information on land use and land cover, cryosphere, climate change and biogeophysical variables, including their dynamics, in support of the global-to-local environmental monitoring of biodiversity, soil, inland and coastal waters, forests and vegetation, and natural resources, as well as implementation in general of environment, agriculture, development, energy, urban planning, infrastructure and transport policies;
  - (d) the climate change service, which is to provide information to increase the knowledge base to support adaptation and mitigation policies. It shall in particular contribute to the provision of Essential Climate Variables, climate analyses, projections and indicators at temporal and spatial scales relevant to adaptation and mitigation strategies for the various Union's sectoral and societal benefit areas;

- (e) the emergency management service, which is to provide information for emergency response in relation to different types of disasters, including meteorological hazards, geophysical hazards, deliberate and accidental man-made disasters and other humanitarian disasters, as well as the prevention, preparedness, response and recovery activities;
- (f) the security service, which is to provide information in support of the civil security challenges of Europe improving crisis prevention, preparedness and response capacities, in particular for border and maritime surveillance, but also support for the Union's external action, without prejudice to cooperation arrangements which may be concluded between the Commission and various Common Foreign and Security Policy bodies, in particular the European Union Satellite Centre.

2. The provision of the services referred to in paragraph 1 shall take into account the principles of subsidiarity and proportionality, be cost-effective and decentralised where appropriate, integrating at European level existing space, in situ and reference data and capacities in Member States, thereby avoiding duplication. Procurement of new data that duplicate existing sources shall be avoided, unless the use of existing or upgradable data sets is not technically feasible, cost-effective or possible in a timely manner.

The services shall implement rigorous quality control systems and shall provide information about service levels, including availability, reliability, quality and timeliness.

3. In order to ensure the evolution of the services referred to in paragraph 1 and their public sector uptake, the following activities shall also be undertaken:

- (a) development activities aimed at improving the quality and performance of services, including their evolution and adaptation, avoiding or mitigating the operational risks as well as exploiting synergies with related activities, such as under Horizon 2020;
- (b) support activities consisting in measures to promote the use and uptake of Copernicus data and Copernicus information by:
  - (i) public authorities entrusted with the definition, implementation, enforcement or monitoring of a public service or policy in areas referred to in paragraph 1. This shall include capacity building and development of standard procedures and tools to integrate Copernicus data and Copernicus information into users' workflow;
  - (ii) other users and downstream applications. That shall include outreach, training and dissemination activities.

#### Article 6

#### **Copernicus space component**

1. The Copernicus space component shall provide spaceborne observations, serving primarily the services referred to in Article 5(1).

2. The Copernicus space component shall consist of dedicated missions and contributing mission data, and include the following activities:

- (a) provision of spaceborne observations, including:
  - (i) completion, maintenance and operation of dedicated missions, including tasking of the satellites, monitoring and control of the satellites, reception, processing, archiving and dissemination of data, permanent calibration and validation;
  - (ii) provision of in situ data for calibration and validation of dedicated mission observations;
  - (iii) provision, archiving and dissemination of contributing mission data complementing dedicated mission data;
- (b) activities in response to evolving needs of the users, including:
  - (i) identification of observation gaps and specification of new dedicated missions on the basis of user requirements;
  - (ii) developments aiming at modernising and complementing the dedicated missions, including design and procurement of new elements of the related space infrastructure;
- (c) protection of satellites against the risk of collision taking into account the Union space surveillance and tracking support framework;
- (d) safe decommissioning of the satellites at the end of life.

*Article 7***Copernicus in situ component**

1. The Copernicus in situ component shall provide access to in situ data, serving primarily the Copernicus services referred to in Article 5(1).

It shall include the following activities:

- (a) provision of in situ data to the operational services, including third party in situ data at international level, based on existing capacities;
- (b) coordination and harmonisation of the collection and provision of in situ data;
- (c) technical assistance to the Commission on the service requirements for in situ observation data;
- (d) cooperation with in situ operators to promote the consistency of development activities related to the in situ observation infrastructure and networks;
- (e) identification of gaps in the in situ observations that cannot be filled by existing infrastructure and networks, including at global level, and addressing those gaps, while respecting the principle of subsidiarity.

2. The in situ data shall be used in Copernicus in accordance with applicable third party rights, including those of Member States, and applicable restrictions on use or re-distribution.

3. In accordance with point (c) of Article 58(1) of the Financial Regulation, the Commission may entrust, in part or in full, the activities of the in situ component to the service operators referred to in Article 11(1) of this Regulation or, when overall coordination is required, to the European Environment Agency.

