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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on standards of quality and safety for substances of human origin intended for human application and repealing Directives 2002/98/EC and 2004/23/EC

(Text with EEA relevance)

{SEC(2022) 304 final} - {SWD(2022) 189 final} - {SWD(2022) 190 final} - {SWD(2022) 191 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Blood Directive - 2002/98/EC[1] and the Tissues and Cells Directive - 2004/23/EC[2] (the BTC legislation) have helped ensure the safety of millions of patients undergoing blood transfusion, transplantation and medically assisted reproduction. The legislation sets out quality and safety requirements for all activities from donation to human application (unless the donations are used to manufacture medicinal products or medical devices, in which case the legislation only applies to donation, collection and testing).

Every year, EU patients are treated with 25 million blood transfusions (during surgery emergency, cancer or other care), a million cycles of medically assisted reproduction, over 35,000 transplants of stem cells (mainly for blood cancers) and hundred thousands of replacement tissues (e.g., for orthopaedic, skin, cardiac or eye problems). These therapies are only available thanks to the willingness of fellow citizens to make altruistic donations.

In the European Union, the collection, processing and supply of each individual unit is typically organised on a local small-scale by public services, (academic) hospitals and non-profit actors.

After almost 20 years in place, the legislation no longer addresses the scientific and technical state of the art and needs to be updated to take into account developments that have taken place in the sector. While an evaluation of the BTC legislation[3] confirmed that it has brought very good levels of overall safety and quality in these sectors (less than one serious patient reaction for every 12,000 applications), shortcomings of the legislation were identified as follows:

- Patients are not fully protected from avoidable risks due to out-of-date technical rules;
- Blood, tissues and cells (BTC) donors and children born from donated eggs, sperm or embryos (offspring) are exposed to avoidable risks;
- Member States have divergent approaches to oversight that hampers cross-border exchanges of BTC;
- Full potential of BTC processed or used in new ways is not reached for patients;
- Patients are vulnerable to interruptions in EU supply of BTC.

The COVID-19 pandemic highlighted some of these shortcomings, in particular, those impacting on rules for preventing the risk of disease transmission by BTC and

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1 Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC (OJ L 33, 8.2.2003, p. 30).

2 Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells (OJ L 102, 7.4.2004, p. 48).

3 Evaluation of the Union legislation on blood, tissues and cells {SWD (2019) 376 final} https://ec.europa.eu/health/system/files/2019-10/swd_2019_376_en_0.pdf

the lack of measures to ensure sufficiency of supply. The proposal aims to address these shortcomings, by revising the current legislation. The overall objective is to ensure a high level of **health protection** for EU citizens and ensure they have **access** to safe and effective BTC. As new technologies or risks will continue to emerge, it is desirable that the future framework is more **effectively implemented**, **future proof, crisis resistant and agile** enough to accommodate new risks and trends while continuing to provide appropriate safety and quality requirements. Being a REFIT initiative, areas for improving the efficiency of the legislation and simplifying its implementation by all stakeholders were also explored.

- **Consistency with existing provisions in the policy area**

The EU framework for safety and quality of substances of human origin (SoHOs) has currently three main Directives, respectively for Blood, Tissues and Cells, and Organs, together with implementing legislation. Each Directive sets safety and quality standards for all the steps from donation and collection from a donor body, over testing, processing, storage and distribution, to eventual application in the patients' body. The current proposal covers blood, tissues and cells, and has links with the Organs Directive[4], in particular regarding closer collaboration between Member States' competent authorities for blood, tissues and cells, and those for organs, and regarding vigilance requirements.

Where BTC can be used in the manufacture of health products that are regulated by other Union legislation, or as the starting and raw material thereof, the SoHO framework applies on the first activities in the chain (donation, collection, testing) while these later activities (manufacturing, storage, distribution etc.) are regulated under these other appropriate legislative frameworks (e.g. medicinal products, including advanced therapy medicinal products, or medical devices)[5]. There are in place some mechanisms to ensure coherence between the BTC legislation and those adjacent frameworks. This proposal will reinforce the cooperation among those adjacent frameworks.

As part of the Pharmaceutical Strategy for Europe, there is an ongoing evaluation and revision of the pharmaceutical legal framework[6]. This proposal will feed into that work, in particular regarding the regulatory delineation between the BTC sector and the pharmaceutical sector. The delineating criteria are set by definitions in the pharmaceutical framework and are not altered by this proposal.

- **Consistency with other Union policies**

This initiative is part of the EU's ambition to build a stronger European Health Union, so as to: (1) better protect the health of our citizens (including patients,

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4 Directive 2010/53/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation (OJ L 207, 6.8.2010, p. 14).

5 Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67), Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No 726/2004 (OJ L 324, 10.12.2007, p. 121), and Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117, 5.5.2017, p. 1).

6 Revision of the EU general pharmaceuticals legislation: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12963-Revision-of-the-EU-general-pharmaceuticals-legislation_en.

donors and offspring); (2) equip the EU and its Member States to better prevent and address future pandemics (surveillance, data analysis, risk assessment, early warning and response) and (3) improve the resilience of EU health systems (sufficient supply of SoHOs).

The proposal further establishes links with the European Centre for Disease Prevention and Control (ECDC), for which the mandate has been proposed to be strengthened[7], also in this field of SoHOs.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The SoHO legislation is based on Article 168(4)(a) of the Treaty on the Functioning of the European Union (TFEU). As a shared competence with the Member States, and in line with the principle of subsidiarity, this Treaty Article gives the EU a mandate to set out measures establishing high standards of quality and safety for SoHOs while allowing Member States to maintain or introduce more stringent protective measures. Member States remain responsible for decisions of an ethical and organisational nature, such as allowing the donation of certain SoHOs or deciding allocation of certain SoHOs or who may access certain SoHO therapies (e.g., access to in vitro fertilisation therapies). While the EU Charter on Fundamental Rights requires non-commercialisation of the human body which translates into a principle of voluntary unpaid donation in the EU legislation, it is for the Member States to define the detailed implementation of this principle within the context of each country. When a Member State chooses to allow a particular new practice that can bring ethical questions (such as testing or storage of embryos), the safety and quality of this practice are then regulated by the EU SoHO legislation.

- **Subsidiarity (for non-exclusive competence)**

Ever-evolving disease threats, such as Zika, Human Immunodeficiency Virus (HIV) or viral hepatitis B, C and D, which can be transmitted through SoHOs, constitute cross-border threats to public health. In addition, the exchange of SoHOs between Member States and with third countries is necessary for ensuring optimal patient access and sufficiency of supply. This is in particular the case for SoHOs that are used as personalised therapies where it is essential that a recipient is specifically matched with a donor. Increasing cross-border exchanges of SoHOs necessitate ever-closer cooperation between a number of health professional groups and authorities to ensure that SoHOs remain traceable from the donor to the recipient and vice versa.

Certain types of sector-specific expertise may also not be easily available in every Member State.

By providing a framework for cross-border cooperation, based on a common set of rules, and connected to sector-specific expertise, EU-level measures are best placed to address such issues effectively. Establishing high standards of quality and safety for SoHOs at EU level facilitates equal access to safe therapies for all EU citizens, and encourages circulation of SoHO materials and products between Member States.

[7] Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 851/2004 establishing a European Centre for disease prevention and control. COM/2020/726 final.

Providing for a common framework that supports joint practices will promote simplification and efficiency.

- **Proportionality**

The overall initiative is limited to aspects that Member States cannot achieve satisfactorily on their own, and where there is clear EU added value. Many of the pursued objectives can only be met through highly technical rules and guidance that require specific expertise for their regular updating. From the three policy options considered (see the impact assessment staff working document, section 5.2), the preferred option requires that blood and tissue establishments meet safety and quality standards by following guidelines developed and updated by nominated expert bodies such as the ECDC and the European Directorate for the Quality of Medicines & HealthCare (EDQM, a Directorate of the Council of Europe). This option provides the highest effectiveness and efficiency, avoids the need for re-developing guidelines, and can ensure a high level of harmonisation as well as rapid updating of standards.

The key added value of the EU approach in this proposal is to ensure, where appropriate, that common standards and guidelines make full use of the high level of latest scientific and technical expertise, as already available in expert bodies such as the ECDC and the EDQM, and therewith facilitate cross-border exchange of and access to safe SoHOs. In addition, the sharing of data through a common platform, and following common guidance, will enable policy making based on significantly more robust data.

As stated in the impact assessment staff working document (section 7.5), the proposal does not interfere with the right for Member States to maintain and introduce more stringent measures when they consider them necessary (Article 168(4) of the TFEU) but does increase the level of safety and quality to be achieved in all Member States, thus reducing the need in most cases for more stringent measures that can create barriers to cross-border exchange and to patient access. In addition, the proposal will ensure the adoption of more stringent measures is made more visible so that exchanges can be more easily organised in full respect of those measures. Given that rules relating to ethical aspects of this field, or to healthcare organisation, are not included in the proposal, no special circumstances in individual Member States were identified that required a particular territorial variation in the measures to be applied.

- **Choice of the instrument**

The proposal takes the form of a new Regulation repealing two existing basic Acts, both Directives. A key element of the proposal is to establish more harmonised measures for Member States and organisations involved in collection, testing, processing, distribution, application of SoHOs, from donors to patients. Insufficient minimum harmonisation was identified as a key reason for reduced trust between Member States, resulting in reduced cross-border exchange and sub-optimal access for patients to SoHOs. A Regulation is considered the most suitable instrument since it does not require transposition and is directly applicable.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The evaluation of the BTC legislation, published in 2019, identified the following gaps and shortcomings:

1. Patients are not fully protected from avoidable risks: the EU safety and quality requirements have not kept up to date with frequently changing scientific and epidemiological developments thus potentially exposing patients treated with BTC to avoidable risks. The ECDC provides up-to-date but non-binding guidance on safety measures, e.g. to address COVID-19 risks. The EDQM provides guidance on quality of BTC and many Member States put more stringent requirements in place. This situation can create legal confusion and unequal levels of safety and quality for patients. In addition, while new therapies have emerged since the BTC legislation was adopted, it is not always clear whether, and if so which, of the BTC Directives apply, leaving these substances unregulated or regulated in divergent ways (e.g., breast milk and faecal microbiota transplants). Some of these SoHOs do not meet the definitions of blood, tissues and cells included in the current legislation.

2. Divergent approaches to oversight cause unequal levels of safety and quality and barriers to the exchange of BTC across the EU: divergent national interpretations and implementations of the legislation lead to unequal protection and a lack of mutual trust between national authorities. This in turn creates barriers to cross-border exchange and to availability of BTC. These differences reflect the lack of common provisions for verification of effective implementation of inspection, authorisation and vigilance, and inconsistency in the levels of capacities, skills and independence required of inspectors supervising BTC establishments.

3. BTC donors and offspring (including children born from donated eggs, sperm or embryos) are exposed to avoidable risks: the current BTC legislation contains only very limited measures to protect and monitor BTC donors and offspring from donated sperm, eggs or embryos. In particular, the requirements to report donor adverse reactions are too limited and provisions for testing egg and sperm donors for genetic conditions are out of date with the technology available. Growing demand by commercial companies (e.g. egg banks for in vitro fertilisation, plasma collectors for medicinal product manufacture) increases the pressure to donate and consequently the need for robust donor protection measures.

4. The BTC legislation lags behind innovation: new ways of processing donations in BTC establishments may bring significant benefits. However, these new therapies can also put patients at risk, as current authorisation procedures for new BTC processes do not require evidence that risk is justified by benefits. Moreover, this lack of adequate procedures does not inspire trust and prevent healthcare actors from developing and adopting innovative processes. Besides risks and benefits, safety and quality measures also need to take account of the typical economic (public/non-profit) settings where BTC are developed and prepared, and of the often incremental and open-access nature of these innovations. In addition, there are sometimes difficulties in defining the borderlines for novel BTC with other regulatory frameworks, in particular where medicinal products and medical devices are concerned. This creates administrative burdens and implicit disincentives for BTC establishments, healthcare professionals and academia to innovate. This legal uncertainty issue

requires further evidence gathering to allow its extent and consequences to be fully assessed.

5. The EU is vulnerable to interruptions in supply of some BTC: for some essential BTC, the EU is highly dependent on imports to ensure sufficiency. In particular, the EU relies on the United States for an adequate supply of plasma used to manufacture plasma-derived medicines. In the current legislation, sufficiency of supply through voluntary unpaid donation is encouraged, though without concrete measures to protect or increase supply. This approach has not proven adequate to protect EU patients from the risk of shortages or sudden supply disruption. The lack of EU and national monitoring provisions for the supply of BTC makes it difficult to predict EU supply interruptions and to take action to mitigate the risks to patients.

The proposal therefore provides measures to:

1. Ensure safety and quality for patients treated with SoHO therapies and fully protect them from avoidable risks linked to SoHOs.
2. Ensure safety and quality for SoHO donors and for children born from donated eggs, sperm or embryos.
3. Strengthen and allow for harmonisation of oversight practices among Member States.
4. Facilitate the development of safe and effective innovative SoHO therapies.
5. Improve the resilience of the sector, mitigating risk of shortages.

Objectives 1 and 2 are closely linked, as they both involve setting technical requirements for safety and quality to better protect EU citizens. While the EU has no mandate to intervene directly in supply management, reliable monitoring and notification of shortages would help Member States detect sudden drops in supply of SoHOs, trends towards shortages or dependencies on other Member States or on third countries, and would help them to take appropriate mitigation actions.

- **Stakeholder consultations**

Stakeholder consultations were a key step in the impact assessment phase for the revision of the legislative framework on blood, tissues, and cells. Consultation activities aimed to assess stakeholders' views and opinions on (i) the validity of the findings of the evaluation (2019)[8], (ii) the three proposed policy options described in an Inception Impact Assessment (IIA)[9] and (iii) the extent to which they would address the shortcomings identified in the evaluation, and their likely impacts.

Stakeholders were consulted via (i) the IIA publication for feedback, (ii) online surveys and questionnaires, (iii) hearings and participatory workshops with national competent authorities and stakeholders, (iv) bilateral meetings with stakeholder organisations and (v) interviews with specific stakeholders.

Overall, there is support among all stakeholders for the common measures proposed (revised legislation that allows for up-to-date technical guidance and fills existing legal gaps; strengthened oversight practices,; mechanism for legal advice whether

8 https://ec.europa.eu/health/system/files/2019-10/swd_2019_376_en_0.pdf.

9 IIA: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12734-Blood-tissues-and-cells-for-medical-treatments-&-therapies-revised-EU-rules_en.

and what SoHO requirements apply to a substance, if needed in coordination with other EU legal frameworks; tailored authorisation of SoHOs used or processed in new ways; and crisis preparedness and management). Stakeholders also expressed broad support for option 2 (technical rules set by expert bodies), which is seen as the most effective approach. Analysis of quantitative data from the public consultations confirmed that the degree of conflict among stakeholders was low, as this preference was widely agreed between all stakeholder categories. However, sector experts and national authorities also highlighted conditions that must be met for the option 2 approach to be a success, including the need for transparent drafting procedures that ensure that professionals as well as Member States can provide inputs, the need to allow for more stringent national requirements and the need to accommodate for geographic differences between the EU and the Council of Europe.

In addition, the analysis of respondents to the consultations highlighted once again the strong links between the blood sector on the one hand and the tissue and cell sector on the other, thus supporting the decision to combine both Directives into a single legal act on SoHOs (Organs being excluded).

Donors and patients as well as ethics bodies raised important points to be taken into consideration during the implementation phase of the new legal framework, regarding for example donor protection, voluntary unpaid donation principles or the use of new training opportunities for inspectors about fundamental rights (to further enable them to ensure that those are respected by establishments, and in particular non-discrimination of donors).

Many stakeholders also underlined the lack of legal clarity on the delineation with other EU legal frameworks (in particular medicinal products, including advanced therapy medicinal products, and medical devices) and indicated many cases where they believe SoHO-based therapies are not appropriately regulated, including some cases with a negative impact on feasibility to supply and eventual patient access. Stakeholders considered that the eventual choice for the most appropriate legal framework should aim in first place to ensure safety and quality, but also take account of the setting of, the costs for and the feasibility of providing access to safe and effective therapies. There was broad support for a dedicated SoHO legal advisory mechanism and for efficient coordination with advisory mechanisms in other sectors. It was largely considered that this will allow to strengthen legal clarity as well as improve interplay where SoHOs become starting materials for therapies manufactured under these other legal frameworks.

Also, while supportive, stakeholders pointed out that EU-level supply monitoring and crisis preparedness measures will demand significant efforts, without having any direct impact on the risk of shortages of critical SoHO. Finally, National Competent Authorities (NCAs) and blood and tissue establishments expressed concerns regarding some specific measures that would increase their costs or administrative burden. Consideration of EU level measures to provide support was taken into account when preparing the legal proposal.

An overview of the activities carried out and the results is available in Annexes 2 and 18 of the impact assessment staff working document.

- **Collection and use of expertise**

The Commission used the findings from the evaluation of the BTC legislation (2019). The impact assessment has been based on research and analyses done by the

Commission. The Commission also contracted two external, independent consultant teams, to perform:

– A study, carried out by ICF S.A. supporting the impact assessment of the policy options, which gathered information on impacts and costs for stakeholders of the proposed measures and options, and further documented borderline case studies. The study also organised participatory workshops bringing stakeholders together to discuss various topics. The study was guided by a steering group composed of three senior experts in the field of blood, tissues and cells, who supervised the process and validated the study findings. The external support study will be published alongside this proposal.

– A feasibility study, carried out by Deloitte, focusing specifically on the costs, benefits and optimal approaches to the digitalisation of the sector. The preliminary report from that study is published as Annex 19 of the impact assessment staff working document.

Many of the 448 references in the BTC legislation evaluation were articles published in scientific journals and included data and evidence that was still relevant for the impact assessment of the policy options. In addition, a number of further scientific articles were published more recently and were also used as evidence sources for the impact assessment. These represent high quality evidence, due to the peer review process used by the publishers.

Evidence on costs is particularly difficult to gather in the SoHO sector, due to the predominant role of public sector organisations (public administrations, hospitals), where real costs related to SoHO activities are sometimes absorbed in overall hospital or institutional budgets. This explains the high variety of costs reported through the survey performed by the external study supporting the impact assessment, with NCAs and professionals. Sector experts, both from NCAs and from public establishments, were therefore brought together to identify and agree on reasonable average values and validate key assumptions that have been used to calculate costs.

The identified impacts of the proposed policy measures were subjected to a multi-criteria decision analysis to compare the effectiveness and efficiency of the options. To that end, the impact assessment piloted the tool developed by the Joint Research Centre of the European Commission, SOCRATES (SOcial multi-CRiteria AssessmenT of European policieS), using it to compare the different options based on previously established criteria.

- **Impact assessments**

The impact assessment analysed three policy options for the setting of safety and quality standards:

– **Option 1 - Decentralised regulation**: it provides blood and tissue establishments with the freedom to make reference to a variety of national and international guidance when conducting risk assessments of their own activities, with a view to setting their internal technical methods.

– **Option 2 - Joint regulation**: it requires blood and tissue establishments to follow the technical guideline developed and updated by nominated expert bodies.

– **Option 3 - Central Regulation:** it requires blood and tissue establishments to follow the safety and quality standards, all provided for in EU legislation.

The preferred option is Option 2. Joint regulation brings the highest effectiveness and efficiency as it builds on established expertise in the field of SoHOs to ensure that up-to-date standards are applied across the EU. Option 1 would allow changes to standards to be implemented more quickly, but with a high level of variation across the EU and a high workload on small blood and tissue establishments. Option 3 would allow for the highest level of harmonisation, but would require more time to adapt standards and bring additional costs for EU institutions.

This proposal therefore introduces high level standards in the legislative text for patient, donor and offspring protection and empowers the Commission to adopt implementing acts on the implementation of those standards if needed. Where there are no such implementing acts, professionals should, to meet these standards, apply safety and quality guidelines developed by the EDQM and the ECDC, in line with option 2. However, in line with option 1, it can also be acceptable to apply other, equivalent, guidelines accepted by national authorities and demonstrated as achieving equivalent standards of safety and quality. In the absence of a technical guideline from expert bodies, establishments can set their own technical method taking into account internationally recognised standards, scientific evidence and a documented risk assessment. This approach will facilitate an efficient and responsive implementation of safety and quality standards whenever risks and technologies change. It is proportionate in that it ensures EU legislation would be adopted for the implementation of a particular standard only when necessary and when it adds EU value (option 3).

In addition, a series of **common measures** was assessed, in particular to fill some legal gaps in the BTC framework, strengthen oversight, facilitate innovation, through advice on when the SoHO legislation is applicable and a (risk-) proportionate authorisation pathway for new processes, and manage SoHOs supply (crisis). The implementation of some of these common measures will be supported by guidelines from expert bodies (option 2).

Regarding the measure on establishing a SoHO advisory mechanism, this proposal does not propose any changes in the delineation of the borderline with the legal frameworks for pharmaceuticals or medical devices. The delineating criteria are defined in those other frameworks, in particular in Article 1 of Regulation (EU) 2017/745 (‘devices manufactured utilising derivatives of tissues or cells of human origin which are non-viable’), in Article 2 of Directive 2001/83/EC on medicinal products (‘intended to be placed on the market’ and ‘prepared industrially’), and consequently in Article 2 of Regulation (EC) No 1394/2007 on Advanced Therapy Medicinal Products (‘substantial manipulation’ and ‘not intended to be used for the same essential function’). This measure will rather facilitate coordination with established (or future) advisory mechanisms in those other frameworks.

The preferred option would ensure that **citizens** are better protected when donating, or being treated with a substance of human origin, with more harmonised and up-to-date safety and quality rules across the EU. In addition, offspring from medically assisted reproduction will be better protected, as will patients treated with currently unregulated SoHOs (e.g. therapeutic use of donated breast milk or bedside preparations of SoHOs).

The preferred option would bring a positive impact for **professionals**, in particular in blood and tissue establishments, when working with SoHO. Outdated, and sometimes costly, technical rules for safety and quality will be removed and replaced with standards based on the best scientific evidence and expertise available that will be updated in a timely manner (bringing efficiencies for establishments). The preferred option also allows for guidance to make common measures more efficient: a clear and (risk-) proportionate pathway will facilitate access to SoHOs prepared or used in new ways and supply-crisis management will be better aligned and coordinated.

The common measures will also strengthen oversight by **competent authorities**, by bringing in principles and new or more-efficient practices (e.g., joint inspections). Authorities will also benefit from more proportionate measures (e.g., risk based inspections) and EU level support (e.g. a digital platform, EU auditing of oversight systems, EU training courses for authority personnel). These measures will increase mutual trust and facilitate the collaboration between Member States, which should ultimately facilitate the cross-border exchanges of SoHOs, hence patient access.

