



2023/2821

14.12.2023

COUNCIL DECISION (EU) 2023/2821

of 4 December 2023

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning the amendment to Annexes V (Free movement of workers) and VI (Social security) and Protocol 31 (On cooperation in specific fields outside the four freedoms) to the EEA Agreement (ELA Regulation)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 46 and 48 in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area ⁽²⁾ (the 'EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annexes V (Free movement of workers) and VI (Social security) and Protocol 31 (On cooperation in specific fields outside the four freedoms) to the EEA Agreement.
- (3) Regulation (EU) 2019/1149 of the European Parliament and of the Council ⁽³⁾ should be incorporated into the EEA Agreement.
- (4) Annexes V (Free movement of workers) and VI (Social security) and Protocol 31 (On cooperation in specific fields outside the four freedoms) to the EEA Agreement should therefore be amended accordingly.
- (5) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Annexes V (Free movement of workers) and VI (Social security) and Protocol 31 (On cooperation in specific fields outside the four freedoms) to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (OJ L 186, 11.7.2019, p. 21).

Done at Brussels, 4 December 2023.

For the Council
The President
F. BOLAÑOS GARCÍA

DRAFT
DECISION OF THE EEA JOINT COMMITTEE No ...
of ...

amending Annexes V (Free movement of workers) and VI (Social security) and Protocol 31 (On cooperation in specific fields outside the four freedoms) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area (the 'EEA Agreement'), and in particular Articles 86 and 98 thereof,

Whereas:

- (1) Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Regulation (EU) 2019/1149 repeals, with effect from 1 August 2021, Decision (EU) 2016/344 of the European Parliament and of the Council ⁽²⁾, which is included in the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (3) Annexes V and VI and Protocol 31 to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex V to the EEA Agreement shall be amended as follows:

1. The following indent is added in point 2 (Regulation (EU) No 492/2011 of the European Parliament and of the Council):
 '— **32019 R 1149**: Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ L 186, 11.7.2019, p. 21).'
2. The following is added in point 9 (Regulation (EU) 2016/589 of the European Parliament and of the Council):
 ', as amended by:
 — **32019 R 1149**: Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ L 186, 11.7.2019, p. 21).'
3. The following is inserted after point 10n (Commission Implementing Decision (EU) 2021/1482):
 '11. **32019 R 1149**: Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (OJ L 186, 11.7.2019, p. 21).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) As regards the EFTA States, references to Union law shall be understood as references to the EEA Agreement.

⁽¹⁾ OJ L 186, 11.7.2019, p. 21.

⁽²⁾ OJ L 65, 11.3.2016, p. 12.

- (b) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “national authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their national authorities, respectively.
- (c) In Articles 1(2) and 2, the words “and the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
- (d) In Articles 7(1)(e) and 13(13), the words “or, as regards the EFTA States, to the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
- (e) In Articles 9(9) and 10(3) first subparagraph, the words “or, as regards the EFTA States, to the EFTA Surveillance Authority”, shall be inserted after the words “the Commission”.
- (f) In Article 12, the following paragraph shall be inserted after paragraph 3:

“3a. The EFTA States shall participate fully in the Platform and shall have the same rights and obligations within it as EU Member States, except for the right to vote.”
- (g) In Article 13:
 - (i) In paragraph 1, the words “and of the EFTA Court” shall be inserted after the words “Court of Justice”.
 - (ii) In paragraphs 3, 5, and 6, the words “, the EFTA Surveillance Authority, when one or more of the EFTA States are involved” shall be inserted after the words “the Commission”.
- (h) In Article 16(2), the sentence “The Authority may invite representatives of the EFTA Surveillance Authority to the working groups and expert panels as observers.” is inserted after the first sentence of the first subparagraph.
- (i) In Article 17, the following paragraph shall be inserted after paragraph 1:

“1a. The EFTA States and the EFTA Surveillance Authority shall participate fully in the Management Board and shall have the same rights and obligations within it as EU Member States and the Commission respectively, except for the right to vote.”
- (j) The following paragraph shall be added in Article 26:

“5. The EFTA States shall participate in the contribution from the Union referred to in point (a) of paragraph 3. For this purpose, the procedures laid down in Article 82(1)(a) of and Protocol 32 to the EEA Agreement shall apply *mutatis mutandis*.”
- (k) The following subparagraphs shall be added in Article 30:

“By way of derogation from Articles 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants of the European Union, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the appointing authority power of the Authority.

By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants of the European Union, the languages referred to in Article 129(1) of the EEA Agreement shall be considered by the Authority, in respect of its staff, as languages of the Union referred to in Article 55(1) of the Treaty on European Union.”
- (l) In Article 32, the following paragraph shall be inserted after paragraph 1:

“1a. An EFTA State may designate the National Liaison Officer of another EFTA State or EU Member State as its National Liaison Officer.”

(m) The following shall be added in Article 34:

“The EFTA States shall grant privileges and immunities to the Authority and its staff equivalent to those contained in Protocol No 7 on the privileges and immunities of the European Union.”’

Article 2

The following indent is added in point 1 (Regulation (EC) No 883/2004 of the Parliament and of the Council) of Annex VI to the EEA Agreement:

‘– **32019 R 1149**: Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ L 186, 11.7.2019, p. 21).’

Article 3

The text of the second indent of Article 15(9) of Protocol 31 to the EEA Agreement (Decision (EU) 2016/344 of the European Parliament and of the Council) is deleted.

Article 4

The text of Regulation (EU) 2019/1149 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 5

This Decision shall enter into force on ..., provided that all the notifications under Article 103(1) of the EEA Agreement have been made *.

Article 6

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels,

For the EEA Joint Committee
The President

The Secretaries
To the EEA Joint Committee

* [No constitutional requirements indicated.] [Constitutional requirements indicated.]

**Joint Declaration by the Contracting Parties to Decision of the EEA Joint Committee No .../...
incorporating Regulation (EU) 2019/1149 of the European Parliament and of the Council into the
Agreement**

The parties acknowledge that the incorporation of the Regulation is without prejudice to the direct application of Protocol 7 on the privileges and immunities of the European Union to the nationals of EFTA states in the territory of each Member State of the European Union, pursuant to Article 11 of that Protocol.