*Article 8***Financial envelope**

1. The financial envelope for the implementation of the activities referred to in Articles 5, 6 and 7 is set at EUR 4 291,48 million in current prices for the period from 1 January 2014 to 31 December 2020.

2. The amount referred to in paragraph 1 shall be broken down in the following categories of expenditure in current prices:

- (a) for the activities referred to in Articles 5 and 7, EUR 897,415 million;
- (b) for the activities referred to in Article 6, EUR 3 394,065 million, including a maximum amount of EUR 26,5 million for the activities referred to in point (c) of Article 6(2).

3. The Commission may re-allocate funds from one category of expenditure, as laid down in points (a) and (b) of paragraph 2, to another, up to a ceiling of 10 % of the amount referred to in paragraph 1. Where the re-allocation reaches a cumulative amount greater than 10 % of the amount referred to in paragraph 1, the Commission shall consult the Copernicus Committee, in accordance with the advisory procedure referred to in Article 30(3).

4. The interest generated by pre-financing payments made to entities responsible for implementing the budget indirectly shall be assigned to activities subject to the delegation agreement or the contract concluded between the Commission and the entity concerned. In accordance with the principle of sound financial management, the entities responsible for indirect implementation of the budget shall open accounts enabling the funds and corresponding interest to be identified.

5. The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multi-annual financial framework. Budgetary commitments for activities extending over more than one financial year may be broken down over several years into annual instalments.

6. The financial allocation for Copernicus may also cover expenses relating to preparatory, monitoring, control, audit and evaluation activities which are required directly for the management of Copernicus and the achievement of its objectives, including studies, meetings, information and communication actions, as well as expenses linked to IT networks focusing on information processing and exchange of data.

7. The Commission may entrust the implementation of Copernicus to the entities referred to in point (c) of Article 58(1) of the Financial Regulation. Where the Copernicus budget is implemented by indirect management on the basis of Article 10(3) or 11(1), the procurement rules of the entities entrusted with budget implementation tasks shall apply to the extent allowable under Article 60 of the Financial Regulation. Specific adjustments necessary to those rules, as well as the arrangements for the prolongation of the existing contracts, shall be defined in the corresponding delegation agreements.



## CHAPTER II

## GOVERNANCE OF COPERNICUS

## Article 9

**Role of the Commission**

1. The Commission shall have overall responsibility for Copernicus and for the coordination among its different components. It shall manage the funds allocated under this Regulation and oversee the implementation of Copernicus including the setting of priorities, user involvement, cost, schedule, performance and procurement.
2. The Commission shall manage, on behalf of the Union and in its field of competence, relationships with third countries and international organisations, ensuring the coordination of Copernicus with activities at national, Union and international levels.
3. The Commission shall facilitate coordinated contributions of Member States aiming at the operational delivery of services and the long-term availability of necessary observation data.
4. The Commission shall support the appropriate development of Copernicus services and ensure the complementarity, consistency and links between Copernicus and other relevant Union policies, instruments, programmes and actions in order to ensure that those policies, instruments, programmes and actions benefit from Copernicus services.
5. The Commission shall promote a long-term stable investment environment and consult stakeholders when deciding to change products of both Copernicus data and Copernicus information services covered by this Regulation.
6. The Commission shall ensure that any entities entrusted with implementation tasks shall provide their services to all Member States.
7. The Commission shall adopt delegated acts in accordance with Article 31 concerning the establishment of the data requirements for the evolution of the Copernicus service component referred to in Article 5(1).
8. The Commission shall adopt implementing acts, in accordance with the examination procedure referred to in Article 30(4) concerning:
  - (a) the technical specifications for the Copernicus service component referred to in Article 5(1), regarding its implementation;
  - (b) the technical specifications for the Copernicus space component referred to in Article 6, regarding its implementation and evolution on the basis of user requirements.
9. The Commission shall provide to the Member States and the European Parliament, in a timely manner, all relevant information pertaining to Copernicus, in particular in terms of risk management, overall cost, annual operating costs of each significant item of Copernicus infrastructure, schedule, performance, procurement and the assessment of the management of intellectual property rights.

## Article 10

**The role of European Space Agency**

1. The Commission shall conclude a delegation agreement with ESA entrusting it with the following tasks:
  - (a) ensuring the technical coordination of the Copernicus space component;
  - (b) defining the overall system architecture for the Copernicus space component and its evolution on the basis of user requirements, coordinated by the Commission;
  - (c) managing the funds allocated;
  - (d) ensuring monitoring and control procedures.
  - (e) developing new dedicated missions;
  - (f) procuring recurrent dedicated missions;
  - (g) operating the dedicated missions, except those operated by EUMETSAT in accordance with paragraph 2 of this Article;
  - (h) coordinating a scheme for access to contributing mission data by Copernicus services;
  - (i) procuring access rights and negotiating conditions of use of commercial satellite data required by the Copernicus services referred to in Article 5(1).