Digitalisation will allow for further efficiencies in administrative processes, and the possibility for sharing of information will limit duplication of work across Member States.

The main costs relate to monitoring measures (donor, offspring, supply), to registration of bedside preparations of SoHOs and to the risk-proportionate pathway to authorise SoHOs processed or used in new ways. Those costs mostly fall on professionals in blood and tissue establishments, hospitals and clinics and, to a lesser degree, on competent authorities. EU measures can be considered to offset these costs for professionals and authorities, in particular in the adjustment phase and in particular through supporting digitalisation.

For EU institutions, the set-up of a common IT platform (the EU SoHO Platform) brings a significant cost, but will allow for a lightening of the (administrative) burden for national authorities and professionals. Further EU costs relate to coordination and co-funding of expert bodies.

- **Regulatory fitness and simplification**

This initiative is part of the Commission Work Programme 2021 under Annex II (REFIT initiatives).

The revision of the BTC legislation, with an approach proportionate to risks in different areas (authorisation or registration of establishments/entities, authorisation of new preparation processes, health monitoring of certain SoHO donors and offspring), brings opportunities for savings in the sector, and for carrying out some activities more efficiently with the same resources (e.g. risk-based inspections), though these opportunities have not always been fully quantified. The table below gives an overview of the main opportunities under the preferred option.

REFIT Cost Savings – Preferred Option		
Description	***Amount***	***Comments***

Graded oversight approach allows to oversee some establishments with lighter approach and less resources than today	EUR 4 m	750 establishments eligible[10], mainly saving on inspection costs for authorities and for themselves
Common IT-platform to share assessments of new SoHOs technologies reduces duplications	>EUR 2 m	Conservative estimate; Requests to authorise same new technologies are introduced and assessed in parallel across EU; Sensitive to unit cost of assessments and authorisations
Risk-based schedule allows to inspect same activities/establishments more efficiently (targeting high-risk activities)	Not quantified	Model has rather assumed this to be a cost-neutral measure as the same number of resources (inspectors) allow for more oversight on most complex activities
Recognition of authorisations of importing tissue establishments in other Member States, reduces need for ad-hoc import authorisations in different Member States	EUR 0.5 m	Applicable for almost 1 000 imports per year of blood stem cells (from bone marrow or peripheral blood) through a central registry (World Marrow Donor Association registry, subject to one joint authorisation)
Removing obsolete tests and systematic screening measures from the legislation	EUR 2 m (example – West Nile Virus NAT tests[11])	Very high potential, given that every saving is multiplied by number of donations. Other examples could be the screening for tattoos/piercings or testing for syphilis.
Digitalisation allows for more efficient administrative processes in authorities and establishments	To be further quantified	The EU SoHO Platform, financed by the Commission, will facilitate local administration including registration and reporting by professionals as well as authorisations and oversight by authorities. E.g. annual reporting costs are estimated to go down from current EUR 5 000-15 000 to EUR 200-2 000

[10] This concerns establishments that only do procurement of haematopoietic stem cells, lab testing, import or distribution, and are currently authorised as standard tissue/blood establishment.

[11] Individual NAT test for West Nile Virus can be replaced by pooled NAT test, which is EUR 7 cheaper per tested donation. Applicable to around 300 000 blood donations per year in countries affected by West Nile Virus, saving estimated based on 2016 calculation by NHSBT (UK blood service), see table 1 of the Evaluation {SWD (2019) 376 final}, section 5.3.1.2, p. 59.

		with an automated reporting tool.

Digital impacts are also expected, as data in the SoHO sector can become valuable digital assets in the areas of public health and innovation. A single IT system will bring important benefits as it can host flexible solutions, allowing Member States and establishments to maintain and connect with their own system or re-use existing components. It could become an important node in the EU digital ecosystem, and in particular in the future European Health Data Space (EHDS), which aims at opening opportunities and removing barriers to the use and reuse of health data, for the provision of healthcare, personalised medicine, research and innovation, policy making and regulatory activities. To benefit from the EHDS in the future, competent authorities in the field of SoHOs could consider the collaboration with competent bodies under the EHDS at national and EU level, including for aspects related to technical and semantic interoperability.

- Fundamental rights

The proposal would bring positive impacts on some fundamental rights of citizens (health protection, non-discrimination, privacy, informed consent), in particular by strengthening the provisions relating to donor protection and vigilance and the reporting of genetic conditions in children born from medically assisted reproduction with third party donation, and by ensuring that requirements for safety and quality are based on scientific evidence. However, for most of the ethical aspects, in particular the rights of children born from medically assisted reproduction, decisions are taken by Member States at national level.

The proposal maintains the current principle of voluntary and unpaid donation (VUD) in line with Article 3 of the EU Charter of Fundamental Rights that prohibits the commercialisation of the human body. However, the proposal harmonises the differing versions in the blood and the tissue and cell Directives and adapts them to the principle of 'financial neutrality' recently recommended by the Council of Europe Committee on Bioethics[12].

4. BUDGETARY IMPLICATIONS

The legislative financial statement attached to this proposal sets out the budgetary, human and administrative resource implications. Appropriations will be reallocated within the financial envelope of the EU4Health Programme[13] in the Multiannual Financial Framework (MFF) 2021-2027. That Programme was established to respond to the need for further action at Union level to support cooperation and coordination among the Member States. That Programme should be a means to promote strengthened exchange of best practices between Member States, to support networks for the sharing of knowledge or for mutual learning, to address cross-

[12] Council of Europe Committee on Bioethics (DH-BIO) Guide for the implementation of the principle of prohibition of financial gain with respect to the human body and its parts from living or deceased donors, available at: https://rm.coe.int/guide-financial-gain/16807bfc9a.

[13] Regulation (EU) 2021/522 of the European Parliament and of the Council of 24 March 2021 establishing a Programme for the Union's action in the field of health ('EU4Health Programme') for the period 2021-2027, and repealing Regulation (EU) No 282/2014 (OJ L 107, 26.3.2021, p. 1).

border threats to health so as to reduce the risks of such threats and to mitigate their consequences, and to improve efficiency by avoiding the duplication of activities and optimising the use of financial resources. In that context, some activities organised jointly among Member States, such as inspections or SoHO preparations assessments, could be eligible for Union financial support.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will review the monitoring indicators periodically and evaluate the impacts of the legislative act after five years. The monitoring will be possible thanks to the data from reporting obligations on Member States and SoHO entities. The EU SoHO Platform will enable the collection of all elements of the continuous monitoring plan as it automates the extraction of relevant indicators without additional input from stakeholders. For the evaluation, additional data will be collected, in particular on the costs, the usability and the integration across systems. The data platform will be used to transparently publish aggregated indicators of general interest, such as serious adverse occurrences related to SoHOs, insufficiencies of supply or authorised SoHO preparations.

- **Detailed explanation of the specific provisions of the proposal**

The new Regulation, repealing the Blood Directive 2002/98/EC and the Tissues and Cells Directive 2004/23/EC, and their implementing legislation, is structured around obligations for the different stakeholders: the national competent authorities, the entities handling SoHOs, and the Commission. It includes specific requirements for all organisations that carry out activities that can affect the safety, quality or efficacy of SoHOs used for human application and describes obligations for designated authorities that will verify the proper implementation of the provisions. It will consist of the following main chapters:

Chapter I: General provisions

Chapter I contains general provisions of this Regulation. It defines the subject matter and the scope of application of the Regulation. In recognition of the importance of ensuring safety and quality of SoHOs that are not defined by the terms ‘blood’, ‘tissue’ or ‘cell’, such as breast milk and intestinal microbiota, and to future-proof the legislation in this regard, the scope is defined by the broader term SoHOs. Solid organs continue to be regulated by Directive 2010/53/EU and are excluded from the definition of this term. This chapter contains the definitions of the different elements of the Regulation and of the terminology used throughout the text. Furthermore, it introduces the description of SoHO activities and describes the possible more stringent measures set by Member States, in line with Article 168(4)(a) of the TFEU. Certain exclusions are described, along with the partial applicability of this Regulation when SoHOs are used to manufacture products regulated by other Union legislation, or as the starting and raw material thereof.

Chapter II: Competent Authorities

Chapter II contains the provisions regarding competent authorities for SoHOs, which are responsible for the SoHO supervisory activities. It covers the designation of competent authorities, the possibility to delegate certain SoHO supervisory activities, and general principles for their functioning (independence and impartiality, transparency). It also defines their general responsibilities and obligations. It covers

the communication between competent authorities (within the SoHO sector) and consultation and cooperation with authorities of other regulated sectors. It lays down general obligations for authority personnel and provides for competent authorities obligations regarding Commission controls.

Chapter III: SoHO Supervisory Activities

Chapter III covers all activities competent authorities undertake vis-à-vis SoHO entities or processes, with the obligation to maintain a register of SoHO entities and a procedure for their registration; the obligation to have a system for the authorisation of SoHO preparations, and a procedure for these authorisations, with provisions for conducting the assessment of SoHO preparations, possibly in a joint process with one or more competent authorities, and further specific obligations for SoHO preparation assessors. This Chapter also covers the obligation to have an authorisation system for SoHO establishments (specific in case of importing SoHO entities) and a procedure for their authorisation (SoHO establishments/importing SoHO entities). It stipulates the obligations for inspections of SoHO establishments and other SoHO entities, possibly via joint inspections, and the specific obligations for inspectors. It provides for the obligations for competent authorities regarding data publication, traceability, vigilance and, SoHO Rapid Alerts.

Chapter IV: General Obligations on SoHO Entities

Chapter IV outlines all the general obligations on SoHO entities, namely their registration, the nomination of a Responsible Person if they release SoHOs for clinical use, the obligations regarding export of SoHOs. It also lays down the obligation for authorisation of SoHO preparations, and the procedure for application for such authorisation. It also covers the obligations for importing SoHO entities regarding their authorisation, and the application for such authorisation. It provides for the obligations for SoHO entities regarding activity data collection and reporting, traceability and coding, the obligation to apply the Single European Code to SoHOs distributed for human application (except for some specific SoHOs), and vigilance notifications.

Chapter V: General Obligations on SoHO Establishments

Chapter V lays down the general obligations on SoHO establishments, a sub-set of SoHO entities that process and store SoHOs. It provides for their authorisation and the application procedure for such authorisation, the obligation to have a Quality Management system in place, and the obligation to designate a physician responsible for specific tasks.

Chapter VI: SoHO Donor Protection

Chapter VI contains the provisions related to the protection of SoHO donors, with standards, and how to implement these standards concerning donor protection.

Chapter VII: Recipient and Offspring Protection

Chapter VII contains the provisions related to the protection of patients treated with SoHO (recipients) and offspring from medically assisted reproduction, with standards, and how to implement these standards concerning recipient and offspring protection. It also stipulates conditions for the release of SoHOs for human application, and conditions for exceptional release.

Chapter VIII: Supply Continuity

Chapter VIII lays down provisions to ensure the continuity of supply of SoHOs. It covers the obligation for Member States to have national SoHO emergency plans (for SoHOs that are critically important for patients) and the responsibilities of competent authorities and entities regarding supply alerts for critical SoHOs. It also stipulates the conditions for derogation from the obligations to authorise SoHO preparations in emergencies, provides for additional emergency measures taken by Member States and finally lays down the obligation for SoHO entities carrying out activities with critical SoHOs to have an emergency plan in place.

Chapter IX: SoHO Coordination Board

Chapter IX establishes the SoHO Coordination Board (SCB) to support Member States in the coordination of implementation of this Regulation and the delegated and implementing acts adopted pursuant to it. This chapter also provides for the composition of the Board and how its functioning is organised.

Chapter X: Union Activities

Chapter X outlines the activities organised at Union level, regarding training and exchange of competent authorities' personnel, the Commission controls in Member States, and the support provided by the Commission to support the implementation of the Regulation. It also refers to the cooperation with the EDQM, which should address procedures for the development and revision of technical guidelines, including evidence gathering, guideline drafting and public consultation.

Chapter XI: EU SoHO Platform

Chapter XI describes the EU SoHO Platform that will support information sharing between authorities and with SoHO entities, and outlines its general functionalities.

Chapter XII: Procedural Provisions

Chapter XII contains the procedural provisions of the Regulation with regard to confidentiality and data protection obligations. It furthermore contains provisions regarding the exercise of delegation, the urgency procedure and the committee procedure. Finally, it lays down the penalties applicable to infringements of the provisions of this Regulation to be set by Member States.

As regards delegated acts, following the adoption of the proposal, the Commission intends to create an expert group in line with decision C (2016) 3301 in order to advise and assist it in the preparation of delegated acts, as well as on issues related to implementation of the Regulation as regards:

(a) preparing opinions at the request of the Commission on the regulatory status of a substance, product or activity (and consulting equivalent advisory bodies established in other relevant Union legislation);

(b) providing expertise relevant for the development of technical guidelines, other guidelines and technical methods to the Commission;

(c) reviewing reports on activity data and on vigilance data prior to publication by the Commission;

(d) contributing to the continuous monitoring of technical progress and assessment of whether the safety and quality requirements set out in this Regulation are adequate to ensure safety and quality of SoHOs and SoHO preparations and the safety of SoHO donors;

(e) supporting the Commission to exchange views with Union or international level professional associations working in the field of SoHOs on issues of general interest in relation to the applicability of the provisions of this Regulation;

(f) providing expertise to the Commission for the development of guidelines, standards or similar on an international level for SoHOs and their quality and safety, when appropriate;

(g) advising the Commission on the appropriate content and format of Union training programmes for competent authority personnel and supporting the performance of training activities;

(h) providing advice and expertise on the preparation of delegated acts.

The expert group should also provide technical advice to the Commission when it considers that the EDQM guidelines are not sufficient to meet a standard for donor protection or a standard for recipient and offspring protection as provided for in this Regulation.

Chapter XIII: Transitional Provisions

This Chapter sets the transitional provisions applicable to establishments and SoHO preparations authorised under the former BTC legislation. It stipulates the status of SoHO stored before the application of this Regulation. Finally, it contains the transitional measures related to the date of adoption of certain delegated and implementing acts.

Chapter XIV: Final Provisions

The final chapter stipulates the repeal of Directives 2002/98/EC and 2004/23/EC. It also sets the provision for the evaluation of the Regulation, and its dates of entry into force and application.

2022/0216 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on standards of quality and safety for substances of human origin intended for human application and repealing Directives 2002/98/EC and 2004/23/EC

(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 168(4), point (a), 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[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) In accordance with Article 168(1), first subparagraph, of the Treaty on the Functioning of the European Union (TFEU) and Article 35 of the Charter of Fundamental Rights of the European Union, a high level of human health protection is to be ensured in the definition and implementation of all Union policies and activities.

(2) Article 168(4), point (a), TFEU provides that the European Parliament and the Council should adopt measures setting high standards of quality and safety for organs and substances of human origin (SoHOs), blood and blood derivatives. At the same time, Member States cannot be prevented from maintaining or introducing more stringent protective measures. Pursuant to Article 193 TFEU, Member States are to notify the Commission of any such measures. According to Article 168(7) TFEU, the measures adopted pursuant to Article 168(4), point (a) should not affect national provisions on the donation or medical use of organs and blood.

(3) As regards Article 168(4), point (a), TFEU, standards for the safety and quality of organs and SoHOs, blood and blood derivatives should ensure a high level of human health protection. Therefore, this Regulation aims at setting high standards by ensuring, amongst others, the protection of SoHO donors, taking into consideration their fundamental role in the provision of SoHOs and for recipients, as well as measures to monitor and support the sufficiency of the supply of SoHOs that are critical for the health of patients.

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[1] OJ C , , p. .

[2] OJ C , , p. .

(4) Directives 2002/98/EC[3] and 2004/23/EC[4] of the European Parliament and of the Council constitute the Union's regulatory framework for blood and for tissues and cells, respectively. Although these Directives have harmonised to a certain degree the rules of Member States in the area of safety and quality of blood, tissues and cells, they include a significant number of options and possibilities for Member States to implement the rules they laid down. This results in divergences between national rules, which can create obstacles to cross-border sharing of these substances. A fundamental revision of those Directives is needed for a robust, transparent, up-to-date and sustainable regulatory framework for these substances, which achieves safety and quality for all parties involved, enhances legal certainty and supports continuous supply, whilst facilitating innovation for the benefit of public health. In order to achieve a coherent application of the legal framework, it is appropriate to repeal Directives 2002/98/EC and 2004/23/EC and to replace them by a Regulation.

(5) Directives 2002/98/EC and 2004/23/EC are highly interconnected and contain very similar provisions for oversight and equivalent principles for safety and quality in the two sectors they regulate. In addition, many authorities and operators work across these sectors. As this Regulation aims to define high level principles that will be common to both the blood and of tissues and cells sectors, it would be appropriate that it replaces these Directives and merges the revised provisions into one legal act.

(6) This Regulation should apply to blood and blood components, as regulated by Directive 2002/98/EC, as well as to tissues and cells, including haematopoietic peripheral blood, umbilical-cord blood and bone-marrow stem cells, reproductive cells and tissues, foetal tissues and cells and adult and embryonic stem cells, as regulated by Directive 2004/23/EC. Since donation and human application of SoHOs other than blood, tissues and cells are increasingly common, it is necessary to extend the scope of this Regulation to any SoHO, regardless of whether it meets the definition of 'blood', 'tissue' or 'cell', to avoid that certain groups of donors or recipients are not protected by an appropriate Union level quality and safety framework. This will, for example, ensure the protection of donors and recipients of human breast milk, intestinal microbiota, blood preparations that are not used for transfusion, and any other SoHO that may be applied to humans in the future.

(7) Solid organs are excluded from the definition of SoHOs for the purposes of this Regulation and, thus, from its scope. Their donation and transplantation are significantly different and are regulated in a dedicated legal framework, set out in Directive 2010/53/EU[5] of the European Parliament and of the Council. Shortcomings have not been raised regarding the existing quality and safety provisions for organs. Nonetheless, when organs are removed from a donor for the purposes of separating tissues or cells for human application, for example heart valves from a heart or pancreatic islets from a pancreas, this Regulation should apply.

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3 Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC (OJ L 33, 8.2.2003, p. 30).

4 Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells (OJ L 102, 7.4.2004, p. 48).

5 Directive 2010/53/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation (OJ L 207, 6.8.2010, p. 14).

(8) Ensuring the quality and safety of SoHOs is crucial, especially where such substances interact with the body of the recipient. Hence, this Regulation should not cover the placing of a substance on the body when it does not have any biological or physiological interaction with that body, such as in the case of wigs made from human hair.

(9) All SoHOs that are intended to be applied to humans fall within the scope of this Regulation. SoHOs can be prepared and stored in a variety of ways, becoming SoHO preparations, which can be applied to recipients. In these circumstances, this Regulation should apply to all activities from donor recruitment to human application and outcome monitoring. SoHOs or SoHO preparations can also be used to manufacture products regulated by other Union legislation, or as the starting and raw material thereof, in particular on medical devices, regulated by Regulation (EU) 2017/745 of the European Parliament and of the Council[6], on medicinal products, regulated by Directive 2001/83/EC of the European Parliament and of the Council[7] and by Regulation (EC) No 726/2004 of the European Parliament and of the Council[8], including on advanced therapy medicinal products, regulated by Regulation (EC) No 1394/2007 of the European Parliament and of the Council[9], or on food, regulated by Regulation (EC) No 1925/2006 of the European Parliament and of the Council[10]. The criteria that define when SoHOs or SOHO preparations become products regulated under other Union legislation are not defined in this Regulation but are defined in those other acts. In addition, this Regulation should apply without prejudice to Union legislation on genetically modified organisms.

(10) When SoHOs are used in the autologous setting without any manipulation, processing or storage, the application of this Regulation would not be proportionate to the limited quality and safety risks arising in such a setting. When autologous SoHOs are collected and processed before being re-used in the same person, risks appear that should be mitigated. Thus, there needs to be an assessment and authorisation of the processes applied to ensure that they are demonstrated to be safe and effective for the recipient. When autologous SoHOs are collected to be processed and also stored, risks of cross-contamination, loss of traceability or damage to the biological properties inherent to the substance, and necessary for efficacy in the recipient, also appear. Thus, the requirements for SoHO establishment authorisation should apply.

(11) When SoHOs are used to manufacture products regulated by other Union legislation, or as the starting and raw material thereof, in order to ensure a high level of protection and contribute to legal clarity and certainty, this Regulation should apply to the extent

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6 Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117, 5.5.2017, p. 1).

7 Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

8 Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Union procedures for the authorisation and supervision of medicinal products for human use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1).

9 Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No 726/2004 (OJ L 324, 10.12.2007, p. 121).

10 Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (OJ L 404, 30.12.2006, p. 26).

that the activities to which they are subjected are not regulated by the other Union legislative framework. Without prejudice to other Union legislation, and in particular to Directive 2001/83/EC, Regulations (EC) No 726/2004, (EC) No 1925/2006, (EC) No 1394/2007 and (EU) 2017/745, this Regulation should at least apply to the recruitment and selection of donors, donation, collection and donor testing as well as to release, distribution, import and export when those activities concern SoHOs up to the point of their transfer to operators regulated by other Union legislation. This means that close interaction between this regulatory framework and other related frameworks is essential to ensure interplay and coherence between relevant legal frameworks, without gaps or overlaps.

(12) SoHOs can also be combined with other regulated products before human application. In these circumstances, close interaction between this regulatory framework and other related frameworks is also necessary to ensure a high level of human health protection for all cases where these substances are used.

(13) Given the special nature of SoHOs, resulting from their human origin, and the increasing demands for these substances for human application or for the manufacture of products regulated by other Union legislation, or as the starting and raw material thereof, it is necessary to ensure a high level of health protection for donors as well as for recipients. SoHOs should be obtained from individuals whose health status is such that no detrimental effects will ensue as a result of the donation. This Regulation should therefore include principles and technical rules to monitor and protect donors. As different types of donation imply different risks for donors, with varying levels of significance, the monitoring of donor health should be proportionate to those levels of risk. This is particularly important when donation involves some risk to the donor's health due to a need for pre-treatment with medicinal products, a medical intervention to collect the substance or a need for donors to donate repeatedly. Donations of oocytes, bone marrow, peripheral blood stem cells and plasma should be considered to imply a significant risk.

(14) When a harmful genetic condition is detected in the offspring resulting from medically assisted reproduction with third party donation, the transmission of that information enables the prevention of further use of donations affected by that genetic risk. It is thus important that relevant information in such cases is effectively communicated between SoHO entities and acted upon appropriately.

(15) This Regulation does not prevent Member States from maintaining or introducing more stringent protective measures that are compatible with Union law. Member States should notify the Commission of any such measures. More stringent protective measures put in place by Member States should be evidence-based and proportionate to the risk to human health, for example based on overall safety concerns and corresponding risks in a Member State or specific local risks. They should not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, unless that measure or its application is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

(16) This Regulation should not interfere with national legislation in the health area with objectives other than quality and safety of SoHOs that is compatible with Union law, in particular legislation concerning ethical aspects. Such aspects arise due to the human origin of the substances, which touches upon various sensitive and ethical concerns for Member States and citizens, such as access to particular services that use

SoHOs. This Regulation should also not interfere with decisions of an ethical nature made by Member States. Such ethical decisions might concern the use, or limitation of the use, of specific types of SoHOs or specific uses of SoHOs, including reproductive cells and embryonic stem cells. When a Member State allows the use of such cells, this Regulation should apply in full with a view to ensuring safety and quality and to protecting human health.

(17) This Regulation is not meant to cover research using SoHOs when that research does not involve application to the human body, for example in vitro research or research in animals. However, human substances used in research involving studies where they are applied to the human body should comply with the rules laid down in this Regulation.

(18) As a matter of principle, programmes promoting the donation of SoHOs should be founded on the principle of voluntary and unpaid donation, altruism of the donor and solidarity between donor and recipient. Voluntary and unpaid SoHO donation is also a factor which can contribute to high safety standards for SoHOs and therefore to the protection of human health. It is also recognised, including by the Council of Europe Committee on Bioethics[11], that while financial gain should be avoided, it may also be necessary to ensure that donors are not financially disadvantaged by their donation. Thus, compensation to remove any such risk is acceptable but should never constitute an incentive that would cause a donor to be dishonest when giving their medical or behavioural history or to donate more frequently than is allowed, posing risks to their own health and to that of prospective recipients. Such compensation should, therefore, be set by national authorities, at a level appropriate in their Member State to reach such objectives.

(19) In order to maintain public trust in SoHO donation and use programmes, information that is given to prospective donors, recipients or physicians regarding the likely use and benefits of particular SoHOs or SoHO preparations when applied to recipients should accurately reflect reliable scientific evidence. This should ensure that donors, or their families, are not coerced to donate by exaggerated descriptions of benefits and prospective patients are not given false hopes when making decisions on their options for treatment. The verification of compliance with this Regulation through supervisory activities is of fundamental importance to ensure that, across the Union, the objectives of the Regulation are effectively achieved. The responsibility to enforce this Regulation lies with the Member States, whose competent authorities should monitor and verify, through the organisation of supervisory activities, that relevant Union requirements are effectively complied with and enforced.

(20) Competent authorities should be designated by the Member States for all the areas that fall within the scope of this Regulation. While Member States are best placed to identify the competent authority or authorities for each area, for example by geography, topic or substance, they should also be required to designate a single national authority that ensures appropriately coordinated communication with other Member States' competent authorities and with the Commission. The SoHO National Authority should be considered the same as the designated competent authority in Member States where only one competent authority is designated.

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[11] Council of Europe Committee on Bioethics (DH-BIO). Guide for the implementation of the principle of prohibition of financial gain with respect to the human body and its parts from living or deceased donors (March 2018). Available at https://rm.coe.int/guide-financial-gain/16807bfc9a.

(21) For the performance of supervisory activities aimed at verifying the correct application of SoHO legislation, Member States should designate competent authorities that act independently and impartially. It is therefore important that their function of oversight is separate and independent from the performance of SoHO activities. In particular, competent authorities should be free from undue political influence and from industry interference that might affect their operational impartiality.

(22) For the performance of supervisory activities aimed at verifying the correct application of SoHO legislation, Member States should designate competent authorities that act in the public interest, are appropriately resourced and equipped, and offer guarantees of impartiality, professionalism and transparency. When infringements relate to direct health risks, and the publication of information regarding those infringements can contribute to risk mitigation and the protection of donors, recipients or offspring from medically assisted reproduction, competent authorities should, where necessary, be able to prioritise transparency of their enforcement activities over the protection of confidentiality of the party that has infringed the Regulation.

(23) The correct application and enforcement of the rules falling within the scope of this Regulation require an appropriate knowledge of those rules. It is therefore important that the staff performing supervisory activities have an appropriate professional background and are regularly trained, in accordance with their area of competence, on the obligations resulting from this Regulation.

(24) When there is doubt about the regulatory status of a particular substance, product or activity under this Regulation, competent authorities should consult with the relevant authorities responsible for other relevant regulatory frameworks, namely medicinal products, medical devices, organs or food, with the aim of ensuring coherent procedures for the application of this Regulation. Competent authorities should inform the SoHO Coordination Board of the outcome of their consultations. When SoHOs or SoHO preparations are used to manufacture products regulated under other Union legislation, or as the starting and raw material thereof, competent authorities should cooperate with the relevant authorities on their territory. This cooperation should aim to reach an agreed approach for any subsequent communications between the authorities responsible for SoHO and for the other relevant sectors, as needed, regarding authorisation and monitoring of the SoHOs or the product manufactured from SoHOs. It should in principle be the responsibility of the Member States to decide on a case-by-case basis on the regulatory status of a substance, product or activity. However, in order to ensure consistent decisions across all Member States with regard to borderline cases, the Commission should be empowered to, on its own initiative or at the duly substantiated request of a Member State, decide on the regulatory status of a particular substance, product or activity under this Regulation.

(25) Competent authorities should perform supervisory activities regularly, on the basis of a risk assessment and with appropriate frequency, on entities and activities governed by this Regulation. The frequency of supervisory activities and the mode, whether on-site or by remote document review, should be established by the competent authorities, having regard to the need to adjust the control effort to the risk and to the level of compliance expected in the different situations, including the possible violations of this Regulation perpetrated through fraudulent or other illegal practices and previous compliance history. Accordingly, the likelihood of non-compliance with all the areas of this Regulation should be taken into account when scheduling supervisory activities.

(26) Commission experts should be able to perform controls, including audits, in Member States to verify the effective application of the relevant requirements of competent authorities and of the supervisory activity systems. Commission controls should also serve to investigate and collect information on enforcement practices or problems, emergencies and new developments in Member States. Official controls should be performed by personnel who are independent, free from any conflict of interest and in particular who are not in a situation which, directly or indirectly, could affect their ability to carry out their professional duties in an impartial manner.

(27) Since SoHO preparations are subjected to a series of SoHO activities prior to their release and distribution, competent authorities should assess and authorise SoHO preparations to verify that a high level of safety, quality and efficacy is achieved consistently by the application of that specific series of activities, performed in that specific manner. When SoHOs are prepared with newly developed and validated collection, testing or processing methods, consideration should be given to the demonstration of safety and efficacy in recipients by means of requirements for clinical outcome data collection and review. The extent of such required clinical outcome data should correlate with the level of risk associated with the activities performed for that SoHO preparation and use. Where a new or modified SoHO preparation poses negligible risks for recipients (or offspring in the case of medically assisted reproduction), the vigilance reporting requirements provided for in this Regulation should be adequate to demonstrate safety and quality. This should apply for well-established SoHO preparations that are introduced in a new SoHO entity but have been robustly demonstrated as safe and effective by their use in other entities.

(28) With regard to SoHO preparations that pose a certain level of risk (low, moderate or high), the applicant should propose a plan for clinical outcome monitoring that should fulfil different requirements appropriate to the risk indicated. The most up-to-date guidance of the European Directorate for the Quality of Medicines & HealthCare (EDQM, a Directorate of the Council of Europe) should be considered relevant in the design of clinical follow-up studies proportionate in extent and complexity to the identified level of risk of the SoHO preparation. In the case of low risk, in addition to the mandatory continuous vigilance reporting, the applicant should organise proactive clinical follow-up for a defined number of patients. For moderate and high risk, in addition to the mandatory vigilance reporting and the clinical follow-up, the applicant should propose clinical investigation studies with monitoring of pre-defined clinical end-points. In case of high risk, these should include a comparison with standard treatments, ideally in a study with subjects allocated to test and control groups in a randomised manner. The competent authority should approve the plans before they are implemented and should assess the outcome data as part of a SoHO preparation authorisation.

(29) In the interests of efficiency, it should be permitted to conduct clinical outcome studies using the established framework in the pharmaceutical sector for clinical trials, as set out in Regulation (EU) No 536/2014 of the European Parliament and of the Council[12], when operators wish to do so. Whilst applicants can choose to record the clinical data generated during the clinical outcome monitoring themselves, they should also be permitted to use existing clinical data registries as a means of such recording when

[12] Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC (OJ L 158, 27.5.2014, p. 1).

those registries have been verified by the competent authority, or are certified by an external institution, in terms of the reliability of their data management procedures.

(30) In order to facilitate innovation and reduce administrative burden, competent authorities should share with each other information on the authorisation of new SoHO preparations and the evidence used for such authorisations, including for the validation of certified medical devices used for SoHO collection, processing, storage or application to patients. Such sharing could allow authorities to accept previous authorisations granted to other entities, including in other Member States and to thus significantly reduce the requirements to generate evidence.

(31) A broad range of public and private organisations influence the safety, quality and efficacy of SoHOs, even if they do not maintain banks of those SoHOs. Many organisations carry out a single SoHO activity, such as collection or donor testing on behalf of one or many organisations that maintain banks of SoHOs. The SoHO entity concept includes this broad range of organisations, from donor registries to physicians that apply SoHOs to recipients or use SoHO processing devices at the recipient's bedside. The registration of all such SoHO entities should ensure that competent authorities have a clear overview of the field and its scale and can take enforcement action when deemed necessary. A SoHO entity registration should refer to the legal entity, regardless of the number of physical sites associated with the entity.

(32) Competent authorities should review the SoHO entities registered in their territory and ensure that those entities that carry out both processing and storage of SoHOs are inspected and authorised as SoHO establishments before starting those activities. A SoHO establishment authorisation should refer to the legal entity, even when one SoHO establishment has many physical sites. Competent authorities should consider the impact on safety, quality and efficacy of the SoHO activities carried out at SoHO entities that do not meet the definition of a SoHO establishment and decide whether particular entities should be subject to establishment authorisations due to the risk or scale associated with their activities. Similarly, SoHO entities that have a poor record in terms of compliance with reporting or other obligations might be suitable candidates for authorisation as SoHO establishments.

(33) With regards to standards concerning donor, recipient and offspring protection, this Regulation should provide for a hierarchy of rules for their implementation. As risks and technologies change, this hierarchy of rules should facilitate an efficient and responsive uptake of the most up-to-date guidelines for implementing the standards set out in this Regulation. As part of that hierarchy, in the absence of Union legislation describing particular procedures to be applied and followed to meet the standards set out in this Regulation, following the guidelines of the European Centre for Disease Prevention and Control (ECDC) and the EDQM should be considered as a means to demonstrate compliance with the standards laid down in this Regulation to ensure high level of quality, safety and efficacy. SoHO entities should be permitted to follow other guidelines, provided that it has been demonstrated that those other guidelines achieve the same level of quality, safety and efficacy. In cases of detailed technical issues for which neither Union legislation nor the ECDC and the EDQM have defined a technical guideline or rule, operators should apply a locally defined rule that is in line with relevant internationally recognised guidelines and scientific evidence and is appropriate to mitigate any risk identified.

(34) Where evidence demonstrates that specific processing steps reduce or eliminate the risk of transmission of specific infectious or non-infectious disease agents, the quality

and safety standards for the verification of donor eligibility by means of donor health evaluations, including testing, and the related guidelines for their implementation, should take this evidence into account. Thus, in the case of, for example, plasma for fractionation, that in a subsequent step in the manufacturing process of medicinal products undergoes sterilisation steps, certain donor eligibility criteria used for donation of plasma for transfusion might not be necessary nor appropriate.

(35) The EDQM is a structural part of the Council of Europe working under the European Pharmacopoeia Partial Agreement. The text of the Convention on the elaboration of a European Pharmacopoeia (ETS No. 050), accepted by Council Decision 94/358/EC[13], is considered to be the text of the European Pharmacopoeia Partial Agreement. Member States of the Council of Europe that have signed and ratified the European Pharmacopoeia Convention are the member States of the European Pharmacopoeia Partial Agreement and are therefore the members of the intergovernmental bodies functioning within the framework of this partial agreement, including among others: the European Pharmacopoeia Commission, the European Committee on Organ Transplantation (CD-P-TO), the European Committee on Blood Transfusion (CD-P-TS) and the European Committee on Pharmaceuticals and Pharmaceutical Care (CD-P-PH). The European Pharmacopoeia Convention has been signed and ratified by the European Union and all its Member States, all of whom are represented in their intergovernmental bodies. In this context, the work of the EDQM on developing and updating guidelines on safety and quality of blood, tissues and cells, should be considered an important contribution to the field of SoHOs in the Union and should be reflected in this Regulation. The guidelines address issues of quality and safety beyond the risks of communicable disease transmission, such as donor eligibility criteria for the prevention of the transmission of cancer and other non-communicable diseases and the assurance of safety and quality during collection, processing, storage and distribution. It should therefore be possible to use those guidelines as one of the means to implement the technical standards provided for in this Regulation.

(36) The ECDC, established by Regulation (EC) No 851/2004 of the European Parliament and of the Council[14], is a Union agency with the mission of strengthening Europe's defences against communicable diseases. The work of the ECDC on developing and updating guidelines on safety and quality of SoHOs from a communicable disease threat perspective, should be considered an important contribution in the field of SoHOs in the Union and should be reflected in this Regulation. In addition, the ECDC established an expert network for the Microbial Safety of SoHOs, which ensures the implementation of the requirements on the ECDC's relations with the Union Member States and EEA Member States stated in Regulation (EC) No 851/2004, regarding strategic and operational collaboration on technical and scientific issues, surveillance, responses to health threats, scientific opinions, scientific and technical assistance, collection of data, identification of emerging health threats, and public information campaigns related to the safety of SoHOs. This SoHO expert network should provide information or advice in relation to relevant outbreaks of communicable diseases, in particular regarding the eligibility and testing of donors and the investigation of

[13] Council Decision 94/358/EC of 16 June 1994 accepting, on behalf of the European Community, the Convention on the elaboration of a European Pharmacopoeia (OJ L 158, 25.6.1994, p. 17).

[14] Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004, establishing a European centre for disease prevention and control (OJ L 142, 30.4.2004, p. 1).

serious adverse occurrences involving suspected transmission of a communicable disease.

(37) It is necessary to promote information and awareness campaigns at national and Union level on the importance of SoHOs. The aim of these campaigns should be to help European citizens to decide whether to become donors during their lifetime and let their families or legal representatives know their wishes regarding donation after death. As there is a need to ensure the availability of SoHOs for medical treatments, Member States should promote the donation of SoHOs, including plasma, of high quality and safety, thereby also increasing self-sufficiency in the Union. Member States are also urged to take steps to encourage a strong public and non-profit sector involvement in the provision of SoHO services, in particular for critical SoHOs and the related research and development.

(38) In order to promote a coordinated application of this Regulation, a SoHO Coordination Board (SCB) should be set up. The Commission should participate in its activities and chair it. The SCB should contribute to a coordinating the application of this Regulation throughout the Union, including by helping Member States to conduct SoHO supervisory activities. The SCB should be composed of persons designated by the Member States based on their role and expertise in their competent authorities, and should also involve experts that are not working for competent authorities, for specific tasks where access to necessary in-depth technical expertise in the field of SoHOs is required. In the latter case, appropriate consideration should be given to the possibility of involving European expert bodies such as the ECDC and the EDQM and existing professional, scientific and donor and patient representative groups at Union level in the field of SoHOs.

(39) Some substances, products or activities have been subject to different legal frameworks with different requirements in the Member States. This causes confusion among operators in the field, and the consequent legal uncertainty is a disincentive to professionals to develop new ways to prepare and use SoHOs. The SCB should receive relevant information on national decisions made on cases where questions were raised on the regulatory status of SoHOs. The SCB should keep a compendium of the opinions issued by the SCB or the competent authorities and of decisions made at Member State level, so that competent authorities considering the regulatory status under this Regulation of a particular substance, product or activity may inform their decision-making process by referring to that compendium. The SCB should also document agreed best practices to support a common Union approach. It should also cooperate with similar Union level bodies established in other Union legislation with a view to facilitating coordinated and coherent application of this Regulation between Member States and across bordering legislative frameworks. These measures should promote a coherent cross-sectoral approach and facilitate SoHO innovation.

(40) The concept of a plasma master file (PMF) was established in Commission Directive 2003/63/EC[15]. Since that Directive provided for a specific regulatory role for the European Medicines Agency (EMA) in relation to authorisation of plasma for fractionation, the SCB should also collaborate with the relevant EMA expert working groups to exchange experience and good practices so that criteria for the eligibility of

[15] Commission Directive 2003/63/EC of 25 June 2003 amending Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use (OJ L 159, 27.6.2003, p. 46).

donors of plasma for fractionation and of donors of blood for transfusion are implemented by Member States in a consistent and coherent way.

(41) In order to limit administrative burden on competent authorities and the Commission, the latter should establish an online platform (the 'EU SoHO Platform') to facilitate timely submission of data and reports as well as improved transparency of national reporting and supervisory activities.

(42) The processing of personal data under this Regulation should be subject to strict guarantees of confidentiality and should comply with the rules on the protection of personal data laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council and in Regulation (EU) 2018/1725 of the European Parliament and of the Council .

(43) As the EU SoHO Platform requires the processing of personal data, it will be designed respecting the principles of data protection. Any processing of personal data should be limited to achieving the objectives and obligations of this Regulation. Access to the EU SoHO Platform should be limited to the extent necessary to carry out supervisory activities provided for in this Regulation.

(44) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and in particular human dignity, the integrity of the person, the protection of personal data, the freedom of art and science and to conduct business, non-discrimination, the right to health protection and access to health care, and the rights of the child. To achieve these aims, all supervisory and SoHO activities should always be carried out in a manner that fully respects those rights and principles. The right for dignity and integrity of donors, recipients and of offspring born from medically assisted reproduction should always be taken into account, amongst others, by ensuring that consent for donation is freely given and donors or their representatives are informed with regards to the intended use of the donated material, that donor eligibility criteria are based on scientific evidence, that the use of SoHOs in humans is not promoted for commercial purposes or with false or misleading information regarding efficacy so that the donors and recipients can make well-informed and deliberate choices, that activities are conducted in a transparent manner that prioritises the safety of donors and recipients, and that allocation and equitable access to SoHOs are defined in a transparent manner, on the basis of an objective evaluation of medical needs. This Regulation should therefore be applied accordingly.

(45) SoHOs, by definition, relate to persons, and there are circumstances where the processing of personal data relating to donors and recipients may be necessary to achieve the objectives and requirements of this Regulation, especially provisions relating to vigilance and communication between competent authorities. This Regulation should provide a legal basis under Article 6 and, where relevant, fulfil the conditions under Article 9(2), point (i), of Regulation (EU) 2016/679 for processing of such personal data. With respect to personal data processed by the Commission, this Regulation should provide a legal basis under Article 5 and, where relevant, fulfil the conditions under Article 10(2), point (i), of Regulation (EU) 2018/1725. Data on safety and efficacy of new SoHO preparations in recipients should also be shared, with appropriate protective measures, to allow aggregation at Union level for more robust evidence gathering on the clinical efficacy of SoHO preparations. For all data processing, such processing should be necessary and appropriate with a view to ensuring compliance with this Regulation in order to protect human health. Data on

donors, recipients and offspring should hence be limited to the minimum necessary and pseudonymised. donors, recipients and offspring should be informed of the processing of their personal data in line with the requirements of Regulations (EU) 2016/679 and (EU) 2018/1725, and in particular as provided for under this Regulation, including the possibility of exceptional cases where circumstances require such processing.

(46) In order to enable better access to health data in the interests of public health, Member States should entrust competent authorities as data controllers within the meaning of Regulation (EU) 2016/679 with powers to take decisions on the access to and re-use of such data.

(47) The exchange of SoHOs between Member States is necessary for ensuring optimal patient access and sufficiency of supply, particularly in the case of local crises or shortages. For certain SoHOs that need to be matched between the donor and the recipient, such exchanges are essential to allow patients to receive the treatment they need. In this context, the objective of this Regulation, namely to ensure quality and safety of SoHOs and a high level of protection of donors, needs to be achieved at Union level, by establishing high standards of quality and safety for SoHOs, based on a common set of requirements that are implemented in a consistent manner across the Union. Thus, 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.

(48) In order to be able to supplement this Regulation where necessary with additional standards concerning the protection of donors, recipients and offspring from medically assisted reproduction to take into account technical and scientific developments in the field of SoHOs, and with additional rules on the authorisation of importing SoHO entities, on obligations and procedures for importing SoHO entities, on the organisation of Union training and exchange programmes, on technical specifications concerning the EU SoHO Platform, and on data protection, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[16]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(49) In order to ensure uniform conditions for the implementation of this Regulation regarding the authorisation system for importing SoHO entities, the application for importing SoHO entity authorisations, the activity data collection and reporting by SoHO entities, the European coding system, the establishment, management and functioning of the SCB, and the general functionalities of the EU SoHO Platform, implementing powers should be conferred on the Commission.

(50) In order to ensure uniform conditions for the implementation of this Regulation, including the determination of the regulatory status of a substance, product or activity,

[16] OJ L 123, 12.5.2016, p. 1.

rules and practical arrangements in respect of the consultation and cooperation with competent authorities of other regulatory sectors, the national registers of SoHO entities, the registration process of SoHO entities, the SoHO preparation authorisation system and the authorisation of SoHO preparations, the SoHO establishment authorisation system, the inspections of SoHO establishments, the consultation and coordination related to vigilance, the quality management system for SoHO establishments, the implementation of the standards concerning the protection of donors, recipients and offspring from medically assisted reproduction, the national SoHO emergency plans, the tasks of the SoHO Coordination Board, and the transitional provisions concerning SoHO preparations, 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[17].