2. The Commission shall conclude a delegation agreement with EUMETSAT entrusting it with the responsibility to operate dedicated missions and provide access to contributing mission data, pursuant to its mandate and expertise.
3. The delegation agreements with ESA and EUMETSAT shall be concluded on the basis of a delegation decision adopted by the Commission in accordance with point (c) of Article 58(1) of the Financial Regulation.
4. In accordance with Article 60 of the Financial Regulation, ESA and EUMETSAT shall act, wherever appropriate, as contracting authorities with the capacity to take decisions regarding the implementation and coordination of the procurement tasks delegated to them.
5. The delegation agreements shall, insofar as necessary for the tasks and budget implementation delegated, lay down the general conditions for the management of the funds entrusted to ESA and EUMETSAT and shall take into consideration, where appropriate, the ESA Long-Term Scenario (LTS). In particular, they shall lay down the actions to be implemented as regards the development, procurement and operation of the Copernicus space component, the relevant financing, management procedures and monitoring and control measures, the measures applicable in the event of inadequate implementation of contracts in terms of costs, schedule, performance and procurement, as well as the rules regarding ownership of all tangible and intangible assets.
6. The monitoring and control measures shall, in particular, provide for a provisional cost forecast system, for systematic information to the Commission on costs and schedule, and, in the event of a discrepancy between the planned budgets, performance and schedule, for corrective action ensuring the implementation of the activities within the limits of the budgets allocated.
7. The Copernicus Committee shall be consulted on the delegation decision referred to in paragraph 3 of this Article, in accordance with the advisory procedure referred to in Article 30(3). The Copernicus Committee shall be informed in advance of the delegation agreements to be concluded by the Union, represented by the Commission, with ESA and EUMETSAT.
8. The Commission shall inform the Copernicus Committee of the results of the evaluation of the procurement tenders and of the contracts with private sector entities to be concluded by ESA and EUMETSAT, including the information relating to subcontracting.

#### Article 11

##### Service Operators

1. The Commission may entrust the service component implementation tasks, by means of delegation agreements or contractual arrangements, where duly justified by the special nature of the action and existing specific expertise, mandate, operation and management capacity, inter alia to the following entities:
  - (a) the European Environment Agency (EEA);
  - (b) the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX);
  - (c) the European Maritime Safety Agency (EMSA);
  - (d) the European Union Satellite Centre (SATCEN);
  - (e) the European Centre for Medium Range Weather Forecasts (ECMWF);
  - (f) other relevant European agencies, groupings or consortia of national bodies.

The delegation agreements with the service operators shall be concluded on the basis of a delegation decision adopted by the Commission in accordance with point (c) of Article 58(1) of the Financial Regulation.

2. The choice of the entities referred to in paragraph 1 shall take due account of the cost efficiency of entrusting those tasks and the impact on the entities governance structure and on their financial and human resources.
3. The Copernicus Committee shall be consulted on the delegation decision referred to in paragraph 1 of this Article in accordance with the advisory procedure referred to in Article 30(3). The Copernicus Committee shall be informed in advance of the delegation agreements to be concluded by the Union, represented by the Commission, and the service operators.

*Article 12***Work programme of the Commission**

1. The Commission shall by means of an implementing act adopt an annual work programme for Copernicus pursuant to Article 84 of the Financial Regulation.
2. The annual work programme shall include an implementation plan, which shall detail actions pertaining to the Copernicus components referred to in Articles 5, 6 and 7, and shall be forward-looking, taking into account evolving user needs and technological developments.
3. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 30(4) of this Regulation.

*Article 13***Cooperation with Member States**

1. The Commission shall cooperate with Member States in order to improve the exchange of data and information between them and foster the development of data distribution at regional and local levels. The Commission shall aim to ensure that the required data and information are available to Copernicus. The Member States' contributing missions, service and in situ infrastructures are essential contributions to Copernicus.
2. The Commission may adopt, by means of implementing acts, measures to promote the use of Copernicus data and Copernicus information by Member States and support their access to the technology and development in Earth Observation. Such measures shall not have the effect of distorting free competition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 30(4).