(51) Transitional provisions should be laid down in order to ensure a smooth transition from the former regimes for tissues and cells and for blood and blood components to this new Regulation, in particular in order to adapt practices to the new requirements, the changes in SoHO entities, SoHO establishments and SoHO preparations, and to avoid that donated SoHOs are discarded unnecessarily. A transitional regime for establishments already designated, authorised, accredited or licensed before the date of application of this Regulation should be introduced to ensure legal certainty and clarity. In particular, there should be clarity for the establishments concerned as regards their registration and authorisation status as well as their tasks and responsibilities under this Regulation, whilst allowing competent authorities additional time to transfer the relevant information to the systems introduced by this Regulation. To allow for a smooth transition, it is also appropriate that those preparation processes already authorised and lawfully used under the former regimes are still valid, and that SoHOs already collected and stored before the date of application of this Regulation may be used for a certain period of time. The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on … [date of the opinion][18],

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes measures setting high standards of quality and safety for all substances of human origin (‘SoHOs’) intended for human application and for activities related to those substances in order to ensure a high level of human health protection, in particular for SoHO donors, SoHO recipients and offspring from medically assisted reproduction. This Regulation is without prejudice to national legislation which establishes

[17] 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).

[18] OJ C , , p. .

rules relating to aspects of SoHOs other than their quality and safety and the safety of SoHO donors.

Article 2

Scope

1. This Regulation shall apply to SoHOs intended for human application, to SoHO preparations, to products manufactured from SoHOs and intended for human application, to SoHO donors and recipients, and to the following SoHO activities:

   (a) SoHO donor recruitment;

   (b) SoHO donor history review and eligibility assessment;

   (c) SoHO testing of donors for eligibility or matching purposes;

   (d) collection of SoHOs from donors or patients;

   (e) processing of SoHOs;

   (f) quality control testing of SoHOs;

   (g) storage of SoHOs;

   (h) SoHO release;

   (i) distribution of SoHOs;

   (j) import of SoHOs;

   (k) export of SoHOs;

   (l) human application of SoHOs;

   (m) SoHO clinical outcome monitoring.

2. In cases of autologous use of SoHOs where:

   (a) SoHOs are processed and stored before application, this Regulation shall apply in full;

   (b) SoHOs are processed and not stored before application, only the provisions on vigilance referred to in Article 35, on SoHO rapid alerts referred to in Article 36, on SoHO entity registration referred to in Article 37, on SoHO preparation authorisation referred to in Article 40, and on activity data collection and reporting referred to in Article 44 shall apply;

   (c) SoHOs are not processed and not stored before application, this Regulation shall not apply.

3. For SoHOs that are used to manufacture products in accordance with Union legislation on medical devices, regulated by Regulation (EU) 2017/745, on medicinal products, regulated by Regulation (EC) No 726/2004 and Directive 2001/83/EC, including on advanced therapy medicinal products, regulated by Regulation (EC) No 1394/2007, or on food, regulated by Regulation (EC) No 1925/2006, or as the starting and raw material thereof, the provisions of this Regulation applicable to the activities of SoHO donor recruitment, donor history review and eligibility assessment, testing of donors for eligibility or matching purposes, and collection of SoHOs from donors or patients shall apply. Insofar as the activities of SoHO release, distribution, import and export relate to SoHOs prior to their distribution to an

operator regulated by the other Union legislation referred to in this subparagraph, the provisions of this Regulation shall also apply.

By way of derogation from the first subparagraph, in cases where SoHOs, SoHO preparations, or products manufactured from SoHO, as referred to in that subparagraph, are exclusively for autologous use, only those provisions of this Regulation that concern the collection of SoHOs from patients shall apply.

4. Where non-viable SoHOs or their derivatives, as defined in Article 2, point (17), of Regulation (EU) 2017/745, incorporate, as an integral part, a medical device, and where the action of the non-viable SoHOs or their derivatives is principal and not ancillary to that of the device, the non-viable SoHOs or their derivatives shall be governed by this Regulation. If the action of the non-viable SoHOs or their derivatives is ancillary to that of the device and not principal, the provisions of this Regulation, insofar as they concern donor recruitment, donor history review and eligibility assessment, testing of donors for eligibility or matching purposes, collection of SoHOs from donors or patients, shall apply.

Article 3

Definitions

For the purpose of this Regulation the following definitions shall apply:

(1) ‘blood’ means the liquid that circulates in arteries and veins carrying oxygen to and carbon dioxide from the tissues of the body;

(2) ‘blood component’ means a constituent of blood such as red cells, white cells, platelets and plasma, that can be separated from it;

(3) ‘cell’ means a mass of cytoplasm with or without a nucleus, that is bound externally by a cell membrane. Usually microscopic in size, cells are the smallest structural and functional unit of an organism;

(4) ‘tissue’ means a group of cells that function together as a unit;

(5) ‘substance of human origin’ (SoHO) means any substance collected from the human body in whatever manner, whether it contains cells or not and whether those cells are living or not. For the purposes of this Regulation, SoHO does not include organs in the sense of Article 3, point (h), of Directive 2010/53/EU;

(6) ‘human application’ means inserted, implanted, injected, infused, transfused, transplanted, ingested, transferred (as in transfer to the uterus or fallopian tube of a woman), inseminated or otherwise added to the human body in order to create a biological, mechanical or physiological interaction with that body;

(7) ‘SoHO activity’ means an action, or series of actions, that has a direct impact on the safety, quality or efficacy of SoHOs, as listed in Article 2(1);

(8) ‘SoHO donor’ means any person who has presented themselves to a SoHO entity with a view to making a donation of SoHOs, whether that donation is successful or not;

(9) ‘SoHO recipient’ means the person to whom SoHOs are applied;

(10) ‘medically assisted reproduction’ means the facilitation of conception by intra-uterine insemination of sperm, in vitro fertilisation or any other laboratory or medical intervention that promotes conception;

(11) ‘offspring from medically assisted reproduction’ means fetuses and children that are born following medically assisted reproduction;

(12) ‘SoHO preparation’ means a particular type of SoHO that:

(a) has been subjected to one or more SoHO activities, including processing, in accordance with defined quality and safety parameters;

(b) meets a pre-defined specification; and

(c) is intended for application to a recipient for a specific clinical indication or is intended for distribution for manufacture of a product regulated by other Union legislation, or as the starting and raw material thereof;

(13) ‘donor recruitment’ means any activity aimed at encouraging persons to become SoHO donors;

(14) ‘collection’ means a process by which SoHOs are removed, procured, excreted, secreted or obtained by any other manner, including any preparatory steps, such as hormone treatment, needed to facilitate the process;

(15) ‘processing’ means any operation involved in the handling of SoHOs, including washing, shaping, separation, fertilisation, decontamination, sterilisation, preservation and packaging;

(16) ‘quality control’ means several tests or checks to confirm that a SoHO activity or SoHO preparation meets pre-defined quality criteria;

(17) ‘storage’ means the maintenance of SoHOs under appropriate controlled conditions until distribution;

(18) ‘release’ means a process through which it is verified that a SoHO or a SoHO preparation meets defined safety and quality criteria and the conditions of any applicable authorisation before distribution;

(19) ‘distribution’ means transportation and delivery, within the Union, of released SoHOs or SoHO preparations intended for human application or for the manufacture of products regulated under other Union legislation, or as the starting and raw material thereof, including within the same organisation when SoHOs are delivered from a SoHO entity to a unit responsible for human application;

(20) ‘import’ means activities carried out to bring SoHOs or SoHO preparations into the Union from a third country, including the organisation of such activities and physical verification of coherence with associated documentation, the appropriateness of transport conditions, the integrity of packaging and the adequacy of labelling before release;

(21) ‘export’ means distribution of SoHOs or SoHO preparations to third countries;

(22) ‘clinical outcome monitoring’ means evaluation of the health of a SoHO recipient for the purpose of monitoring the results of a SoHO preparation application, maintaining care and demonstrating safety and efficacy;

(23) ‘autologous use’ means collection of SoHO from one individual for subequent application to the same individual, with or without further SoHO activities between collection and application;

(24) ‘SoHO entity’ means an organisation legally established in the Union that carries out one or more of the SoHO activities set out in Article 2(1);

(25) ‘SoHO preparation authorisation’ means the formal approval by a competent authority of a SoHO preparation, including the approval of the chain of activities carried out to obtain the SoHO preparation;

(26) ‘vigilance’ means a set of organised surveillance and reporting procedures relating to adverse occurrences;

(27) ‘adverse occurrence’ means any incident that caused harm to a living SoHO donor, harm to a SoHO recipient or to offspring from medically assisted reproduction or that implied a risk of such harm;

(28) ‘serious adverse occurrence’ (SAO) means an adverse occurrence that resulted in, or implied a risk of, any of the following:

(a) death;

(b) life-threatening, disabling or incapacitating condition, including transmission of a pathogen that might cause such condition;

(c) transmission of a genetic condition to offspring from medically assisted reproduction with third party donation;

(d) hospitalisation or prolongation of hospitalisation;

(e) the need for a clinical intervention to prevent any of the above;

(f) loss of a quantity of SoHOs that causes human applications to be postponed or cancelled;

(g) loss of highly matched or autologous SoHOs;

(h) a mix-up of reproductive cells in such a way that an oocyte is fertilised with sperm from an individual other than the intended individual or reproductive cells are inseminated or transferred to the uterus or fallopian tube of a woman other than the intended recipient;

(i) prolonged sub-optimal health of a SoHO donor following single or multiple donations;

(29) ‘SoHO rapid alert’ means a communication regarding a SAO, a communicable disease outbreak or other information that might be of relevance to the safety and quality of SoHOs in more than one Member State and is to be transmitted rapidly between competent authorities and the Commission to facilitate the implementation of mitigating measures;

(30) ‘non-viable’ means having no potential for metabolism or multiplication;

(31) ‘EU SoHO Platform’ means the digital platform established by the Commission to exchange information concerning SoHO activities;

(32) ‘SoHO supervisory activity’ means any activity as provided for in Chapter III performed by a competent authority or by a delegated body in order to verify and enforce compliance with this Regulation;

(33) ‘the compendium’ means a list kept up-to-date by the SoHO Coordination Board of decisions, taken at Member State level, and opinions, issued by competent authorities and by the SCB, on the regulatory status of specific substances, products or activities and published on the EU SoHO platform;

(34) ‘quality management system’ means a formalised system that documents processes, procedures, and responsibilities to support achieving defined quality standards in a consistent manner;

(35) ‘delegated body’ means a legal body to which the competent authority has delegated certain SoHO supervisory activities in accordance with Article 6;

(36) ‘audit’ means a systematic and independent examination to determine whether activities and the related results of such activities comply with legislation and planned arrangements and whether these arrangements are applied effectively and are suitable to achieve the objectives;

(37) ‘inspection’ means a formal and objective control by a competent authority or delegated body to assess compliance with this Regulation and other relevant Union or national legislation and to identify the need for corrective or preventive action to achieve compliance;

(38) ‘Union training’ means activities for the personnel of competent authorities and, where appropriate, for personnel of delegated bodies performing SoHO supervisory activities;

(39) ‘assessors’ means personnel performing the assessment of SoHO preparations as referred to in Article 22;

(40) ‘SoHO establishment’ means a SoHO entity that carries out both processing and storage of SoHOs;

(41) ‘critical SoHO’ means a SoHO for which an insufficient supply will result in serious harm or risk of harm to patients;

(42) ‘critical SoHO entity’ means a SoHO entity that carries out activities contributing to the supply of critical SoHOs and the scale of those activities is such that a failure to carry them out cannot be compensated by activities of other entities or alternative substances or products for patients;

(43) ‘conditional authorisation’ means the granting of permission by a competent authority to a SoHO entity to perform certain SoHO activities under specific conditions defined by that competent authority;

(44) ‘on-site inspection’ means an inspection carried out at the premises of the SoHO establishment, or other SoHO entity, concerned;

(45) ‘technical guidelines’ means a description of a series of methodological procedures and parameters that, if followed, achieve a level of quality and safety of a SoHO activity or a SoHO preparation that is considered to be acceptable as a means to comply with regulatory standards;

(46) ‘joint inspection’ means an inspection carried out by inspectors from more than one Member State;

(47) ‘traceability’ means the ability to locate and identify SoHOs during any step from collection through processing and storage to distribution or disposal, including the ability to:

(a) identify the SoHO donor and the SoHO entity processing or storing the SoHOs;

(b) identify the recipient at the SoHO entity applying the SoHOs to the recipient;

(c) locate and identify all relevant data relating to the safety and quality of the SoHOs and any materials coming into contact with those SoHOs;

(48) ‘Single European Code’ (SEC) means the unique identifier applied to certain SoHOs distributed in the Union;

(49) ‘SAO notification’ means the communication from a SoHO entity, a SoHO establishment or a SoHO donor or recipient to a competent authority, of a serious adverse occurrence or a suspected serious adverse occurrence associated with a SoHO donation or human application;

(50) ‘SAO investigation report’ means the report from a SoHO entity or a SoHO establishment to a competent authority on a specific SAO, describing the outcome and including an assessment of the seriousness and the level of imputability, the likely cause and any corrective action taken;

(51) ‘imputability’ means the likelihood that a serious adverse occurrence, in a SoHO donor, is related to the donation process or, in a recipient, to the application of the SoHOs;

(52) ‘seriousness’ means the degree of severity of an adverse occurrence, involving harm to a SoHO donor, recipient or offspring from medically assisted reproduction, at and above which the occurrence shall be notified to a competent authority;

(53) ‘self-reporting’ means the notification of a SAO by a SoHO recipient or a SoHO donor directly to the competent authorities;

(54) ‘Annual SoHO Vigilance Report’ means the annual report published by the Commission aggregating the summaries from the SoHO National Authorities on SAO notifications and SAO investigation reports received;

(55) ‘deferral’ means temporary or permanent suspension of the eligibility of an individual to donate SoHO;

(56) ‘responsible person’ means the nominated individual in a SoHO entity that has responsibility for SoHO release;

(57) ‘process validation’ means establishing documented evidence that provides a high degree of assurance that a specific process will consistently produce results meeting predetermined specifications and quality attributes;

(58) ‘equipment qualification’ means establishing documented evidence that provides a high degree of assurance that a specific piece of equipment will consistently perform to predetermined specifications;

(59) ‘EDQM SoHO monograph’ means a specification of the critical quality parameters of a particular SoHO preparation defined by the European Directorate for the Quality of Medicines and HealthCare of the Council of Europe;

(60) ‘Annual SoHO Activity Report’ means the annual report published by the Commission aggregating the data reports from SoHO entities carrying out the following activities: donor recruitment, collection, distribution, import, export and human application of SoHOs;

(61) ‘reproductive cells’ means all cells intended to be used for the purpose of medically assisted reproduction;

(62) ‘third party donation’ means a donation of reproductive cells by a person to a person or a couple with whom the donor does not have an intimate physical relationship;

(63) ‘within couple use’ means use of reproductive cells for medically assisted reproduction from two persons with an intimate physical relationship, where one person supplies their own oocytes and the other person supplies their own sperm;

(64) ‘compensation’ means making good of any losses associated with donation;

(65) ‘allogeneic use’ means collection of SoHO from one individual for subsequent application to another individual;

(66) ‘SoHO supply alert’ means a communication regarding a significant interruption to the supply of critical SoHOs that is to be transmitted to a competent authority, and when necessary, by a SoHO National Authority to the competent authorities of other Member States;

(67) ‘plasma master file’ (PMF) means a compilation of the required scientific data, covering all aspects of the use of plasma, from collection to the creation of a plasma pool, on the quality and safety of human plasma relevant to the medicinal products, medical devices and investigational products that use human plasma in their manufacture;

(68) ‘plasma for transfusion’ means plasma separated from whole blood or collected by apheresis for the purpose of transfusion to a recipient;

(69) ‘plasma for fractionation’ means plasma separated from whole blood or collected by apheresis and used as the starting material for manufacturing of plasma-derived medicinal products;

(70) ‘apheresis’ means a process by which a specific blood component or type of stem cell is separated from whole blood during the donation, allowing the remaining blood components to be returned immediately to the donor.

Article 4

More stringent Member State measures

1. Member States may maintain or introduce within their territories measures that are more stringent than the ones provided for in this Regulation on condition that those national measures are compatible with Union law, and are proportionate to the risk to human health.

2. Member States shall make available to the public details of measures put in place in accordance with paragraph 1 without undue delay, including on the internet. The SoHO National Authority shall submit the details of any more stringent measure to the EU SoHO Platform referred to in Chapter XI.

CHAPTER II

COMPETENT AUTHORITIES

Article 5

Designation of competent authorities

1. Member States shall designate the competent authority or authorities to which they confer responsibility for the SoHO supervisory activities provided for in Chapter III.

The organisation or organisations designated shall be independent from any SoHO entity.

2. For the same territory, a Member State may confer responsibilities for SoHO supervisory activities to more than one competent authority, at national, regional or local level.

3. Member States shall ensure that competent authorities:

   (a) have the autonomy to act and make decisions independently and impartially while respecting the internal administrative organisational requirements determined by the Constitutions of the Member States;

   (b) have the necessary powers:

      (i) to properly perform their supervisory activities, including access to the premises of, and documents and samples kept by, SoHO entities and any third parties contracted by a SoHO entity;

      (ii) to order the immediate suspension or cessation of a SoHO activity that poses immediate risk to SoHO donors, SoHO recipients or the general public;

      (iii) to take decisions on the access and re-use of personal data;

   (c) have sufficient resources, operational capacity, and expertise to achieve the aims of, and fulfil their obligations under, this Regulation;

   (d) are governed by appropriate confidentiality obligations in accordance with Article 75.

4. Each Member State shall designate a single SoHO National Authority, in conformity with Member States' constitutional requirements, responsible for coordinating exchanges with the Commission and with other Member States' SoHO National Authorities.

5. Member States shall submit to the EU SoHO Platform referred to in Chapter XI:

   (a) the names and contact details of the competent authorities designated pursuant to paragraph 1;

   (b) the names and contact details of their SoHO National Authority referred to in paragraph 4.

6. Member States shall update the EU SoHO Platform without undue delay with any changes to the information referred to in paragraph 5.

Article 6

Delegation by competent authorities of certain SoHO supervisory activities

1. Member States or competent authorities may delegate certain SoHO supervisory activities to one or more delegated bodies in accordance with the conditions provided for in Article 10. Member States or competent authorities shall ensure that delegated bodies have the powers needed to effectively perform any activities delegated to them.

2. Where Member States or competent authorities decide to delegate certain SoHO supervisory activities to one or more delegated bodies, they shall submit information

regarding such delegations to the EU SoHO Platform referred to in Chapter XI with details of the delegated supervisory tasks.

Article 7

Independence and impartiality

1. Competent authorities shall act independently, in the public interest and free from any external influence.

2. Competent authorities shall ensure that their personnel have no direct or indirect economic, financial or personal interest that might be considered prejudicial to their independence and, in particular, that they are not in a situation that may, directly or indirectly, affect the impartiality of their professional conduct.

3. Paragraphs 1 and 2 shall also apply to delegated bodies.

Article 8

Transparency

1. Without prejudice to Article 75, competent authorities shall carry out their supervisory activities in a transparent manner and they shall make accessible and clear to the public decisions taken in cases where a SoHO entity has failed to comply with an obligation under this Regulation and where such failure causes or may cause a serious risk to human health.

2. Paragraph 1 shall not affect national legislation on access to information.

3. Competent authorities shall lay down practical arrangements for implementing the transparency rules referred to in paragraph 1 in their internal rules.

4. Paragraphs 1, 2 and 3 shall also apply to delegated bodies.

Article 9

General responsibilities and obligations

1. Competent authorities shall be responsible for the SoHO supervisory activities referred to in Chapter III in order to verify the effective compliance of SoHO entities in their territory with the requirements set out in this Regulation.

2. Competent authorities shall have in place:

   (a) a sufficient number of suitably qualified personnel to carry out the supervisory functions provided for in this Regulation;

   (b) procedures to ensure the independence, impartiality, effectiveness, quality, suitability for purpose and consistency of their SoHO supervisory activities;

   (c) appropriate and properly maintained facilities and equipment to ensure that personnel can perform their SoHO supervisory activities efficiently and effectively;

   (d) a quality management system for their SoHO supervisory activities that includes a plan for continuity of their activities in case of exceptional circumstances.

3. Paragraphs 1 and 2 shall also apply to delegated bodies.

Article 10

Conditions for delegating certain SoHO supervisory activities to delegated bodies

1. Member States and competent authorities that delegate certain SoHO supervisory activities to a delegated body referred to in Article 6 shall conclude a written agreement on the delegation.

2. Competent authorities shall ensure that the agreement referred to in paragraph 1 includes the following:

   (a) a precise description of the SoHO supervisory activities that the delegated body is expected to perform, and the conditions under which those activities are expected to be performed;

   (b) the conditions to be met by the delegated body, including that the delegated body:

      (i) has the expertise, equipment and infrastructure required to perform those SoHO supervisory activities delegated to it;

      (ii) has a sufficient number of suitably qualified and experienced staff;

      (iii) participates in certification or other schemes at Union level, when available, to ensure the uniform application of principles of good practices required for their relevant sector;

      (iv) has sufficient powers to perform the SoHO supervisory activities delegated to it;

   (c) a precise description of arrangements ensuring an efficient and effective coordination between the delegating competent authorities and the delegated body;

   (d) provisions for the fulfilment of the obligations of the delegated body as set out in Articles 11 and 12.

Article 11

Obligations of the delegated bodies

Delegated bodies to which certain SoHO supervisory activities have been delegated in accordance with Article 6 shall:

(a) communicate to the delegating competent authorities, on a regular basis and whenever those competent authorities so request, the outcome of the SoHO supervisory activities performed by them;

(b) immediately inform the delegating competent authorities whenever the outcome of the delegated SoHO supervisory activities indicates non-compliance or points to the likelihood of non-compliance, unless specific arrangements established between those competent authorities and the delegated bodies provide otherwise; and

(c) cooperate with the delegating competent authorities, including by providing access to their premises and facilities.

Article 12

Obligations of the delegating competent authorities

Competent authorities that have delegated certain SoHO supervisory activities to delegated bodies in accordance with Article 6 shall:

(a) organise audits or inspections of such bodies, as necessary and taking into account participation of such bodies in certification or other schemes referred to in Article 10(2), point (b)(iii);

(b) fully or partly withdraw the delegation without delay in particular in cases where:

  (i) there is evidence that such delegated bodies are failing to properly perform the activities delegated to them;

  (ii) the delegated bodies fail to take appropriate and timely action to remedy the shortcomings identified; or

  (iii) the independence or impartiality of the delegated bodies has been shown to be compromised.

Article 13

Communication and coordination between SoHO competent authorities

1. Where more than one authority is competent to perform SoHO supervisory activities in a Member State pursuant to Article 5(2), the Member State shall ensure efficient and effective coordination between all SoHO competent authorities involved, to ensure consistency and effectiveness of SoHO supervisory activities as set by this Regulation across its territory.

2. Competent authorities shall cooperate with each other and with the Commission. They shall communicate information to each other and, in particular, to the SoHO National Authority as necessary for the effective implementation of the supervisory functions provided for in this Regulation.

3. In cases where competent authorities provide an opinion to a SoHO entity on the applicability of this Regulation to a particular substance or activity within their territory, those competent authorities shall notify the SoHO National Authority, which, in turn, shall notify the SoHO Coordination Board ('SCB') of the opinion given to the SoHO entity.

4. Following a reasoned request from a competent authority of another Member State, the competent authority shall without undue delay inform the requesting competent authority of the outcome of supervisory activities concerning a SoHO entity on its territory, and, as necessary and proportionate, provide the records referred to in Articles 29 and 30.

Article 14

Obligations to consult and cooperate with authorities of other regulatory sectors

1. In all cases where questions arise as to the regulatory status of a substance, product or activity, competent authorities shall consult with authorities established in other relevant Union legislation referred to in Article 2(3), as relevant. In such cases, competent authorities shall also consult the compendium referred to Article 3 point (33).

2. In the course of the consultation referred to in paragraph 1, the competent authorities may also submit a request to the SCB for its opinion on the regulatory status of the

substance, product or activity under this Regulation and shall do so in all cases where the competent authorities, after the consultations referred to in paragraph 1, are not in a position to take a decision in that respect.

The competent authorities may also indicate that they consider there is a need that the SCB consults, in accordance with Article 68(1), point (b), with the equivalent advisory bodies established in other relevant Union legislation referred to in Article 2(3).

3. The competent authorities shall inform the SCB of the subsequent decision taken in their Member State, following the consultations referred to in paragraph 1 of this Article, regarding the regulatory status of the substance, product or activity concerned under this Regulation and on any consensus reached as a result of those consultations for publication in the compendium by the SCB.

4. The Commission may, upon a duly substantiated request of a Member State following the consultation referred to in paragraph 1, or on its own initiative, by means of implementing acts, determine the regulatory status of a substance, product or activity under this Regulation, in case questions arise in that respect, notably when these questions cannot be resolved at the Member State level, or in discussions between the SCB and the advisory bodies established in other relevant Union legislation, in accordance with Article 68(1), point (b).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

5. For SoHOs that are intended to be subsequently used to manufacture products under other Union legislation, or as the starting and raw material thereof, as referred to in Article 2(3), or SoHOs that are intended to be combined with medical devices, as referred to in Article 2(4), the competent authority shall cooperate with the authorities responsible for the supervisory activities under the relevant Union legislation, with a view to ensuring coherent oversight. During the process, the competent authorities may seek the assistance of the SCB.

6. The consultation and cooperation referred to in paragraphs 1, 2 and 5 may also be initiated on the basis of a request for advice from a SoHO entity, as referred to in Article 40.

7. The Commission may, by means of implementing acts, lay down rules concerning procedures for consultation referred to in paragraph 1 and cooperation referred to in paragraph 5 by the competent authorities when they consult the authorities established in other relevant Union legislation referred to in Article 2(3).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 15

Right of appeal

1. Where decisions are taken by competent authorities concerning natural or legal persons, those decisions shall be subject to such persons' right of appeal in accordance with national legislation.

2. The right of appeal shall not affect the obligation of competent authorities to take prompt action to eliminate or contain the risks to human health in accordance with this Regulation.

3. Paragraphs 1 and 2 shall also apply to delegated bodies.

Article 16

General obligations concerning the personnel of competent authorities

1. Competent authorities shall:

   (a) have, or have access to, a sufficient number of personnel so that SoHO supervisory activities can be performed efficiently and effectively;

   (b) ensure that the personnel performing SoHO supervisory activities are suitably qualified and experienced;

   (c) have procedures or arrangements in place to ensure that personnel performing SoHO supervisory activities are free from any conflict of interest;

   (d) have procedures in place to ensure confidentiality and maintain professional secrecy.

2. Personnel performing SoHO supervisory activities shall:

   (a) declare in writing any direct or indirect interests referred to in Article 7(2) and update that declaration yearly and whenever the declared information changes or any new interest arises;

   (b) receive, for their area of competence, appropriate training enabling them to undertake their duties competently and in a consistent manner;

   (c) keep up-to-date in their area of competence and receive regular additional training as necessary;

   (d) participate in training in the subject matter and on the obligations of competent authorities resulting from this Regulation, as referred to in paragraph 3.

3. Competent authorities, in cooperation with delegated bodies as necessary, shall develop and implement training programmes for the purpose of ensuring that personnel performing SoHO supervisory activities receive the training referred to in paragraph 2, points (b), (c) and (d). Competent authorities shall maintain records of the training undertaken by their personnel. Competent authorities shall provide opportunities for their personnel to participate in the Union training referred to in Article 69 where such Union training is available and appropriate.

4. Paragraphs 1, 2 and 3 shall also apply to delegated bodies.

Article 17

Obligations as regards Commission controls

Competent authorities and delegated bodies shall cooperate with the Commission for the performance of Commission controls referred to in Article 70. In particular, they shall:

(a) take appropriate follow-up measures to remedy the shortcomings identified through the controls provided for in Article 70;

(b) give the necessary technical assistance and provide the available documentation, upon justified request, and other technical support that Commission experts request to enable them to perform controls efficiently and effectively; and

(c) give the necessary assistance to ensure that the Commission experts have access to all premises or part of premises, and to information, including IT systems, relevant for the execution of their duties.

CHAPTER III

SoHO SUPERVISORY ACTIVITIES

Article 18

Register of SoHO entities

1. SoHO National Authorities shall establish and maintain a register of SoHO entities on their territory.

2. Instead of establishing a register of SoHO entities, as referred to in paragraph 1, a SoHO National Authority may use the EU SoHO Platform as referred to in Chapter XI. In this case, the SoHO National Authority shall instruct competent authorities, where necessary, and SoHO entities to register directly on the EU SoHO Platform.

3. Competent authorities shall verify that each registered SoHO entity has provided the following information:

   (a) name or business name and address of the SoHO entity, and name and contact details of a contact person;

   (b) a declaration that the SoHO entity complies with the obligations and requirements on SoHO entities set out in this Regulation, in particular Articles 44, 47, 56 and 59, as relevant;

   (c) a statement from the SoHO entity that it accepts to be inspected as provided for in this Regulation;

   (d) a list of the SoHO activities that the SoHO entity is carrying out;

   (e) the name and curriculum vitae of the responsible person for release of SoHOs as referred to in Article 38, if the SoHO entity releases SoHOs or SoHO preparations.

4. In cases where SoHO National Authorities establish their own registries of SoHO entities as referred to in paragraph 1, they shall submit the information included in the registries to the EU SoHO Platform as referred to in Chapter XI. Competent authorities shall be responsible for ensuring that the information regarding the SoHO entities on their territory pursuant to this Article and to Article 19 is congruent in the register of SoHO entities and in the EU SoHO Platform, and shall submit any changes to the EU SoHO Platform without undue delay.

5. The Commission may adopt implementing acts concerning the compatibility and comparability of the registers of SoHO entities for facilitating the submission to the EU SoHO Platform.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 19

Registration of SoHO entities

1. Competent authorities shall have procedures in place for the registration of SoHO entities in accordance with Article 37.

2. Competent authorities shall:

   (a) acknowledge receipt of the registration within 14 working days of its submission;

   (b) request the SoHO entity to provide supplementary information, if needed;

   (c) inform the SoHO entity in cases where the registration indicates that an authorisation pursuant to Articles 21, 27 or 28 is required;

   (d) identify whether the entity is a critical SoHO entity, and inform the entity in cases where it is considered a critical SoHO entity;

   (e) submit any additional information on the registration as necessary, including the requirement for an authorisation pursuant to point (c), and whether the SoHO entity is a critical SoHO entity to the EU SoHO Platform referred to in Chapter XI.

3. The Commission may adopt implementing acts concerning the registration process to facilitate the compatibility of the registers of SoHO entities with the EU SoHO Platform.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 20

SoHO preparation authorisation system

1. Competent authorities shall establish and maintain a system for receiving and processing requests for the authorisation of SoHO preparations. The system shall allow for the suspension or withdrawal of authorisations.

2. Competent authorities shall authorise SoHO preparations pursuant to Articles 21, 22 and, where applicable, Article 23.

3. SoHO preparation authorisations shall be valid throughout the Union for the period defined in the terms of the authorisation, when such a time period has been defined, or until a competent authority has suspended or withdrawn the authorisation. Where a Member State has adopted a more stringent measure, in accordance with Article 4, which relates to a specific SoHO preparation, that Member State may decline to recognise the validity of the SoHO preparation authorisation of another Member State pending verification that the more stringent measure has been met.

4. The Commission may adopt implementing acts concerning the compatibility and comparability of the SoHO preparation authorisation system.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 21

Authorisation of SoHO preparations

1. Competent authorities shall have procedures in place to allow that applications for the authorisation of SoHO preparations are submitted in accordance with Article 41. They shall provide guidelines and templates for the submission of applications for SoHO preparation authorisation. When developing these guidelines and templates, competent authorities shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c). Competent authorities may establish simplified procedures for applications concerning modifications to previously authorised SoHO preparations.

2. Upon receipt of an application for the authorisation of a SoHO preparation, competent authorities shall:

   (a) acknowledge receipt of the application within 14 working days;

   (b) assess the SoHO preparation pursuant to Article 22 and examine agreements between the applicant SoHO entity and any third parties contracted by that SoHO entity concerning SoHO activities, where applicable;

   (c) grant a conditional authorisation for the use of the SoHO preparation in all cases where clinical outcome data is required for authorisation, pursuant to Article 22(4), points (d) and (e);

   (d) grant or refuse the authorisation for the SoHO preparation, as appropriate.

3. Competent authorities shall submit information regarding SoHO preparation authorisations, including a summary of the evidence used to authorise each SoHO preparation, to the EU SoHO Platform referred to in Chapter XI, and, for each SoHO preparation, amend accordingly the authorisation status of the SoHO entity to which the SoHO preparation is linked to in the EU SoHO Platform, including the name and contact details of the SoHO preparation authorisation holder.

4. Competent authorities shall conclude the SoHO preparation authorisation steps, referred to in paragraph 2 of this Article, within 3 months from receipt of the application, excluding the time needed for clinical outcome monitoring or studies. They may suspend this time limit for the duration of the consultation processes referred to in Article 14(1) and (2).

5. Upon receipt of a request for an opinion in course of the conformity assessment procedure pursuant to Article 52 of Regulation (EU) 2017/745, the competent authorities receiving the request shall follow the relevant procedure of that Regulation, and inform the SCB of the opinion provided.

6. Competent authorities may, in accordance with national legislation, suspend the authorisation of a SoHO preparation if SoHO supervisory activities demonstrate or give reasonable ground for suspecting that:

   (a) such preparation, or any of the activities performed for that preparation, do not comply with the conditions of its authorisation or the requirements of this Regulation; and

   (b) that non-compliance implies a risk to the safety of SoHO donors, recipients or offspring from medically assisted reproduction.

Competent authorities shall specify a period of time for the investigation of the suspected non-compliance and for SoHO entities to rectify a confirmed non-compliance, during which the suspension will remain in place.

7. In cases where SoHO entities are not able to rectify confirmed non-compliances referred to in paragraph 6 in the specified time period, competent authorities shall, in accordance with national legislation, withdraw the authorisation of the SoHO preparation concerned.

8. Competent authorities may, in accordance with national legislation, withdraw the authorisation of a SoHO preparation if the competent authorities have confirmed that the SoHO preparation in question does not comply with subsequently updated criteria for authorisation or the SoHO entity has repeatedly failed to comply with the conditions of its authorisation.

9. In cases of authorisation suspension or withdrawal, as referred to in paragraphs 6, 7 and 8, competent authorities shall, without undue delay, amend accordingly the authorisation status of the SoHO entity concerned in the EU SoHO Platform as referred to in Chapter XI.

10. Competent authorities shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c).

11. The Commission may adopt implementing acts concerning the procedures to authorise SoHO preparations pursuant to this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 22

Assessment of SoHO preparations

1. The assessment of a SoHO preparation, shall include a review of all SoHO activities that are performed for that SoHO preparation and that might influence the safety, quality and efficacy of the SoHO preparation.

2. The assessment of SoHO preparations shall be carried out by assessors meeting the requirements set out in Article 24.

3. In cases where the SoHO preparation subject to the application for authorisation pursuant to Article 21 has been duly authorised in another SoHO entity in the same or in another Member State, competent authorities may authorise that SoHO preparation in the applicant SoHO entity, provided that the competent authorities have verified that the SoHO activities performed for the SoHO preparation are carried out by the applicant SoHO entity in a manner such that the safety, quality and efficacy results will be equivalent to those demonstrated in the SoHO entity where the SoHO preparation was first authorised.

4. In cases where the SoHO preparation, subject to the application for authorisation pursuant to Article 21, has not been duly authorised in another SoHO entity, competent authorities:

   (a) shall assess all the information provided by the applicant pursuant to Article 41;

   (b) shall review the SoHO preparation dossier referred to in Article 41(2), point (a);

(c) shall initiate the consultation described in Article 14(1), if during the review of the SoHO preparation dossier referred to in point (b), questions arise as to whether the SoHO preparation falls, in part or fully, within the scope of this Regulation or other Union legislation, taking into account the activities performed for the SoHO preparation and the intended human application;

(d) shall review and evaluate the risk assessment performed by the applicant as pursuant to Article 41(2), point (b);

(e) shall evaluate the plan for clinical outcome monitoring and its proportionality to the level of risk of the SoHO preparation as referred to in Article 41(3), points (a), (b) and (c), as applicable;

(f) may consult the SCB, pursuant to Article 68(1) on the evidence necessary and sufficient for the authorisation of a particular SoHO preparation;

(g) shall assess, in the case of a conditional authorisation pursuant to Article 21(2), point (c), the results of the clinical outcome monitoring.

5. When assessing the SoHO preparation pursuant to paragraph 4, points (e) and (g), competent authorities shall consider, in the cases where the applicant has proposed to record, and recorded, the results of the clinical outcome monitoring in an existing clinical registry, that this is an acceptable method, provided that those competent authorities have verified that the registry has data quality management procedures in place that ensure accuracy and completeness of data.

6. Competent authorities shall conduct the assessment steps referred to in paragraphs 3 and 4 of this Article by means of a remote document review. Competent authorities may also, as part of the SoHO preparation assessment, carry out inspections pursuant to Articles 29, 30 and 31.

7. When conducting the assessment steps referred to in paragraph 4 of this Article, competent authorities shall consult the best practices agreed and documented by the SCB as referred to in Article 68(1), point (c).

Article 23

Joint SoHO preparation assessments

1. At the request of one or more competent authorities, SoHO preparation assessments as referred to in Article 22 may be carried out by competent authorities from more than one Member State, as a joint SoHO preparation assessment.

2. The competent authority receiving a request for a joint SoHO preparation assessment may accept such a request, and coordinate and support that assessment, where that competent authority agrees that there are reasonable grounds for conducting a joint assessment.

3. Competent authorities participating in a joint assessment shall conclude a prior written agreement on the joint assessment. The agreement shall at least defines the following:

(a) the scope of the joint assessment;

(b) the roles of the participating assessors during and following the assessment, including the designation of an authority leading the assessment;

(c) the powers and responsibilities of each of the authorities.

4. Member States may set up joint assessment programmes to facilitate frequent or routine joint assessments. In such cases, competent authorities may sign a single written agreement provided that agreement meets the requirements in paragraph 3.

5. On completion of a joint SoHO preparation authorisation, the competent authority in the territory where the SoHO preparation authorisation holder is based shall submit the information, as pursuant to Article 21(3), regarding the new authorised SoHO preparation in the EU SoHO Platform.

Article 24

Specific obligations concerning SoHO preparation assessors

1. Assessors shall:

   (a) possess a diploma, certificate or other evidence of formal qualifications in the field of medical or biological sciences, awarded on completion of a university course of study or a course recognised as equivalent by the Member State concerned;

   (b) have expertise in the processes being assessed and the human applications for which the SoHO preparations will be used.

2. The assessment of SoHO preparations as referred to in Article 22 may be done jointly by a team of persons which collectively have the qualifications and experience set out in paragraph 1.

3. In exceptional cases, competent authorities may consider that a person's considerable and relevant experience may exempt this person from the requirements set out in paragraph 1.

4. Before assessors take up their duties, competent authorities shall provide assessors with a specific induction training on the procedures to be followed for the assessment of SoHO preparations in accordance with Article 22.

5. Competent authorities shall ensure that the specific induction training is complemented by specialised training for assessment of processing methods and technologies used for specific types of SoHO preparations and by continuous training, as appropriate, throughout the career of the assessors. Competent authorities shall make all reasonable efforts to ensure that assessors that participate in joint assessments have completed the relevant Union training referred to in Article 69(1) and are included in the list referred to in Article 69(5).

6. Assessors may be assisted by technical experts provided that competent authorities ensure that those experts comply with the requirements of this Regulation, in particular with the obligations set out in Articles 7 and 76.

Article 25

SoHO establishment authorisation system

1. Competent authorities shall establish and maintain a system for receiving and processing requests for the authorisation of SoHO establishments.

2. Competent authorities shall authorise as SoHO establishments the SoHO entities that both process and store SoHOs in accordance with Article 27.

3. Competent authorities may decide that certain SoHO entities that do not process and store SoHO also need to be authorised as SoHO establishments, in particular SoHO entities that:

   (a) have significant influence on the safety and quality of SoHOs due to the scale, criticality or complexity of the SoHO activities they perform; or

   (b) carry out SoHO activities in connection with multiple SoHO establishments.

4. Paragraph 3 shall not apply to SoHO entities that import SoHO.

5. SoHO establishment authorisations shall be valid throughout the Union for the period defined in the terms of the authorisation, when such a time period has been defined, or until a competent authority has suspended or withdrawn the authorisation or the establishment has ceased to conduct SoHO activities. Where a Member State has adopted a more stringent measure, in accordance with Article 4, which relates to a specific SoHO establishment authorisation, that Member State may decline to recognise the validity of the SoHO establishment authorisation of another Member State pending verification that the more stringent measure has been met.

6. The Commission may adopt implementing acts to specify uniform procedures and working methods for establishing and maintaining a SoHO establishment authorisation system.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 26

Importing SoHO entity authorisation system

1. Competent authorities shall establish and maintain a system for receiving and processing requests for the authorisation of importing SoHO entities.

2. Competent authorities shall authorise as importing SoHO entities the SoHO entities that import SoHOs pursuant to Article 28.

3. Importing SoHO entity authorisations shall be valid throughout the Union for the period defined in the terms of the authorisation, when such a time period has been defined, or until a competent authority has suspended or withdrawn the authorisation or the entity has ceased to conduct SoHO activities. Where a Member State has adopted a more stringent measure, in accordance with Article 4, which relates to a specific importing SoHO entity authorisation, that Member State may decline to recognise the validity of the importing SoHO entity authorisation of another Member State pending verification that the more stringent measure has been met.

4. The Commission shall adopt implementing acts to specify uniform procedures and working methods for establishing and maintaining an importing SoHO entity authorisation system.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 27

Authorisation of SoHO establishments

1. Competent authorities shall provide guidelines and templates to allow that applications from SoHO entities for their authorisation as SoHO establishments are submitted in accordance with Article 49. When developing these guidelines and templates, competent authorities shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c).

2. Upon receipt of an application for the authorisation of a SoHO establishment, competent authorities shall:

   (a) acknowledge receipt of the application within 14 working days;

   (b) assess the application;

   (c) examine agreements between the applicant SoHO establishment and any third parties contracted by that SoHO establishment to perform SoHO activities;

   (d) request that the applicant SoHO establishment provides supplementary information, if needed;

   (e) carry out an on-site system inspection of the applicant SoHO establishment and, where applicable, of third parties contracted by the SoHO establishment to perform SoHO activities, pursuant to Article 29;

   (f) inform the applicant, without undue delay, of the outcome of the assessment and inspections referred to in points (b), (c), (d) when relevant and (e) and of the decision on the authorisation;

   (g) grant or refuse the authorisation of the applicant SoHO establishment as a SoHO establishment, as appropriate, and indicate which SoHO activities are covered by the authorisation and which conditions apply, if any;

   (h) assess and, as appropriate, approve subsequent changes made by the SoHO establishment to the information provided in the application and communicated to them according to Article 49(2);

   (i) submit information regarding the authorisation by amending accordingly the status of the SoHO entity concerned, and including the name and contact details of the SoHO establishment authorisation holder, in the EU SoHO Platform as referred to in Chapter XI without undue delay.

3. Competent authorities may suspend the authorisation of a SoHO establishment, or of certain SoHO activities the establishment is authorised to perform, if SoHO supervisory activities demonstrate or give reasonable grounds for suspecting, that the SoHO establishment in question:

   (a) does not comply with the conditions of its authorisation or the provisions of this Regulation; and

   (b) that non-compliance, or suspected non-compliance, implies a risk to the safety of SoHO donors or recipients or offspring from medically assisted reproduction.

   Competent authorities shall specify a period of time for the investigation of a suspected non-compliance and for the SoHO establishment to rectify a confirmed non-compliance, during which the suspension will remain in place.

4. In cases where competent authorities have confirmed non-compliances referred to in paragraph 3 and SoHO establishments are not able to rectify them in the specified

time period, competent authorities shall, in accordance with national legislation, withdraw the authorisation of a SoHO establishment.

5. Competent authorities may, in accordance with national legislation, withdraw the authorisation of a SoHO establishment if the competent authorities have confirmed that the SoHO establishment no longer complies with updated criteria for authorisation or the SoHO establishment has repeatedly failed to comply with the conditions of its authorisation.

6. In cases of authorisation suspension or withdrawal, as referred to in paragraphs 3, 4 and 5, competent authorities shall amend accordingly the authorisation status of the SoHO establishment concerned in the EU SoHO Platform as referred to in Chapter XI without undue delay.

Article 28

Authorisation of importing SoHO entities

1. Competent authorities shall provide guidelines and templates to allow that applications from SoHO entities for their authorisation as importing SoHO entities are submitted in accordance with Article 43. In developing these guidelines and templates, competent authorities shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c).

2. Upon receipt of an application for the authorisation of an importing SoHO entity, competent authorities shall:

   (a) acknowledge receipt of the application within 14 working days;

   (b) assess the application;

   (c) examine agreements between the applicant SoHO entity and any third parties contracted by that SoHO entity to perform SoHO activities;

   (d) request that the applicant provides supplementary information, if needed;

   (e) inform the applicant, without undue delay, of the outcome of the assessment and examinations referred to in points (b), (c) and (d) where relevant, and of the decision on the authorisation;

   (f) grant or refuse the authorisation of the applicant as an importing SoHO entity, as appropriate, and indicate which SoHOs are covered by the authorisation and which conditions apply, if any;

   (g) assess and, as appropriate, approve subsequent changes made by the SoHO importing entity and communicated to them as referred to in Article 43(3);

   (h) submit information regarding the authorisation, by amending accordingly the status of the SoHO entity concerned, and including the name and contact details of the importing SoHO entity authorisation holder, in the EU SoHO Platform as referred to in Chapter XI, without undue delay.