## CHAPTER III

## PUBLIC PROCUREMENT

## SECTION I

***General provisions applicable to public procurement****Article 14***General principles**

Without prejudice to Article 8(7) and measures required to protect the essential interests of the security of the Union or public security or to comply with Union export control requirements, the Financial Regulation, and in particular the principles of open access and fair competition throughout the industrial supply chain, tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules, selection and award criteria and any other relevant information allowing a level-playing field for all potential bidders, shall apply to Copernicus.

*Article 15***Specific objectives**

During the procurement procedure, the following objectives shall be pursued by the contracting authorities in their calls for tender:

- (a) to promote the widest and most open participation possible throughout the Union by all economic operators, in particular by new entrants and SMEs, including through encouraging the recourse to sub-contracting by the tenderers;
- (b) to avoid possible abuse of dominant position and reliance on a single supplier;
- (c) to take advantage of prior public sector investments and lessons learned as well as industrial experience and competences, while ensuring that competitive tendering rules are complied with;
- (d) to pursue multiple sourcing wherever appropriate in order to ensure better overall control of Copernicus, its costs and schedule;
- (e) to take into account wherever appropriate the total cost over the useful life-cycle of the product, service or work being tendered.

## SECTION II

**Specific provisions applicable to public procurement**

## Article 16

**Establishing fair competition conditions**

The contracting authority shall take the appropriate measures to ensure fair competition conditions when previous involvement of an economic operator in activities associated with the subject of the call for tender:

- (a) may confer significant advantages on that economic operator in terms of privileged information and therefore may give rise to concerns as to compliance with equal treatment; or
- (b) affect normal competition conditions or the impartiality and objectivity of the award or performance of the contracts.

These measures shall not distort competition, or jeopardise equal treatment or the confidentiality of data collected about undertakings, their business relations and cost structure. In that context, those measures shall take into account the nature and particulars of the intended contract.

## Article 17

**Security of information**

When contracts involve, require and/or contain classified information, the contracting authority shall specify in the tender documents the measures and requirements necessary to ensure the security of such information at the requisite level.

## Article 18

**Reliability of supply**

The contracting authority shall specify in the tender documents its requirements in relation to the reliability of supplies and of the provision of services for the execution of the contract.

## Article 19

**Conditional stage-payment contract**

1. The contracting authority may award a contract in the form of a conditional stage-payment contract.
2. A conditional stage-payment contract shall include a fixed stage which is accompanied by a budgetary commitment which results in a firm commitment to provide the works, supplies or services contracted for that stage and one or more stages which are conditional in terms of both budget and execution. The tender documents shall refer to the specific features of conditional stage-payment contracts. In particular, they shall specify the subject-matter of the contract, the price or the arrangements for determining the price and the arrangements for the provision of works, supplies and services at each stage.
3. The fixed stage obligations shall be part of a consistent whole; the same shall be true for the obligations under each conditional stage, taking into account the obligations under the previous stages.
4. Performance of each conditional stage shall be subject to a decision by the contracting authority, notified to the contractor in accordance with the contract. When a conditional stage is confirmed late or is not confirmed, the contractor may benefit, if the contract so provides and under the conditions laid down therein, from a tide-over allowance or a non-execution allowance.
5. Where, with regard to a particular stage, the contracting authority finds that works, supplies, or services agreed for that stage have not been completed, it may claim damages and terminate the contract, if the contract so provides and under the conditions laid down therein.

## Article 20

**Cost-reimbursement contracts**

1. The contracting authority may opt for a full or partial cost-reimbursement contract up to a ceiling price, under the conditions laid down in paragraph 2.

The price to be paid for such contracts shall consist of reimbursement of all direct costs incurred by the contractor in performing the contract, such as expenditure on labour, materials, consumables, and use of the equipment and infrastructures necessary to perform the contract. These costs shall be increased by a fixed fee covering indirect costs and the profit, or a sum covering indirect costs and incentive fee compensation based on achieving objectives in respect of performance and delivery schedules.

2. The contracting authority may opt for a full or partial cost-reimbursement contract when it is objectively impossible to specify an accurate fixed price and if it can be reasonably shown that such a fixed price would be abnormally high due to the uncertainties inherent in performance of the contract because:

- (a) the contract has very complex features or features which require the use of a new technology and, therefore, includes a significant number of technical risks; or
- (b) the activities subject to the contract must, for operational reasons, start immediately even though it is not yet possible to determine a firm fixed price in full due to significant risks or because the performance of the contract depends in part on the performance of other contracts.

3. The ceiling price for a full or partial cost-reimbursement contract shall be the maximum price payable. It may only be exceeded in duly justified exceptional circumstances subject to prior agreement by the contracting authority.