3. In cases where the applicant intends to distribute the imported SoHOs to other Member States, competent authorities may perform the actions set out in paragraph 2, points (b), (c) and (d), in consultation with the SoHO National Authorities of the Member States concerned.

4. Competent authorities may require to inspect any party in a third country supplying SoHOs to the applicant prior to granting or refusing the importing SoHO entity

authorisation, in particular in cases where the application concerns regular and repeated import of SoHOs from the same party.

5. Competent authorities may suspend the authorisation of an importing SoHO entity if SoHO supervisory activities demonstrate or give reasonable grounds to suspect:

   (a) that the SoHO entity in question does not comply with the conditions of the authorisation or the provisions of this Regulation; and

   (b) that this non-compliance, or suspected non-compliance, implies a risk to the safety of recipients or offspring from medically assisted reproduction.

6. Competent authorities shall specify a period of time for the investigation of a suspected non-compliance and for the importing SoHO entity to rectify a confirmed non-compliance, during which the suspension shall remain in place. In cases where competent authorities have confirmed non-compliances referred to in paragraph 5 and the importing SoHO entity is not able to rectify them in the specified time period, competent authorities shall withdraw the authorisation of the importing SoHO entity.

7. Competent authorities may, in accordance with national legislation, withdraw the authorisation of an importing SoHO entity if the competent authorities have confirmed that the importing SoHO entity no longer complies with updated criteria for authorisation or the importing SoHO entity has repeatedly failed to comply with the conditions of its authorisation.

8. In cases of authorisation suspension or withdrawal, as referred to in paragraphs 5, 6 and 7, competent authorities shall amend accordingly the authorisation status of the SoHO entity concerned in the EU SoHO Platform as referred to in Chapter XI without undue delay.

9. By derogation from paragraph 1, in case of emergency competent authorities may authorise imports of SoHOs for immediate application to a specific recipient when justified by the clinical circumstances on a case-by-case basis.

10. The Commission is empowered to adopt delegated acts in accordance with Article 77 in order to be able to supplement this Regulation by laying down specific criteria for the assessments, examinations and inspections in the course of the authorisation.

11. Where, in the case of risk to quality and safety of imported SoHOs, imperative grounds of urgency so require, the procedure provided for in Article 78 shall apply to delegated acts adopted pursuant to this Article.

Article 29

Inspections of SoHO establishments

1. Competent authorities shall carry out the following inspections on SoHO establishments, as appropriate:

   (a) announced routine system inspections;

   (b) announced or unannounced inspections, in particular in the case of investigations of fraudulent or other illegal activities, or on the basis of information that might indicate non-compliance with the rules of this Regulation;

(c) inspections as provided for in Article 22(6), Article 27(2), point (d), Article 28(4), Article 31 and Article 35(5).

2. Competent authorities that during inspections identify non-compliances with the rules of this Regulation may include follow-up inspections, where necessary and proportionate, to verify that SoHO establishments have undertaken effective corrective and preventive actions.

3. Competent authorities of the Member State in which the SoHO establishment is located shall carry out the inspections.

4. Competent authorities shall carry out on-site inspections of SoHO establishments and, where applicable, of any third parties contracted by the SoHO establishment to perform SoHO activities.

5. By derogation from paragraph 4, competent authorities may conduct inspections, in full or in part, by means of a remote document review, provided that:

(a) such inspection mode does not pose a risk to the safety and quality of SoHOs;

(b) such inspection does not prejudice the effectiveness of inspections; and

(c) the maximum interval between two on-site inspections pursuant to paragraph 11 is not exceeded.

6. Competent authorities shall ensure that inspections are carried out by inspectors meeting the requirements set out in Article 32.

7. Inspectors shall verify that SoHO establishments meet the general standards concerning SoHO donor protection laid down in Article 53, the standards concerning the voluntary and unpaid nature of SoHO donations laid down in Article 54, the standards concerning information to be provided prior to consent or authorisation laid down in Article 55 and the general standards concerning recipient and offspring protection laid down in Article 58, as applicable.

In cases where the SoHO establishments follow:

(a) the technical guidelines published by the ECDC and by the EDQM referred to in Articles 56(4), point (a), and 59(4), point (a), as applicable, the inspectors shall consider the standards or elements thereof, to be met, insofar as they are addressed by the guidelines;

(b) other guidelines as referred to in Articles 56(4), point (b), and 59(4), point (b), the inspectors shall assess on a case-by-case basis such guidelines in terms of level of safety, quality and efficacy achieved, as applicable, and accept or decline whether that level is equivalent to the level set by the technical guidelines referred to in Articles 56(4), point (a), and 59(4), point (a);

(c) other technical methods as referred to in Articles 56(4), point (c), and 59(4), point (c), the inspectors shall evaluate the risk assessment and record provided, assess the adequacy of the technical methods applied.

8. In cases of paragraph 7, second subparagraph, point (b) where competent authorities, prior to the inspection, have accepted the level safety, quality and efficacy achieved by those other guidelines, as equivalent to the level set by the technical guidelines referred to in paragraph 7, second subparagraph, point (a), the inspectors shall consider the standards or elements thereof, to be met, insofar as they are addressed by the guidelines.

9. Inspectors may carry out one or more of the following activities:

(a) inspect SoHO establishment facilities and, where applicable, the facilities of any third parties contracted by the SoHO establishment concerning SoHO activities;

(b) evaluate and verify the procedures and the SoHO activities performed in SoHO establishments and, where applicable, in facilities of third parties that are relevant to the requirements of this Regulation;

(c) examine any documents or other records kept by SoHO establishments and, where applicable, third parties relating to the requirements of this Regulation and in particular Chapter V thereof;

(d) evaluate the design and implementation of the quality management system in place pursuant to Article 50*;*

(e) take samples for analysis and copies of documents if required;

(f) evaluate the emergency plan in place in accordance with Article 66, where applicable;

(g) order the suspension or cessation of any procedure or activity where necessary and proportionate to the risk detected.

10. Competent authorities shall carry out inspections pursuant to paragraph 1, point (a), regularly, on a risk basis and with appropriate frequency, taking account of:

(a) identified risks associated with:

(i) the SoHOs processed and stored;

(ii) the activities of the SoHO establishments, in particular the processes carried out;

(b) the establishments' past record as regards the outcome of previous inspections carried out on them and their compliance with the rules of this Regulation;

(c) results from certification or accreditation by international bodies, where those bodies verify provisions that are equivalent to those in this Regulation; and

(d) the reliability and effectiveness of the quality management systems referred to in Article 50.

11. The interval between two on-site inspections shall not exceed 4 years.

12. Competent authorities shall consider on-site inspections carried out in the course of the authorisation of an establishment in accordance with Article 27(2), point (d), as the first on-site inspection in the sense of this Article.

13. Competent authorities shall provide immediate preliminary feedback on their findings at the request of the SoHO establishment concerned.

14. Following each inspection, the competent authorities shall draw up a report on the findings of the inspection that concern compliance with the legal and technical requirements applicable under this Regulation and provide it to the SoHO establishment concerned. In the report, the competent authorities may set out any corrective or preventive action needed or may request the SoHO establishment to respond with a proposal for such actions, with associated dates for completion.

15. Where more than one authority is competent to perform SoHO supervisory activities in a Member State pursuant to Article 5(2), on a reasoned request from another competent authority in their Member State, the competent authority shall forthwith communicate the report referred to in paragraph 14 of this Article to the requesting competent authority.

16. For the purpose of standardised inspections referred to in paragraph 1 of this Article, competent authorities shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c).

17. The Commission may adopt implementing acts concerning the procedures to be followed for inspections of SoHO establishments.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 30

Inspections of other SoHO entities

1. Competent authorities may carry out inspections pursuant to Article 29(1) on SoHO entities other than SoHO establishments as necessary and proportionate to the risks associated with the SoHOs and the SoHO activities registered for that SoHO entity, and the SoHO entity's past record, in particular as regards the outcome of previous inspections carried out on it and its compliance with the rules of this Regulation.

2. In the cases referred to in paragraph 1, Article 29 shall apply, *mutatis mutandis*, to the inspection of SoHO entities other than SoHO establishments.

3. For the purpose of a standardised approach to the inspection of SoHO entities other than SoHO establishments, competent authorities shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c).

Article 31

Joint inspections

1. At a request of one or more competent authorities, inspections pursuant to Articles 29(1) and 30(1) may be carried out by inspectors from more than one Member State as a joint inspection.

2. The competent authority receiving a request for a joint inspection, shall make all reasonable efforts to accept such request, and coordinate and support that inspection, in cases where:

   (a) it is demonstrated, or there is reasonable ground for suspecting, that the activities carried out on the territory of another Member State pose a risk to the safety and quality of SoHOs distributed in the requesting Member State;

   (b) competent authorities of the requesting Member State require specialist technical expertise of another Member State for that inspection;

   (c) the competent authority of the Member State receiving the request agrees that there are other reasonable grounds for conducting a joint inspection.

3. The authorities participating in a joint inspection shall conclude an agreement prior to the inspection that defines at least the following:

(a) the scope and objective of the joint inspection;

(b) the roles of the participating inspectors during and following the inspection, including the designation of an authority leading the inspection;

(c) the powers and responsibilities of each of the authorities.

The authorities participating shall commit themselves in that agreement to jointly accept the results of the inspection.

4. The authority leading the joint inspection shall ensure that joint inspections are carried out in accordance with the national legislation of the Member State in which the joint inspection takes place.

The competent authority for the SoHO entity or SoHO establishment concerned shall, prior to the inspection, inform that SoHO entity or SoHO establishment about the joint inspection, unless the competent authorities concerned have reasonable grounds to suspect illegal or fraudulent activity.

5. Articles 7, 8 and 76 shall apply to all competent authorities involved in joint inspections.

6. Member States may set up joint inspection programmes to facilitate routine joint inspections. Member States may operate such programmes under a single agreement as referred to in paragraph 3.

Article 32

Specific obligations concerning inspectors

1. Inspectors shall possess a diploma, certificate or other evidence of formal qualifications in a relevant field, awarded on completion of a university course of study or a course recognised as equivalent by the Member State concerned.

In exceptional cases, competent authorities may consider that a person's considerable and relevant experience may exempt this person from the requirement set out in the first subparagraph.

2. Competent authorities shall provide inspectors with a specific induction training before inspectors take up their duties. For the specific induction training, competent authorities shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c).

3. Competent authorities shall ensure that the specific induction training includes at least the following:

(a) the inspection techniques and procedures to be followed, including practical exercises;

(b) an overview of relevant Union and national inspection guidance, and the best practices agreed and documented by the SCB as referred to in Article 68(1), point (c);

(c) on overview of the authorisation systems in the Member State concerned;

(d) the applicable legal framework for the performance of SoHO supervisory activities;

(e) technical aspects concerning SoHO activities;

(f) SoHO technical guidelines as referred to in Articles 56 and 59;

(g) an overview of the organisation and functioning of national regulatory authorities in the field of SoHOs and related fields;

(h) an overview of the national health system and SoHO organisational structures in the Member State concerned.

4. Competent authorities shall ensure that the specific induction training is complemented by specialised training for inspection of specific types of establishments and by continuous training, as appropriate, throughout the career of the inspectors. Competent authorities shall make all reasonable efforts to ensure that inspectors that participate in joint inspections have completed the relevant Union training referred to in Article 69(1) and are included in the list referred to in Article 69(5).

5. Inspectors may be assisted by technical experts provided that the competent authorities ensure that those experts comply with the requirements of this Regulation, in particular with the obligations set out in Articles 7 and 76.

6. Paragraphs 1 to 5 shall also apply to delegated bodies.

Article 33

Activity data extraction and publication

1. Competent authorities shall verify that SoHO entities that have activity data collection and reporting obligations pursuant to Article 44 submit complete and accurate annual reports of those activities to the EU SoHO Platform referred to in Chapter XI.

2. Competent authorities shall extract an aggregated annual report of SoHO activity data for their SoHO entities from the EU SoHO Platform. They shall make that report available to the public, including on the internet.

Article 34

Traceability

1. Competent authorities shall verify that SoHO entities have appropriate procedures in place to ensure traceability and coding of SoHOs as referred to in Article 45.

2. Competent authorities shall establish procedures for the unique identification of SoHO establishments that are subject to the provisions on the Single European Code in Article 46. Competent authorities shall ensure that such identification complies with the technical standards defined for that coding system. For this purpose, competent authorities may use a SoHO establishment identification code generated by the EU SoHO Platform.

Article 35

Vigilance

1. Competent authorities shall be responsible for the management of vigilance associated with SoHO activities. They shall provide guidance and templates for the submission of SAO notifications and of SAO investigation reports as referred to in Article 47.

2. Upon receipt of a SAO notification, competent authorities shall:

(a) acknowledge receipt of the SAO notification;

(b) verify that the SAO notification includes the information referred to in Article 47(3);

(c) assess the adequacy of the investigation planned to establish imputability and root cause;

(d) respond to the submitting SoHO entity without undue delay.

3. Competent authorities may provide advice on the investigation planned by the SoHO entity. In preparing such advice, competent authorities may request contributing advice from the SCB pursuant to Article 68(1). In case the SAO concerns a suspected transmission of a communicable disease, competent authorities shall inform the ECDC and take into account any advice or information provided by the ECDC or its SoHO expert network.

4. Upon receipt of a SAO investigation report, competent authorities shall:

(a) acknowledge receipt of the SAO investigation report;

(b) verify that the SAO investigation report includes the information pursuant to Article 47(5);

(c) assess the results of the investigation and of the corrective and preventive actions described;

(d) inform the submitting SoHO entity of the conclusion of the SAO assessment.

5. Competent authorities may carry out inspections, pursuant to Articles 29 or 30, as appropriate, when the SAO notification or SAO investigation report received indicates, or gives reasonable grounds for suspecting, that requirements of this Regulation have not been complied with, or to verify an accurate implementation of corrective and preventive actions planned.

6. Upon receipt of a SAO notification with implications for safety, quality or supply of a product manufactured under other Union legislation from that SoHO or SoHO preparation, competent authorities shall inform, without undue delay, the relevant authorities competent for that product, pursuant to Article 14(5).

7. Upon receipt of information regarding a serious incident and field safety corrective action according to Regulation (EU) 2017/745, the competent authorities receiving such information shall inform the SoHO entities concerned. The competent authorities shall submit that information to their National SoHO Authority, provided that the incident meets the definition of a SAO.

8. Competent authorities shall provide a channel for self-reporting of SAOs by SoHO recipients and donors. Upon receipt of such notifications, competent authorities shall inform, as appropriate, the relevant SoHO entities or SoHO establishments thereof, and ensure that an adequate investigation of the occurrence is initiated by the SoHO entities or establishments concerned and that adequate corrective and preventive action have been taken by the SoHO entities or establishments concerned when necessary, and respond to the recipient or donor concerned.

9. Competent authorities shall ensure that the procedures referred to in paragraphs 1 to 5 provide for an adequate interconnection between the SAO notifications pursuant to this Article and the reporting system established in accordance with Article 11 of

Directive 2010/53/EU, for instances where SAO notifications relate to SoHO donations after death, by donors that also donated organs.

10. Competent authorities shall submit to their SoHO National Authorities an annual summary of the SAO notifications and SAO investigation reports received. The SoHO National Authorities shall submit an annual summary of those SAO notifications and investigation reports to the EU SoHO Platform referred to in Chapter XI before 31 May of the subsequent year and shall make an aggregated version of that summary available to the public in their Member State, including on the internet. They shall include in the annual summary the numbers and types of those SAO reported to them that meet thresholds of seriousness and imputability that are agreed at Union level within the SCB.

11. The Commission shall aggregate the annual summaries of the SoHO National Authorities, prepare and publish an annual SoHO vigilance report after having shared the report with the SoHO National Authorities for review and approval.

12. For the development of the guidance and templates referred to in paragraph 1 of this Article, and for the submission of the annual summaries referred to in paragraph 10 of this Article, competent authorities shall consult the best practices agreed and documented by the SCB as referred to in Article 68(1), point (c).

13. The Commission may adopt implementing acts concerning the procedures to be followed for consultation and coordination between competent authorities and the ECDC concerning relevant SAO notifications and investigations.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 36

SoHO rapid alerts

1. Competent authorities shall, upon receipt of a notification of a SAO or other information with implications for safety or quality or supply of SoHOs in one or more Member States, launch a SoHO rapid alert on the EU SoHO Platform referred to in Chapter XI.

2. Competent authorities shall launch a SoHO rapid alert in particular in the following circumstances:

   (a) a risk to the quality or safety of SoHOs has been identified concerning SoHOs that have been distributed from their Member State to at least one other Member State;

   (b) an outbreak of a communicable disease has occurred in their Member State and they have put in place donor deferral or testing measures to mitigate the risks of transmission by SoHOs;

   (c) a defect or serious supply interruption has occurred concerning equipment, devices, materials or reagents that are critical for the collection, processing, storage or distribution of SoHOs and that might be used in other Member States;

   (d) other information is available to the competent authorities that could reasonably be considered useful in other Member States to reduce risks to the

safety or quality of SoHOs and where the launch of a SoHO rapid alert would be proportionate and necessary.

3. The ECDC, with the support of its SoHO expert network, may also launch an alert in the EU SoHO Platform when surveillance of communicable diseases indicates a new risk to the safety of SoHOs. The ECDC may indicate in such an alert that it has provided guidelines on the mitigation of risks associated with communicable disease outbreaks, in particular concerning the eligibility and testing of SoHO donors.

4. Competent authorities that receive a SoHO rapid alert shall communicate information to the relevant organisations representing groups of SoHO entities or professionals without undue delay with a view to ensuring that risk mitigating actions can be taken promptly and that relevant information available at the SoHO professional level can be shared with the competent authorities. Competent authorities may also supplement the information provided in the alert with further information such as details of relevant mitigating actions taken in their Member State.

5. Competent authorities and the ECDC shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c), when launching and handling a SoHO rapid alert.

CHAPTER IV

GENERAL OBLIGATIONS ON SOHO ENTITIES

Article 37

SoHO entity registration

1. Entities shall register as a SoHO entity before commencing any SoHO activity. To register, they shall provide the information as referred to in Article 18. SoHO entities may request from their competent authorities an opinion on the applicability of the registration requirements in this Chapter to the SoHO activities concerned prior to the registration.

2. In Member States where the EU SoHO Platform is used for registration of SoHO entities, as referred to in Article 18(2), organisations meeting the definition of a SoHO entity shall register directly in the EU SoHO Platform in accordance with their competent authorities' instructions.

3. SoHO entities that implement changes to their SoHO activities or contact details shall register those changes without undue delay. Where such changes imply SoHO activities including both processing and storage of SoHOs, those SoHO entities shall comply with the requirements of Articles 48 and 49.

Article 38

Responsible person for release of SoHOs

1. In cases where a SoHO entity releases SoHOs or SoHO preparations for distribution for human application, or for the manufacture of products regulated by other Union legislation, or as the starting and raw material thereof, as referred to in Article 60, that entity shall designate a person responsible for release.

2. The responsible person for release of SoHOs shall be in possession of a diploma, certificate or other evidence of formal qualifications in the field of medical or biological sciences awarded on completion of a university course of study or a course recognised as equivalent by the Member State concerned and shall have at least 2 years of experience in the relevant field.

3. The responsible person for release of SoHOs may delegate the tasks specified in paragraph 1 to other persons who shall be qualified by training and experience to perform such tasks. In such cases, that person shall perform those tasks under the responsibility of the responsible person for release of SoHOs.

Article 39

Export

SoHO entities shall ensure that SoHOs or SoHO preparations exported or re-exported from the Union comply with the relevant requirements of this Regulation unless the SoHO entity can demonstrate that the authorities of the importing country or the laws, regulations, standards, codes of practice or other legal and administrative procedures as may be in force in the importing country indicate that a deviation from the requirements of this Regulation is acceptable. SoHO entities shall not deviate from the standards referred to in Chapter VI.

Article 40

SoHO preparation authorisation

1. SoHO entities shall not release or, in an autologous context, prepare and apply immediately to a recipient, SoHO preparations without prior SoHO preparation authorisation. In cases where a SoHO entity modifies an activity carried out for an authorised SoHO preparation, it shall obtain an authorisation for that modified SoHO preparation.

2. SoHO entities may request advice from their competent authorities on the applicability of the authorisation requirements in this Regulation to their SoHO activities prior to submitting an application for a preparation authorisation.

3. SoHO entities may request to their competent authorities a derogation from the requirement for a SoHO preparation authorisation in the exceptional circumstances referred to in Article 64.

Article 41

Application for the authorisation of SoHO preparations

1. SoHO entities shall send applications for the authorisation of a SoHO preparation to their competent authorities. The applicant shall provide the name and contact details of the prospective SoHO preparation authorisation holder responsible for the application. This paragraph shall be without prejudice to Article 38(1).

2. The applicant shall provide the following:

   (a) a SoHO preparation dossier describing the details of the SoHO activities performed for that SoHO preparation and including at least:

      (i) any specific SoHO donor eligibility or SoHO donor testing procedures;

      (ii) any specific SoHO collection procedures;

(iii) a description of the processing applied including details of the air quality standards maintained in the processing facilities and the rationale for the air quality standard applied;

(iv) a description of equipment, reagents and materials used and their certification status in accordance with Regulation (EU) 2017/745;

(v) any specific storage conditions and storage time limits;

(vi) any quality control and release parameters;

(vii) data concerning procedures performed for process validation and equipment qualification;

(viii) details of any third parties contracted by the SoHO entity to perform activities for the SoHO preparation;

(ix) the clinical indications for which the SoHO preparation is to be applied;

(b) the results of a risk assessment conducted on the combination of SoHO activities performed for the SoHO preparation, together with the intended clinical indication for which it is intended to be applied, taking into account:

(i) whether the SoHO preparation is described in, and aligned with, an EDQM SoHO monograph included in the technical guidelines referred to in Article 59(4), point (a);

(ii) whether the SoHO preparation meets the defined quality criteria in the EDQM SoHO monograph referred to in point (i) and is intended to be used for the indication and with the mode of application to which that monograph refers, where such details are provided in that monograph;

(iii) information regarding previous use and authorisation of the SoHO preparation in other SoHO entities, as available in the EU SoHO Platform;

(iv) evidence generated as part of the process of certification, in accordance with Regulation (EU) 2017/745, of any certified medical device used for the SoHO preparation, where available;

(v) documentation of a systematic process of identification, quantification and evaluation of any risks to the donor or the recipient arising from the chain of activities performed for the SoHO preparation;

(c) in cases where the indicated risk is other than negligible, a proposal for clinical outcome monitoring to demonstrate safety, quality and efficacy of the SoHO preparation, in line with the results of the risk assessment;

(d) an indication of the data which should be regarded as proprietary accompanied by verifiable justification, where appropriate.