4. The tender documents of a procurement procedure for a full or partial cost-reimbursement contract shall specify:

- (a) the type of contract, namely whether it is a full or partial cost-reimbursement contract up to a ceiling price;
- (b) for a partial cost-reimbursement contract, the elements of the contract subject to cost-reimbursement;
- (c) the total ceiling price;
- (d) the award criteria, which must enable evaluation of the plausibility of the estimated overall budget, the reimbursable costs, the mechanisms for determining these costs, and the profit referred to in the tender to be evaluated;
- (e) the mechanics of the increase referred to in paragraph 1 to be applied to direct costs;
- (f) the rules and procedures which determine the eligibility of the costs planned by the tenderer for the performance of the contract, in accordance with the principles set out in paragraph 5;
- (g) the accounting rules with which tenderers must comply;
- (h) in the case of a partial cost-reimbursement contract to be converted into a firm fixed-price contract, the parameters for such conversion.

5. The costs declared by the contractor during the performance of a full or partial cost-reimbursement contract shall only be eligible if they:

- (a) are actually incurred in the course of the contract, with the exception of costs for equipment, infrastructures and intangible fixed assets necessary for performance of the contract which may be deemed eligible for the whole of their purchase value;
- (b) are referred to in the estimated overall budget which may be revised by amendments to the initial contract;
- (c) are necessary for the performance of the contract;
- (d) result from and are attributable to the performance of the contract;
- (e) are identifiable, verifiable, recorded in the contractor's accounting record and determined in accordance with the accounting standards referred to in the specifications and in the contract;
- (f) comply with the requirements of applicable tax and social law;
- (g) do not derogate from the terms of the contract;
- (h) are reasonable, justified, and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

The contractor shall be responsible for its own cost accounting, and for keeping sound accounting records or any other document required to show that the costs for which reimbursement is requested have been incurred and comply with the principles set out in this Article. Costs which cannot be substantiated by the contractor shall be deemed ineligible and their reimbursement shall be refused.

6. The contracting authority shall be responsible for the following tasks in order to ensure correct performance of cost-reimbursement contracts:

- (a) determining the most realistic possible ceiling price, while providing the necessary flexibility to account for technical difficulties;
- (b) converting a partial cost-reimbursement contract into a full firm fixed-price contract as soon as it is possible to determine such a firm fixed-price during performance of the contract. For this reason, it shall determine the conversion parameters to convert a contract concluded on a cost-reimbursement basis to a firm fixed-price contract;
- (c) implementing monitoring and control measures which provide, in particular, an estimated cost forecast system;
- (d) determining suitable principles, tools and procedures for the implementation of contracts, in particular for identifying and checking the eligibility of costs declared by the contractor or its subcontractors during the performance of the contract, and for entering amendments to the contract;
- (e) checking that the contractor and its subcontractors comply with the accounting standards stipulated in the contract and with the obligation to provide their accounting documents which should present a true and fair view of the accounts;
- (f) throughout performance of the contract, continuously ensuring the effectiveness of the principles, tools and procedures referred to in point (d).

#### *Article 21*

### **Amendments**

The contracting authority and the contractors may change the contract by an amendment on condition that this amendment fulfills all of the following conditions:

- (a) it does not alter the subject-matter of the contract;
- (b) it does not disturb the economic balance of the contract;
- (c) it does not introduce conditions which, if they had appeared initially in the contract documents, would have allowed for the admission of tenderers other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted.

#### *Article 22*

### **Subcontracting**

1. The contracting authority shall request the tenderer to subcontract a share of the contract by competitive tendering at the appropriate levels of sub-contracting to companies other than those that belong to the tenderer's group in particular to new entrants and SMEs.

2. The contracting authority shall express the requisite share of the contract to be sub-contracted in the form of a range from a minimum to a maximum percentage. It shall ensure that such percentages are proportionate to the objective and value of the contract, taking into account the nature of the sector of activity concerned, and in particular, the competitive conditions and industrial potential observed.

3. If the tenderer indicates in its tender that it intends not to sub-contract any share of the contract or to subcontract a share inferior to the minimum of the range referred to in paragraph 2, it shall provide the reasons therefor to the contracting authority. The contracting authority shall submit that information to the Commission.

4. The contracting authority may reject subcontractors selected by the candidate at the stage of the main contract award procedure or by the tenderer selected for the performance of the contract. It shall justify this rejection in writing, which may be based only on the criteria used for selection of tenderers for the main contract.

## CHAPTER IV

**DATA AND SECURITY POLICY***Article 23***Copernicus data and Copernicus information policy**

1. The Copernicus data and Copernicus information policy for actions financed under Copernicus shall support the objectives referred to in Article 4 and the following objectives:

- (a) promoting the use and sharing of Copernicus data and Copernicus information;
- (b) strengthening European Earth observation markets, in particular the downstream sector, with a view to enabling growth and job creation;
- (c) contributing to the sustainability and continuity of the provision of Copernicus data and Copernicus information;
- (d) supporting the European research, technology and innovation communities.

2. Dedicated mission data and Copernicus information shall be made available through Copernicus dissemination platforms, under pre-defined technical conditions, on a full, open and free-of-charge basis, subject to the following limitations:

- (a) licensing conditions for third party data and information;
- (b) formats, characteristics and dissemination means;
- (c) security interests and external relations of the Union or its Member States;
- (d) risk of disruption, for safety or technical reasons, of the system producing Copernicus data and Copernicus information;
- (e) ensuring reliable access to Copernicus data and Copernicus information for European users.

*Article 24***Conditions and limitations of Copernicus data and Copernicus information access and use**

1. The Commission, respecting third party data and information policies and without prejudice to rules and procedures applicable to space and in situ infrastructure under national control or under control of international organisations, may adopt delegated acts in accordance with Article 31, concerning:

- (a) the conditions and procedures as regards access to, registration and use of Copernicus data and Copernicus information, including the dissemination means;
- (b) the specific technical criteria necessary to prevent the disruption of Copernicus data and Copernicus information, including priority of access;
- (c) the criteria and procedures for the restriction of acquisition or dissemination of Copernicus data and Copernicus information due to conflicting rights.

2. The Commission, respecting third party data and information policies and without prejudice to rules and procedures applicable to space and in situ infrastructure under national control or under control of international organisations, may adopt measures in accordance with the examination procedure referred to in Article 30(4), concerning:

- (a) the technical specifications for the transmission and use of dedicated mission data transmitted to receiving stations or via dedicated high bandwidth connections to stations not part of Copernicus;
- (b) the technical specifications for the archiving of Copernicus data and Copernicus information.

3. The Commission shall establish the relevant licensing conditions and procedures for dedicated missions data and Copernicus information, and the transmission of satellite data to receiving stations or via dedicated high bandwidth connections to stations not part of Copernicus in compliance with this Regulation and applicable third-party rights.

*Article 25***Protection of security interests**

1. The Commission shall evaluate the security framework of Copernicus, taking into account the objectives referred to in Article 4. To that end, the Commission shall assess the necessary security measures which shall be designed to avoid any risks or threats for the interest or security of the Union or its Member States, in particular to ensure compliance with the principles set out in Decision 2001/844/EC, ECSC, Euratom and Decision 2013/488/EU.
2. On the basis of the evaluation referred to in paragraph 1, the Commission shall by means of implementing acts establish the necessary security-related technical specifications for Copernicus. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 30(4).
3. The Commission may be assisted by independent experts from Member States in order to define the technical specifications of the security framework referred to in paragraph 2.
4. Notwithstanding paragraph 2, the Council shall adopt the measures to be taken whenever the security of the Union or its Member States could be affected by data and information provided by Copernicus.
5. Where EU classified information is generated or handled within Copernicus, all participants shall ensure a degree of protection equivalent to that provided by the rules set out in the Annex to Decision 2001/844/EC and in the Annexes to Decision 2013/488/EU.

## CHAPTER V

## MISCELLANEOUS

*Article 26***International cooperation**

1. The following countries or international organisations may participate in Copernicus, on the basis of appropriate agreements:
  - (a) European Free Trade Association (EFTA) countries which are Contracting Parties to the EEA Agreement in accordance with the conditions laid down in the EEA Agreement;
  - (b) candidate countries, as well as potential candidates in accordance with the respective Framework Agreements or a Protocol to an Association Agreement establishing the general principles and conditions for the participation of those countries in Union programmes;
  - (c) the Swiss Confederation, other third countries not referred to in points (a) and (b) and international organisations, in accordance with agreements concluded by the Union with such third countries or international organisations pursuant to Article 218 TFEU, laying down the conditions and detailed rules for their involvement.
2. The countries or international organisations referred to in paragraph 1 may provide financial support or contributions in kind to Copernicus. That financial support and those contributions shall be treated as external assigned revenue, in accordance with Article 21(2) of the Financial Regulation, and shall be admissible under the terms and conditions of the agreement concluded with the respective third country or international organisation.
3. The international coordination of observation systems and related exchanges of data may be addressed by Copernicus, in order to strengthen its global dimension and complementarity taking account of existing international agreements and coordination processes.