3. In the proposal referred to in paragraph 2, point (c), the applicant shall propose a clinical outcome monitoring plan as follows:

(a) in cases of low risk, clinical follow-up of a defined number of patients;

(b) in cases of moderate risk, in addition to point (a), a clinical investigation study of a statistically significant number of patients assessing pre-defined clinical endpoints;

(c) in cases of high risk, in addition to point (a), a clinical investigation study of a statistically significant number of patients assessing pre-defined clinical endpoints with a comparison to standard therapy.

4. SoHO entities shall perform the clinical outcome monitoring once a conditional authorisation has been granted pursuant to Article 21(2), point (c), and submit the results to their competent authorities. In conducting the clinical investigation study as referred to in paragraph 3, points (b) and (c), for the SoHO preparation concerned, the applicant may use an existing clinical registry to record its results provided that their competent authorities have verified that the registry has data quality management procedures in place that ensure accuracy and completeness of data.

5. SoHO entities shall not make any change to the chain of activities performed for an authorised SoHO preparation, without the prior written approval of their competent authorities. SoHO entities shall also inform their competent authorities of changes in the SoHO preparation authorisation holder's details.

6. The SoHO preparation authorisation holder shall be based in the Union. In cases where other SoHO entities carry out one or more of the processing steps for the SoHO preparation, the SoHO entity that holds the SoHO preparation authorisation shall be responsible for the release and shall supervise it, even if the release physically takes place at the site of the other SoHO entities.

Article 42

Importing SoHO entity authorisation

1. SoHO entities shall not import SoHOs without a prior importing SoHO entity authorisation.

2. In the case of importing SoHO entities that only import human plasma that is intended to be used for the manufacture of medicinal products regulated by other Union legislation and is included in a plasma master file (PMF) as referred to in Directive 2003/63/EC, paragraph 1 of this Article shall not apply.

3. The Commission shall adopt delegated acts in accordance with Article 77 supplementing this Regulation by laying down obligations and procedures for importing SoHO entities regarding the import of SoHOs in order to verify equivalent standards of quality and safety of such imports.

Article 43

Application for importing SoHO entity authorisations

1. SoHO entities shall send applications for authorisation as importing SoHO entities to their competent authorities.

2. The applicant SOHO entity shall provide the name and contact details of the prospective importing SoHO entity authorisation holder. This paragraph shall be without prejudice to Article 38(1).

3. The importing SoHO entity shall not make any substantial changes to the importing SoHO activities subject to the authorisation without the prior written approval of its competent authority. The same shall apply in case of changes in the importing SoHO entity authorisation holder's details.

4. The importing SoHO entity authorisation holder shall be based in the Union, and be responsible for the physical reception and visual examination and verification of imported SoHOs prior to their release. The importing SoHO entity shall verify coherence between the SoHO received and the associated documentation and conduct an examination of the integrity of packaging and the compliance of labelling and transport conditions with the relevant standards and technical guidelines as referred to in Articles 57, 58 and 59.

5. An authorised importing entity may delegate the physical reception, visual examination and verification referred to in paragraph 4 to the entity that will apply the SoHO to the recipient in cases where imports are organised for individual named recipients.

6. The Commission shall adopt implementing acts specifying the information to be provided in an application for an authorisation for importing SoHOs or SoHO preparations to ensure compatibility and comparability of such data.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 44

Activity data collection and reporting

1. SoHO entities shall collect data relating to their activities in cases where those activities include:

   (a) SoHO donor recruitment;

   (b) collection;

   (c) distribution;

   (d) import;

   (e) export;

   (f) human application.

2. The data collected pursuant to paragraph 1 shall comprise the elements set out in the EU SoHO Platform as referred to in Chapter XI.

3. The Commission shall adopt implementing acts laying down technical procedures to ensure uniformity and compatibility and comparability for the implementation of this Article.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

4. SoHO entities shall submit to the EU SoHO Platform an annual summary of the data collected pursuant to this Article. In cases where national or international registries collect activity data meeting the criteria defined in the SoHO platform and such registries have been verified by competent authorities as having in place data quality management procedures that ensure accuracy and completeness of data, SoHO entities may delegate the submission of the activity data referred to in this Article to such registries. The Commission shall aggregate the annual summaries of the SoHO entities, prepare and publish an Annual SoHO Activity Report.

Article 45

Traceability and coding

1. SoHO entities shall implement a traceability system in order to unmistakably link each SoHO donor to their SoHO donation and to all documents, samples, SoHO preparations and SoHO entities that are associated with that SoHO from the point of collection to human application and outcome monitoring. With regard to imported SoHOs, importing SoHO entities shall ensure an equivalent level of traceability.

2. SoHO entities distributing SoHOs shall generate a code that contains the information included in the traceability system referred to in paragraph 1. They shall ensure that the code:

   (a) is unique within the Union;

   (b) is machine-readable, unless the size or storage conditions mean that a machine-readable code cannot be applied;

   (c) does not reveal the identity of the donor;

   (d) complies with technical rules for the Single European Code (SEC) for SoHOs, referred to in Article 46, where applicable as indicated in that Article.

3. SoHO entities shall include the codes referred to in paragraph 2 on the labels to be applied to the SoHO or SoHO preparations prior to distribution, or on the documents accompanying the distributed SoHO or SoHO preparations where it can be guaranteed that such documents will not be separated from the SoHO or SoHO preparation concerned.

4. SoHO entities shall use a labelling system that meets the labelling requirements set out in the relevant technical guidelines referred to in Articles 56(4) and 59(4). SoHO entities shall keep the data necessary to ensure traceability for a minimum of 30 years. They may store the data in electronic form.

Article 46

European coding system

1. SoHO entities shall apply a Single European Code ('SEC') to SoHO preparations distributed for human application. In cases where SoHOs or SoHO preparations are transferred for further processing in another SoHO entity or released for manufacture of products regulated by other Union legislation, or as the starting and raw material thereof, SoHO entities shall, at least, apply the part of the SEC that allows identification of the donation. The SEC shall appear on the packaging or on a label attached thereto, or on the documents referring to the SoHO where it can be guaranteed that such documents accompany the SoHO concerned.

2. Paragraph 1 shall not apply to:

   (a) reproductive cells for within couple use;

   (b) blood or blood components for transfusion or for the manufacture of medicinal products;

   (c) SoHOs applied to a recipient without being stored;

   (d) SoHOs imported into the Union in case of emergency authorised directly by competent authorities pursuant to Article 28(9);

(e) SoHOs that are imported to or donated in the same SoHO entity where they are applied.

3. The Commission shall adopt implementing acts concerning the format of the Single European Code and the requirements related to its application to SoHO establishments and to SoHOs at the point of distribution or point of transport and delivery for further processing.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 47

Vigilance and reporting

1. SoHO entities shall maintain a system for detecting, investigating and recording information concerning adverse occurrences, including adverse occurrences detected during clinical outcome monitoring as part of a SoHO preparation authorisation application as referred to in Article 41.

2. Where applicable, SoHO entities shall make all reasonable efforts to encourage prospective parents of children born from third party donation to commit to communicate information concerning any genetic conditions that emerge, as those children grow up, to the SoHO entity where they were treated. That entity shall communicate, without undue delay, the information to the SoHO entity that distributed or applied the reproductive cells with a view to preventing further distribution of SoHO from the implicated SoHO donor.

3. In cases where SoHO entities detect or suspect that an adverse occurrence meets the definition of a serious adverse occurrence (SAO), they shall submit a SAO notification to their competent authorities within five working days. SoHO entities shall include the following in the notification:

(a) a full description of the suspected SAO;

(b) a preliminary assessment of the level of imputability of the suspected SAO;

(c) a plan for an investigation to establish the level of imputability and the root cause;

(d) proposed mitigation strategies;

(e) a preliminary assessment of the seriousness of the consequences of the SAO for a donor, a recipient or the offspring from medically assisted reproduction or for public health in general.

4. SoHO entities shall have in place a procedure to accurately, efficiently and verifiably withdraw from distribution or use those SoHOs affected by adverse occurrence referred to in paragraph 1, as appropriate.

5. SoHO entities shall conduct an investigation of each SAO detected. On completion of an investigation of a SAO, SoHO entities shall provide a SAO investigation report to their competent authorities pursuant to Article 35(4). The SoHO entities shall include in the report:

(a) a full description of the investigation and the final assessment of the imputability of the SAO to the donation or application of the SoHO;

(b) the final assessment of the seriousness of the consequences of the SAO for a donor, a recipient or the offspring of medically assisted reproduction or for public health in general;

(c) a description of the corrective or preventive actions that have been taken to limit any harm or to prevent recurrence.

6. SoHO entities shall report information concerning a SAO to other SoHO entities engaged in the collection, processing, testing, storage and distribution of SoHO collected from the same donor, or otherwise possibly affected by the SAO concerned. They shall only report information necessary and appropriate in order to facilitate traceability and ensure quality and safety in such cases, and shall, in particular, limit the information to details necessary to take mitigating actions. SoHO entities shall also report such information to organ procurement organisations in cases where a donor who is implicated in the SAO has also donated organs.

CHAPTER V

GENERAL OBLIGATIONS ON SoHO ESTABLISHMENTS

Article 48

SoHO establishment authorisation

1. SoHO establishments shall not carry out any activities without prior SoHO establishment authorisation. This shall apply whether all activities are carried out by the establishment itself or one or more are contracted to another SoHO entity.

2. In cases where SoHO establishments contract other SoHO entities to perform part or all of certain SoHO activities, the SoHO establishments shall ensure that those contracted SoHO entities carry out those contracted activities in compliance with the provisions of this Regulation. Such contracted entities shall agree to be audited by the SoHO establishments to verify that the contracted activities are carried out in compliance with this Regulation. In addition, the contracted entities shall agree to be inspected by competent authorities if the authorities require such inspection. The SoHO establishments shall document these agreements.

3. The requirement to obtain a SoHO establishment authorisation shall be without prejudice to more stringent measures put in place by a Member State pursuant to Article 4 and directly affecting the activities carried out in the SoHO establishment or contracted SoHO entities concerned pursuant to paragraph 2 of this Article.

Article 49

Application for SoHO establishment authorisations

1. SoHO entities shall send the application for authorisations as SoHO establishments to their competent authorities.

2. The applicant SoHO establishment shall provide the name and contact details of the prospective SoHO establishment authorisation holder responsible for the application and carrying out the SoHO activities subject to the authorisation. This paragraph shall be without prejudice to Article 38(1). The applicant SoHO establishment shall not make any substantial changes to the SoHO activities subject to the authorisation

without the prior written approval of the competent authority. The same shall apply in case of changes in the SoHO establishment authorisation holder's details.

3. SoHO establishment authorisation holders shall be based in the Union.

Article 50

Quality management system

1. SoHO establishments shall establish, maintain and update, as necessary, a quality management system achieving a high level of quality of SoHOs by following, in particular, the Good Practice Guidelines published by the EDQM and which are included in the technical guidelines referred to in Article 56(4), point (a), and Article 59(4), point (a).

2. SoHO establishments shall design the quality management system to ensure that SoHO activities are carried out in a consistent manner, by personnel that are competent to perform the tasks allocated to them and in facilities that are designed and maintained in a manner that prevents SoHO contamination, or cross-contamination, with infectious agents or loss of traceability.

3. SoHO establishments shall put in place procedures and specifications covering the following:

   (a) documentation of roles and responsibilities of personnel;

   (b) selection, training and competence assessment of personnel;

   (c) premises and equipment procurement, qualification and monitoring;

   (d) quality control, as applicable, of SoHO activities;

   (e) withdrawal of SoHOs from the inventory of released SoHOs and recall of unused SoHOs following distribution;

   (f) internal audits;

   (g) management of contracted third parties;

   (h) management of identified cases where personnel have not followed procedures or specifications have not been complied with.

4. SoHO establishments shall review the quality management system at regular intervals to verify its effectiveness and introduce corrective measures if deemed necessary.

5. The Commission may adopt implementing acts regarding further details on the procedures and specifications of the quality management system in order to ensure uniform quality management.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 51

Physician

1. Each SoHO establishment shall designate a physician who resides and carries out its tasks in the same Member State and who shall at least fulfil the following conditions and have the following qualifications:

(a) possession of formal qualification as a physician;

(b) at least two years' practical experience in relevant fields.

2. The physician referred to in paragraph 1 shall be responsible for at least the following tasks:

(a) development, review and approval of policies and procedures for establishing and applying SoHO donor eligibility criteria and criteria for the allocation of SoHOs and SoHOs preparations;

(b) investigation of suspected adverse occurrences in SoHO donors and recipients;

(c) design and supervision of clinical data collection activities to support evidence gathering to support applications for SoHO preparation authorisations pursuant to Article 41;

(d) other tasks of relevance to the health of donors and recipients of SoHOs collected or supplied by the SoHO establishment.

3. By derogation from paragraph 2, in the case of SoHO entities that are authorised as SoHO establishments in accordance with Article 25(3), the physician shall be responsible for those tasks that are relevant to the SoHO activities performed by the SoHO entities and that have a direct influence on the health of SoHO donors and recipients.

CHAPTER VI

SoHO DONOR PROTECTION

Article 52

Objectives regarding SoHO donor protection

1. SoHO entities shall ensure high levels of safety of SoHO donors.

2. SoHO entities shall protect the health of living donors before, during and after the donation.

Article 53

Standards concerning SoHO donor protection

1. In case of collection of SoHOs from allogeneic donors, regardless of whether or not the donor is genetically related to the intended recipient, SoHO entities shall:

(a) meet all applicable consent or authorisation requirements in force in the Member State concerned;

(b) provide donors or their relatives or any persons granting authorisation on their behalf, in accordance with national legislation, with the information referred to in Article 55 and in a way that is adequate in view of their capacity to understand it;

(c) provide donors or their relatives or any persons granting authorisation on their behalf, in accordance with national legislation, with the contact details of the responsible SoHO entity from which they can request further information, if needed;

(d) safeguard the rights of the donor to physical and mental integrity, to privacy and to the protection of the personal data concerning them in accordance with Regulation (EU) 2016/679;

(e) ensure that donation is voluntary and unpaid, pursuant to Article 54;

(f) verify the eligibility of the donor on the basis of a donor health evaluation that aims to minimise any risk that the donation might pose to the donor's health;

(g) document the results of the donor health evaluation referred to in point (f);

(h) communicate and clearly explain the results of the donor health evaluation to the donor or his/her relatives or any persons granting authorisation on his/her behalf, in accordance with national legislation;

(i) identify and minimise any risks to the health of the donor during the donation procedure, including exposure to reagents or solutions that might be toxic;

(j) verify, by means of a registry, that donors are not donating more frequently than indicated as safe in technical guidelines as referred to in Article 56 and demonstrate that their health is not compromised;

(k) develop and implement a plan for monitoring the donor's health after the donation in cases where the SoHO donations imply a significant risk to a donor as referred to in paragraph 3;

(l) in the case of an allogeneic and unrelated donation, refrain from revealing the donor's identity to the recipient, apart from exceptional circumstances where such information exchange is permitted in the Member State and follows the expressed wishes of both parties.

2. In the course of the donor health evaluations referred to in paragraph 1, point (f), SoHO entities shall conduct interviews with the donors and gather information concerning the donors' present and recent state of health and their health histories to assure the safety of the donation process for those donors. SoHO entities may perform laboratory tests as part of the donor health evaluations. They shall perform such tests in cases where evaluations indicate that laboratory tests are necessary to establish the eligibility of those donors from the perspective of their own protection. The physician, as referred to in Article 51, shall approve the procedure and criteria for donor health evaluations.

3. SoHO entities that collect SoHOs from donors that are subjected to a surgical procedure in order to donate, that are treated with hormones to facilitate donation, or that donate on a frequent and repeated basis, shall register such donors and the results of their donor health evaluations in a cross-entity registry that allows interconnection with other such registries, as referred to in paragraph 1, point (j). SoHO entities that manage such registries shall ensure interconnectivity between them.

4. The SoHO entities referred to in paragraph 3 shall ensure that the plan for monitoring donor health after donation, as referred to in paragraph 1, point (k), is proportionate to the risks associated with the donation. They shall include in the plan the time period during which the monitoring shall continue.

5. In case of collection of SoHOs for autologous use or in the context of individuals or couples from whom SoHOs are collected as part of their own current or future medically assisted reproduction treatment, the treating physician shall ensure that any

risks associated with the collection are explained to the individuals and are outweighed by the potential benefit for those individuals.

6. The Commission is empowered to adopt delegated acts in accordance with Article 77 in order to be able to supplement this Regulation in cases where additional standards are needed in order to ensure the protection of donors.

7. Where, in the case of risk to the safety of donors, imperative grounds of urgency so require, the procedure provided for in Article 78 shall apply to delegated acts adopted pursuant to this Article.

Article 54

Standards concerning voluntary and unpaid nature of SoHO donations

1. SoHO entities shall not provide financial incentives or inducements to donors or their relatives or any persons granting authorisation on their behalf, in accordance with national legislation.

2. Member States may allow for the compensation or reimbursement from the SoHO entities to donors for losses related to their participation in donations through fixed rate allowances. In such case, Member States shall establish the conditions for such allowances in national legislation, including the setting of an upper limit that ensures that allowances are financially neutral and consistent with the standards laid down in this Article. They may delegate the setting of conditions for such allowances to independent bodies that are established in accordance with national legislation.

3. SoHO entities may compensate or reimburse donors as provided for by their competent authorities pursuant to paragraph 2.

Article 55

Standards concerning information to be provided prior to consent or authorisation

1. SoHO entities shall provide prospective SoHO donors, their relatives or any persons granting authorisation on their behalf, in accordance with national legislation, with all appropriate information relating to the donation and collection process in accordance with national legislation, including a general description of the potential uses and benefits of the donation.

2. SoHO entities shall provide the information referred to in paragraph 1 before the consent is given or authorisation is granted for the donation. SoHO entities shall provide the information in an accurate and clear manner, using terms that are easily understood by the prospective donors or the persons to consent or authorise the donation. It shall not mislead the prospective donors or persons granting authorisation on their behalf, in particular, as to the benefits of the donation to future recipients of the SoHO concerned.

3. In case of living donors, SoHO entities shall provide information regarding:

   (a) the purpose and nature of the donation;

   (b) the consequences and risks of the donation;

   (c) the right to withdraw consent and any restrictions on the right to withdraw consent following donation;

(d) the intended use of the donated SoHO, in particular covering proven benefits for the future recipients and any possible research or commercial uses to which the donor should consent;

(e) the analytical tests that will be performed in course of the donor health evaluation;

(f) the right of the donor to receive the confirmed results of the analytical tests when relevant for their health;

(g) the recording and protection of donor personal and health data and medical confidentiality, including any potential sharing of data in the interest of donor health monitoring and of public health, as necessary and proportionate;

(h) the applicable safeguards intended to protect the donor and their personal data;

(i) the obligation for consent and authorisation, as applicable in the Member State, in order for SoHOs collection to be carried out.

Article 56

Implementation of the standards concerning SoHO donor protection

1. When the Commission deems it necessary to provide binding rules on the implementation of a particular standard or element of a standard referred to in Articles 53, 54 or 55, in order to ensure convergent and high levels of donor safety, the Commission may adopt implementing acts describing particular procedures to be followed and applied to meet such standard, or element thereof.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

2. On duly justified imperative grounds of urgency relating to a risk to donor health, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 79(3).

3. In order to apply the standards concerning donor protection or elements thereof, referred to in Articles 53, 54 and 55, SoHO entities shall follow the procedures laid down in any implementing act adopted in accordance with paragraphs 1 and 2 of this Article.

4. For those standards concerning donor protection or elements thereof for which no implementing act has been adopted, in order to apply such standards or elements thereof, SoHO entities shall follow:

   (a) the most recent technical guidelines, as indicated on the EU SoHO Platform referred to in Chapter XI, as follows:

      (i) published by the ECDC concerning the prevention of communicable disease transmission through SoHO donation;

      (ii) published by the EDQM concerning donor protection other than from transmission of communicable disease through donation;

   (b) other guidelines accepted by competent authorities, as achieving an equivalent level of donor safety as set by the technical guidelines referred to in point (a);

   (c) where the guidelines referred to in points (a) or (b) do not address a particular technical method, other technical methods in line with relevant international

guidelines and scientific evidence in peer-reviewed scientific publications, where available.

5. In those cases referred to in paragraph 4, point (a), for the purpose of Article 30 in conjunction with Article 29, SoHO entities shall be able to demonstrate to their competent authorities, for each of the standards or elements thereof, which and to what extent they follow the guidelines referred to in paragraph 4, point (a).

6. In those cases referred to in paragraph 4, point (b), for the purpose of Article 30 in conjunction with Article 29, SoHO entities shall demonstrate to their competent authorities, for each of the standards or elements thereof, the equivalence of the other guidelines applied in terms of the level of safety, quality and efficacy to the level set by the technical guidelines referred to in paragraph 4, point (a).

7. In those cases referred to in paragraph 4, point (c), for the purpose of Article 30 in conjunction with Article 29, SoHO entities shall perform a risk assessment to demonstrate that the technical methods applied achieve a high level of donor safety, and record the practice followed to establish the technical methods. They shall make the assessment and record available for review by their competent authorities during inspection or on specific request of the competent authorities.

CHAPTER VII

SOHO RECIPIENT AND OFFSPRING PROTECTION

Article 57

Objectives regarding SoHO recipient and offspring protection

SoHO entities shall protect the health of SoHO recipients and offspring from medically assisted reproduction from risks posed by SoHO preparations. They shall do so by identifying, minimising or eliminating those risks.

Article 58

Standards concerning SoHO recipient and offspring protection

1. SoHO entities shall establish procedures with measures, and, where necessary, combinations of measures, that ensure high levels of safety and quality and demonstrate benefits for SoHO recipients and offspring from medically assisted reproduction that outweigh any risks. They shall, in particular, achieve a high level of assurance that pathogens, toxins or genetic conditions are not transmitted to recipients or offspring from medically assisted reproduction.