*Article 27***Protection of the financial interests of the Union**

1. The Commission shall take the appropriate measures to ensure that the financial interests of the Union are protected, when actions financed under Copernicus are implemented, by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under Copernicus.



3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(1)</sup> and Council Regulation (Euratom, EC) No 2185/96 <sup>(2)</sup> with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision, or a contract funded under Copernicus.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions, resulting from the implementation of Copernicus shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

#### Article 28

##### Ownership

1. The Union shall be the owner of all tangible and intangible assets created or developed under Copernicus. To that effect, agreements shall be concluded with third parties, wherever appropriate, with regard to existing ownership rights.

2. The terms and conditions relating to the transfer of ownership to the Union shall be laid down in the agreements referred to in paragraph 1.

3. The Commission shall ensure, through an appropriate framework, the optimal use of the assets referred to in this Article; in particular, it shall manage the intellectual property rights relating to Copernicus as effectively as possible, taking into account the need to protect and give value to the Union's intellectual property rights, the interests of all stakeholders, and the necessity of harmonious development of the markets and of new technologies and the continuity of services. To that end, it shall ensure that the contracts entered into, under Copernicus, include the possibility of transferring or licensing intellectual property rights arising from work performed under Copernicus.

#### Article 29

##### Assistance to the Commission

The Commission may be assisted by independent experts, from different areas, related to the scope of Copernicus, from a broad constituency of stakeholders, including representatives of Copernicus users and national entities responsible for space, to provide it with the necessary technical and scientific expertise, as well as inter-disciplinary and cross-sectoral perspectives, taking account of relevant existing initiatives at Union, national and regional levels.

#### Article 30

##### Committee procedure

1. The Commission shall be assisted by a committee (the Copernicus Committee). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

The Copernicus Committee shall meet in specific configurations in particular with regard to security aspects ('Security Board').

2. The Copernicus Committee shall set up the 'User Forum', as a working group to advise the Copernicus Committee on user requirements aspects, in accordance with its rules of procedure.

3. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

5. Representatives of the entities to whom tasks of Copernicus are entrusted shall be involved, where appropriate, as observers in the work of the Copernicus Committee under the conditions laid down in its rules of procedure.

6. The agreements concluded by the Union in accordance with Article 26 may provide for the involvement, as appropriate, of representatives of third countries or international organisations in the work of the Copernicus Committee under the conditions laid down in its rules of procedure.

<sup>(1)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(2)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

7. The Copernicus Committee shall meet regularly, preferably on a quarterly basis. The Commission shall provide a report on Copernicus progress at each meeting. Those reports shall give a general overview of Copernicus status and developments, in particular in terms of risk management, costs, schedule, performance, procurement, and relevant advice provided to the Commission.

#### Article 31

##### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 9(7) and Article 24(1) shall be conferred on the Commission for the duration of Copernicus.
3. The delegation of power referred to in Article 9(7) and Article 24(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 9(7) and Article 24(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### Article 32

##### Evaluation

1. By 31 December 2017, after consultation with relevant stakeholders, an evaluation report shall be established by the Commission on the achievement of the objectives of all the tasks financed by Copernicus at the level of their results and impacts, their European added value and on the efficiency of the use of resources. The evaluation shall address the continued relevance of all objectives, as well as the contribution of the measures to the objectives described in Article 4, the performance of the organisational structure and the scope of services deployed. The evaluation shall include an assessment of a possible involvement of relevant European agencies (including the European GNSS Agency) and if appropriate be accompanied by relevant legislative proposals.

In particular, the evaluation shall assess the impacts of the Copernicus data and Copernicus information policy, on stakeholders, downstream users, the influence on business as well as on national and private investments in Earth observation infrastructures.

2. The Commission shall carry out the evaluation referred to in paragraph 1, in close cooperation with the operators and the Copernicus users, and shall examine the effectiveness and efficiency of Copernicus and its contribution to the objectives referred to in Article 4. The Commission shall communicate the result of these evaluations to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and shall, if necessary, propose appropriate measures.
3. The Commission may, whenever necessary, be assisted by independent entities, undertake an evaluation of the methods of carrying out projects as well as the impact of their implementation, in order to assess whether the objectives, including those relating to environmental protection, have been attained.
4. The Commission may request a Member State to provide a specific evaluation of the actions and the linked projects financed under this Regulation or, where appropriate, to supply it with the information and assistance required to undertake an evaluation of such projects.

#### Article 33

##### Repeal

1. Regulation (EU) No 911/2010 is repealed.
2. Any measure adopted on the basis of Regulation (EU) No 911/2010 shall remain valid.
3. References to the repealed Regulation (EU) No 911/2010 shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

*Article 34***Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 April 2014.

*For the European Parliament*

*The President*

M. SCHULZ

*For the Council*

*The President*

D. KOURKOULAS

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## ANNEX

**Correlation table referred to in Article 33**

Regulation (EU) No 911/2010	This Regulation
Article 1	Article 1
Article 2	Articles 2, 5, 6 and 7
Article 3	–
Article 4	Articles 4, 9, 10, 11, 13 and 26
Article 5	Articles 5, 9, 11 and 13
Article 6	Articles 14 to 22
Article 7	Articles 9 and 26
Article 8	Article 8
Article 9	Articles 23, 24 and 25
Article 10	Articles 24 and 31
Article 11	Article 31
Article 12	Article 31
Article 13	Articles 23, 24 and 25
Article 14	Articles 4 and 32
Article 15	Articles 9 and 12
Article 16	Article 30
Article 17	Article 30
Article 18	Article 27
Article 19	Article 34
Annex	Article 4

**REGULATION (EU) No 378/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 3 April 2014****amending Regulation (EC) No 1166/2008 as regards the financial framework for the period 2014-2018****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure <sup>(1)</sup>,

Whereas:

- (1) Regulation (EC) No 1166/2008 of the European Parliament and of the Council <sup>(2)</sup> provides that Member States are to carry out farm structure surveys in 2010, 2013 and 2016. Member States are to receive a maximum financial contribution of 75 % from the Union towards the cost of carrying out those surveys, subject to defined maximum amounts.
- (2) In order to carry out the farm structure surveys and to satisfy the information requirements of the Union, considerable funding is required from Member States and from the Union.
- (3) Regulation (EC) No 1166/2008 laid down the financial envelope for the implementation of the programme of surveys, including for the management, maintenance and development of the database systems used within the Commission to process the data supplied by Member States, and fixed the amount for the period 2008-2013.
- (4) In accordance with Regulation (EC) No 1166/2008, the amount for the period 2014-2018 should be fixed by the budgetary and legislative authority, on a proposal from the Commission, on the basis of the new financial framework for the period commencing in 2014.
- (5) The proposed financial envelope should only finance the carrying out of the Farm Structure Survey in 2016 and the related management, maintenance and development of the database systems used within the Commission to process the data supplied by Member States.
- (6) In view of the accession of Croatia and the need to conduct surveys on the structure of agricultural holdings in that Member State in 2016, a maximum Union contribution per survey should be fixed for Croatia since none was provided for in the Act of Accession.
- (7) The Standing Committee for Agricultural Statistics has been consulted.
- (8) Regulation (EC) No 1166/2008 should therefore be amended accordingly,

<sup>(1)</sup> Position of the European Parliament of 11 March 2014 (not yet published in the Official Journal) and decision of the Council of 24 March 2014.

<sup>(2)</sup> Regulation (EC) No 1166/2008 of the European Parliament and of the Council of 19 November 2008 on farm structure surveys and the survey on agricultural production methods and repealing Council Regulation (EEC) No 571/88 (OJ L 321, 1.12.2008, p. 14).

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1166/2008 is amended as follows:

(1) in Article 13, the following paragraph is added:

‘4a. For the farm structure survey in 2016, the maximum amount for Croatia shall be EUR 500 000.’;

(2) Article 14 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The financial envelope for the implementation of the farm structure surveys in 2016, including the appropriations necessary for the management, maintenance and development of the database systems used within the Commission to process the data supplied by Member States under this Regulation, shall be EUR 20 650 000 for the period 2014-2018.’;

(b) the following paragraph is added:

‘4. The Commission shall implement Union financial support in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (\*).

(\* Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).’;

(3) the following Article is inserted:

*Article 14a*

**Protection of the financial interests of the Union**

1. The Commission shall take appropriate measures to ensure that, where activities financed under this Regulation are implemented, the financial interests of the Union are protected through the application of preventive measures against fraud, corruption and any other illegal activities, through effective checks and, if irregularities are detected, through the recovery of the amounts wrongly paid and, where appropriate, through the imposition of effective, proportionate and dissuasive penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under the programme.

The European Anti-fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Council Regulation (Euratom, EC) No 2185/96 (\*) with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract concerning Union funding.

Without prejudice to the first and second subparagraphs, cooperation agreements with third countries and international organisations, and grant agreements, grant decisions and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections.

(\*) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).'

#### Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 April 2014.

*For the European Parliament*

*The President*

M. SCHULZ

*For the Council*

*The President*

D. KOURKOULAS

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