2. In the procedures referred to in paragraph 1, SoHO entities shall mitigate the risks of communicable disease transmission from SoHO donors to recipients by combining, at least, the following measures:

   (a) reviewing and evaluating the donors' current and past health, travel and relevant behavioural histories to allow the application of temporary or permanent deferrals when risks cannot be fully eliminated by donor testing;

   (b) testing of donors for communicable diseases using certified and validated testing methods;

(c) when feasible, using processing technologies that reduce or eliminate any potential communicable pathogens.

3. In the procedures referred to in paragraph 1, SoHO entities shall mitigate the risks of non-communicable disease transmission, including genetic conditions and cancer, from donors to the recipients or to offspring from medically assisted reproduction by combining, at least, the following measures:

(a) reviewing the donors' current and past health to allow temporary or permanent deferral of donors that carry a risk of transmitting cancerous cells or other non-communicable diseases that might be passed to a recipient by SoHO application;

(b) where the transmission of genetic conditions is an identified risk, and in particular in the case of medically assisted reproduction with third party donation:

(i) testing donors for those conditions, as indicated by prevalence or severity as presenting the highest risk; or

(ii) testing prospective recipients to identify any relevant genetic risk, combined with testing donors for such identified genetic conditions to ensure matching that will prevent the concerned condition in the offspring.

4. In the procedures referred to in paragraph 1, SoHO entities shall mitigate the risks of communicable or non-communicable disease transmission to the recipients through cross-contamination of donations during collection, processing, storage and distribution by measures that ensure that physical contact between SoHOs from different donors is avoided or, in cases where combining donations is necessary for efficacy of the SoHO preparation, is minimised.

5. In the procedures referred to in paragraph 1, SoHO entities shall mitigate risks arising from microbial contamination of SoHOs from the environment, the personnel, the equipment, materials or solutions coming into contact with SoHOs during collection, processing, storage or distribution. SoHO entities shall mitigate such risks by, at least, the following measures:

(a) specifying and verifying the cleanliness of collection areas;

(b) specifying, based on a structured and documented risk assessment for each SoHO preparation, validating and maintaining a defined air quality in processing areas;

(c) specifying, procuring and decontaminating equipment, materials and solutions such that their sterility is ensured.

6. In the procedures referred to in paragraph 1, SoHO entities shall mitigate the risks that any reagents and solutions added to SoHOs or coming in contact with SoHOs during collection, processing, storage and distribution might be transmitted to recipients and have a toxic, or other, detrimental effect on their health by combining, at least, the following measures:

(a) specifying such reagents and solutions prior to their purchase;

(b) verifying any required certifications of such reagents and solutions;

(c) demonstrating the removal of such reagents and solutions, when necessary, prior to distribution.

7. In the procedures referred to in paragraph 1, SoHO entities shall mitigate the risks that inherent properties of SoHOs, necessary for clinical efficacy, have been changed by any SoHO activity performed, in a manner that renders SoHO preparations ineffective or less effective when applied to recipients by combining, at least, the following measures:

(a) conducting comprehensive process validation and equipment qualification as referred to in Article 41(2), point (a)(vii);

(b) gathering evidence of efficacy as referred to in Article 41(4), when needed.

8. In the procedures referred to in paragraph 1, SoHO entities shall mitigate the risks that SoHOs cause an immune reaction in recipients by combining, at least, the following measures:

(a) accurately typing and matching of patients to donors, when such matching is necessary;

(b) correctly distributing SoHOs to the correct recipients pursuant to Article 45.

9. In the procedures referred to in paragraph 1, SoHO entities shall mitigate any other risk to the health of SoHO recipients or of offspring from medically assisted reproduction arising from the application of SoHOs or SoHO preparations and not addressed in paragraphs 2 to 8 by applying procedures that they have validated as safely and effectively mitigating the risk concerned or that are demonstrated as mitigating the risk by published scientific evidence.

10. SoHO entities shall not:

(a) apply SoHO preparations to recipients without proven benefit, except in the context of a clinical investigation approved in the context of a conditional authorisation of the SoHO preparation by their competent authority pursuant to Article 41(4);

(b) apply SoHO preparations to recipients unnecessarily;

(c) advertise or promote particular SoHO preparations to potential recipients or to healthcare professionals using information that is misleading, in particular, as to the potential use and benefits to recipients of the SoHO concerned.

11. For the measures referred to in paragraphs 2 and 3, SoHO entities shall verify the eligibility of a donor by means of an interview with him/her, his/her legal guardian or, in case of a donation after death, a relevant individual that is informed regarding the donor's health and lifestyle history. The interview may be combined with any interview conducted as part of the evaluation referred to in Article 53(1), point (f).

For donors that donate repeatedly, the interviews referred to in the first subparagraph may be limited to aspects that might have changed and may be replaced with questionnaires.

12. In cases where SoHO entities or operators regulated by other Union legislation intend to subsequently subject the SoHO to a sterilisation process or another process that reduces the level of the risks described in paragraphs 2 to 5 of this Article, the measures required pursuant to paragraphs 2 and 3 of this Article concerning donor

eligibility verification may be adjusted in line with the provisions, guidelines or methods referred to in Article 59.

13. SoHO entities shall document the results of donor eligibility verification referred to in paragraphs 2 and 3, and shall communicate and clearly explain the results of donor eligibility verification to donors or, where relevant, their relatives or any persons granting authorisation on their behalf, in accordance with national legislation.

    In case of donations after death, SoHO entities shall communicate and explain the results to the relevant persons in accordance with national legislation.

14. SoHO entities applying SoHOs to recipients shall obtain their consent for the application of SoHOs.

    SoHO entities shall inform the recipients of, at least, the following:

    (a) the safeguards intended to protect their data and the data of the offspring in the case of medically assisted reproduction;

    (b) the need to report back any unintended reactions following the application of SoHOs or any genetic conditions in offspring in the case of medically assisted reproduction with third party donation, in line with Article 47(2).

15. The Commission is empowered to adopt delegated acts in accordance with Article 77 in order to be able to supplement this Regulation in cases where additional standards are deemed necessary to ensure the protection of SoHO recipients or offspring from risks posed by the application of SoHO preparations.

16. Where, in the case of risk to SoHO recipients and offspring from medically assisted reproduction arising from inadequate levels of safety and quality of SoHOs, imperative grounds of urgency so require, the procedure provided for in Article 78 shall apply to delegated acts adopted pursuant to this Article.

Article 59

Implementation of the standards concerning recipient and offspring protection

1. When the Commission, deems it necessary to provide binding rules on the implementation of a particular standard or element of a standard referred to in Article 58, in order to ensure convergent and high levels of the protection of SoHO recipients and offspring from medically assisted reproduction, the Commission may adopt implementing acts describing particular procedures to be applied and followed to meet such standard or element thereof.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

2. On duly justified imperative grounds of urgency relating to a risk to recipient or offspring health, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 79(3).

3. In order to apply the standards or elements thereof, concerning recipient and offspring protection as referred to in Article 58, SoHO entities shall follow the procedures laid down in any implementing act adopted in accordance with paragraphs 1 and 2 of this Article.

4. For those standards or elements of standards concerning recipient and offspring protection for which no implementing act has been adopted, in order to apply such standards or elements thereof, SoHO entities shall follow:

(a) the most recent technical guidelines, as indicated on the EU SoHO Platform referred to in Chapter XI, as follows:

(i) published by the ECDC concerning the prevention of communicable disease transmission through human application of SoHOs;

(ii) published by the EDQM concerning recipient and offspring protection other than from transmission of communicable disease through human application of SoHOs.

(b) other guidelines accepted by competent authorities as achieving an equivalent level of safety and quality of SoHOs as set by the technical guidelines referred to in point (a);

(c) where the guidelines referred to in points (a) or (b) do not address a particular technical method, other technical methods in line with relevant international standards and scientific evidence in peer-reviewed scientific publications, where available.

5. In those cases referred to in paragraph 4, point (a), for the purpose of Article 30 in conjunction with Article 29, SoHO entities shall be able to demonstrate to their competent authorities, for each of the standards or elements thereof, which and to what extent they follow the guidelines referred to in paragraph 4, point (a).

6. In those cases referred to in paragraph 4, point (b), for the purpose of Article 30 in conjunction with Article 29, SoHO entities shall demonstrate to their competent authorities, for each of the standards or elements thereof, the equivalence of the other guidelines applied in terms of the level safety, quality and efficacy to the level set by the technical guidelines referred to in paragraph 4, point (a).

7. In those cases referred to in paragraph 4, point (c), for the purpose of Article 30 in conjunction with Article 29, SoHO entities shall perform a risk assessment to demonstrate that the technical methods applied achieve a high level of protection of recipients and offspring from medically assisted reproduction and record the practice followed to establish the technical methods. They shall make the assessment and record available for review by their competent authorities during inspection or on specific request of competent authorities.

Article 60

SoHO release

A SoHO entity that releases SoHOs for human application or for manufacture of products regulated by other Union legislation, or as the starting and raw material thereof, shall have a procedure in place, under the control of the responsible person for SoHO release as referred to in Article 38, to ensure that the standards or elements of a standard referred to in Article 58 and their implementation, as referred to in Article 59, have been verified and documented prior to release and that all conditions included in any applicable authorisations in accordance with this Regulation have been complied with.

Article 61

Exceptional release

The physician referred to in Article 51 may authorise the responsible person for release of SoHOs pursuant to Article 38, to release a certain SoHO preparation for application to a certain recipient in cases where that SoHO preparation does not meet all of the relevant standards and guidelines referred to in Article 59, when the significant potential benefit for the recipient outweighs the risks and no alternative is available. The physician shall authorise such an exceptional release only when the physician treating the intended recipient is in agreement. The physician referred to in Article 51 shall document the decision process in a risk-benefit assessment. In such circumstances, the intended recipient shall be informed of the exceptional release and shall give consent in accordance with national legislation prior to the SoHO application.

CHAPTER VIII

SUPPLY CONTINUITY

Article 62

Establishment of national SoHO emergency plans

1. Member States, in collaboration with National SoHO Authorities, shall draw up national SoHO emergency plans setting out measures to be applied without undue delay when the supply situation for critical SoHOs presents or is likely to present a serious risk to human health.

2. Member States shall make all reasonable efforts to promote public participation in SoHO donation activities, in particular for critical SoHOs, with a view to ensuring a resilient supply and responsive increases in donation rates when risks of shortage are detected. In so doing, they shall encourage the collection of SoHO with a strong public and non-profit sector involvement.

3. Member States shall specify the following in the plans referred to in paragraph 1:

   (a) potential risks to the supply of critical SoHOs;

   (b) the critical SoHO entities to be involved;

   (c) the powers and responsibilities of competent authorities;

   (d) channels and procedures for sharing information between competent authorities including competent authorities of other Member States and other parties concerned, as appropriate;

   (e) a procedure for the development of preparedness plans for specific identified risks, in particular those concerning communicable disease outbreaks;

   (f) a procedure for the assessment and authorisation, when justified, of requests from SoHO entities for derogations to the standards defined in Chapters VI and VII.

4. Member States shall ensure that any derogation granted in accordance with paragraph 3, point (f), is time-limited and is justified insofar as it implies risks that are lower than the risk of shortage of the specific SoHO.

5. Member States shall take into account the guidance of the ECDC, for emergencies related to epidemiological outbreaks, and of the guidelines published by the EDQM, for emergency planning in general.

6. Member States shall review regularly their national SoHO emergency plans to take into account changes in the organisation of competent authorities and experience gained from implementing the plans and simulation exercises.

7. The Commission may adopt implementing acts describing:

   (a) rules for the establishment of the national SoHO emergency plans provided for in paragraph 1 to the extent necessary to ensure the consistent and effective management of supply interruptions;

   (b) the role of stakeholders and the supportive role of the ECDC in the establishment and operation of national SoHO emergency plans.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 63

Supply alerts for critical SoHOs

1. Critical SoHO entities shall without undue delay launch a SoHO supply alert to their competent authorities in case of a significant interruption, indicating the underlying reason, the expected impact on patients and any mitigating actions taken including possible alternative supply channels if appropriate. Interruptions shall be considered significant when the application of critical SoHO is cancelled or postponed due to unavailability and this poses a serious risk to health.

2. Competent authorities that receive an alert referred to in paragraph 1 shall:

   (a) communicate the SoHO supply alert to their SoHO National Authority;

   (b) implement measures to mitigate the risks, if and to the extent possible; and

   (c) take into account the information received in accordance with paragraph 1 of this Article in the regular review of their national SoHO emergency plans referred to in Article 62.

3. The SoHO National Authorities may submit to the EU SoHO Platform the SoHO supply alert received in cases where the supply interruption might affect other Member States or where such interruption might be addressed through cooperation between Member States pursuant to Article 62(3), point (d).

Article 64

Derogation from the obligations to authorise SoHO preparations in emergency situations

1. By way of derogation from Article 21, competent authorities may permit, on a request from a SoHO entity duly justified by a health emergency, the distribution or preparation for immediate application of SoHO preparations within their territory in cases where the procedures referred to in that Article have not been carried out, provided that the use of those SoHO preparations is in the interest of public health. Competent authorities shall indicate the period of time for which the permission is granted or shall define conditions enabling to clearly establish that period of time.

2. Competent authorities shall inform the SoHO National Authority of the emergency authorisation. The SoHO National Authority shall inform the Commission and the other Member States of any decision to permit the distribution or preparation for immediate application of SoHO preparations in accordance with paragraph 1, in cases where such SoHO preparations might be distributed to other Member States.

Article 65

Additional emergency measures by Member States

Member States may take additional measures to the ones set out in their national SoHO emergency plans to ensure critical SoHOs supply in case of shortages on their territory, on a case-by-case basis. Member States taking such measures shall inform the other Member States and the Commission without undue delay and give reasons for the measures taken.

Article 66

SoHO entity emergency plans

Each SoHO entity carrying out SoHO activities that concern critical SoHOs shall have a SoHO entity emergency plan that supports the implementation of the national SoHO emergency plan as referred to in Article 62.

CHAPTER IX

SOHO COORDINATION BOARD

Article 67

SoHO Coordination Board

1. The SoHO Coordination Board is hereby established in order to promote coordination between Member States concerning the implementation of this Regulation and the delegated and implementing acts adopted pursuant to it, and to support them in that coordination, as well as to facilitate cooperation with stakeholders in that regard.

2. Each Member State shall nominate two permanent members and two alternates representing the SoHO National Authority and, where the Member State chooses, the Ministry of Health. The SoHO National Authority may nominate members from other competent authorities, but those members shall ensure that the views and suggestions they make are endorsed by the SoHO National Authority. The Board may also invite experts and observers to attend its meetings, and may cooperate with other external experts as appropriate. Other Union institutions, bodies, offices and agencies shall have an observer role.

3. Member States shall submit the names and affiliation of their nominated members to the Commission, who shall publish the membership list in the EU SoHO Platform.

4. The Commission shall chair the meetings of the SCB. The chair shall not take part in votes of the SCB.

5. The Commission shall provide the secretariat for the SCB in accordance with Article 72.

6. The rules of procedure of the SCB put forward by the Commission shall, in particular, lay down procedures for the following:

(a) meeting scheduling;

(b) reaching consensus and voting;

(c) the adoption of opinions or other positions, including in cases of urgency;

(d) requesting advice to the SCB, including eligibility criteria for requests for advice to the SCB, and for other communications with the SCB;

(e) consultation with advisory bodies established under other relevant Union legislation;

(f) the delegation of routine tasks to working groups, including on vigilance, inspection, traceability, and on the applicability of the provisions of this Regulation;

(g) the delegation of ad-hoc tasks to SCB members or technical experts to explore and report to the SCB on specific technical topics, as required;

(h) invitation of experts to take part in the work of the SCB working groups and or to contribute to ad-hoc tasks, on the basis of their personal experience and expertise or on behalf of recognised Union level or global professional associations;

(i) invitation of individuals, organisations, or public entities in the capacity of observers;

(j) the rules for declarations regarding conflict of interests of invited experts;

(k) the composition and rules of procedure for the working groups and the delegation of ad-hoc tasks.

7. The Commission shall, by means of implementing acts, adopt the necessary measures for the establishment, management and functioning of the SCB.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 68

Tasks of the SoHO Coordination Board

1. The SCB shall assist the Member States' competent authorities regarding any issue related to the coordination of implementation of this Regulation and the implementing and delegated acts adopted pursuant to it, by:

(a) preparing opinions at the request of competent authorities in accordance with Article 14(2) first sub-paragraph, on the regulatory status under this Regulation of a substance, product or activity and transmitting its opinions to the compendium;

(b) when preparing the opinions referred to in point (a) of this paragraph, initiating, at Union level, a consultation with equivalent advisory bodies established in other relevant Union legislation in accordance with Article 14(2) second sub-paragraph, and including in the compendium the opinions concerning the Union legislation to be applied in cases where there is agreement with the equivalent advisory bodies;

(c) exchanging and documenting best practices on the implementation of the SoHO supervisory activities, and publishing agreed and documented best practices on the EU SoHO Platform;

(d) recording information notified in accordance with Article 14(3), and including such information in the compendium;

(e) liaising for the exchange of experience and good practices, as relevant, with the EDQM and the ECDC regarding technical standards, and with the EMA on authorisations and supervisory activities concerning the implementation of the PMF certification pursuant to Directive 2003/63/EC, to support the harmonised implementation of standards and technical guidelines;

(f) collaborating for the effective organisation of joint inspections and joint SoHO preparation authorisations involving more than one Member State;

(g) providing assistance in other matters related to the coordination as referred to above.

2. The Commission may adopt implementing acts describing criteria and procedures for the consultation of advisory groups established under other relevant Union legislation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

CHAPTER X

UNION ACTIVITIES

Article 69

Union training and exchange of competent authorities' personnel

1. The Commission shall organise Union training in cooperation with the Member States concerned.

In the Union training organised, the Commission shall cover at least, the following topics, as appropriate:

(a) the implementation of this Regulation;

(b) procedures relevant for the SoHO supervisory activities of the competent authorities;

(c) the functionality and use of the EU SoHO Platform;

(d) other knowledge and skills relevant to facilitate SoHO supervisory activities.

2. The Commission may provide Union training to personnel of competent authorities of EEA Member States and of countries that are applicants or candidates for Union membership and to personnel of bodies to whom specific responsibilities for SoHO activities have been delegated. It may organise aspects of the training in collaboration with international organisations and regulators working in the field of SoHOs.

3. Competent authorities shall ensure that the knowledge acquired through the Union training activities referred to in paragraph 1 of this Article is disseminated as necessary and appropriately used in the personnel training activities referred to in Article 16.

4. The Commission may support, in cooperation with the Member States, the organisation of programmes for the exchange of competent authorities' personnel between two or more Member States and for the temporary secondment of personnel from one Member State to the other as part of personnel training.

5. The Commission shall maintain a list of the competent authority personnel that have successfully completed the Union training referred to in paragraph 1, with a view to facilitating joint activities, in particular those referred to in Articles 23, 31, and 71. The Commission shall make this list available to the Member States.

6. The Commission is empowered to adopt delegated acts in accordance with Article 77 in order to be able to supplement this Regulation by laying down rules on the organisation of the training activities referred to in paragraph 1 and of the programmes referred to in paragraph 4.

Article 70

Commission controls in Member States

1. The Commission shall perform controls, including audits, in the Member States to verify the effective application of the requirements relating to:

   (a) competent authorities and delegated bodies provided for in Chapter II;

   (b) the SoHO supervisory activities provided for in Chapter III as carried out by competent authorities and delegated bodies;

   (c) the notification and reporting requirements of this Regulation.

2. The Commission shall organise the controls referred to in paragraph 1 in cooperation with the Member States, and shall carry them out in a manner that avoids unnecessary administrative burden.

3. When performing the controls referred to in paragraph 1, the Commission experts shall consult the relevant best practices agreed and documented by the SCB as referred to in Article 68(1), point (c), on inspection, vigilance and any other SoHO supervisory activities as needed.

4. Experts from the Member States may assist the Commission experts in carrying out the controls referred to in paragraph 1. The Commission shall select the experts from the Member States, whenever possible from the list referred to in Article 69(5), and shall give them the same rights of access as the Commission experts.

5. Following each control, the Commission shall:

   (a) prepare a draft report on the findings and, where appropriate, include recommendations on how best to address the shortcomings;

   (b) send a copy of the draft report referred to in point (a) to the concerned Member State for its comments;

   (c) take the comments of the Member State referred to in point (b) into account in preparing the final report; and

(d) make publicly available the final report referred to in point (c) and the comments of the Member State referred to in point (b).

Article 71

Cooperation with the EDQM

The Commission shall establish and maintain cooperation with the EDQM in relation to the guidelines published by the EDQM.

Article 72

Assistance by the Union

1. To facilitate the fulfilment of the requirements provided for in this Regulation, the Commission shall support implementation by:

   (a) providing secretariat and technical, scientific and logistic support to the SCB and its working groups;

   (b) funding Commission controls in Member States, including the costs of Member State experts assisting the Commission in such controls;

   (c) providing funding from the relevant Union programme in support of public health to:

      (i) support collaborative work between competent authorities and organisations representing groups of SoHO entities and SoHO professionals with the aim to facilitate effective and efficient implementation of this Regulation, including for training activities;

      (ii) co-finance a cooperation agreement with the EDQM to support the development and updating of technical guidelines supporting the coherent implementation of this Regulation.

2. With regard to the support referred to in paragraph 1, point (a), the Commission shall, in particular, organise the meetings of the SCB and its working groups, the travel of members of the SCB, reimbursement and special allowances for scientific experts that participate in those meetings, and ensure the appropriate follow-up.

3. Upon request from Member States, technical support may be provided, through the Technical Support Instrument established by Regulation (EU) 2021/240 of the European Parliament and of the Council[19], for the reform of national or regional SoHO supply supervision, provided those reforms aim to achieve compliance with this Regulation.

4. In order to perform the activities referred to in paragraph 1 to the mutual benefit of the Commission and of the beneficiaries, relating to preparation, management, monitoring, audit, and control, as well as to support expenditure, the Commission shall have recourse to the technical and administrative assistance it might need.

[19] Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

CHAPTER XI

EU SoHO PLATFORM

Article 73

Establishment, management and maintenance of the EU SoHO Platform

1. The Commission shall establish, manage and maintain the EU SoHO Platform to facilitate effective and efficient exchange of information concerning SoHO activities in the Union, as provided for in this Regulation.

2. The Commission shall make a summary of data of public interest and make it accessible to the public on the EU SoHO Platform in aggregated and anonymised formats. The EU SoHO Platform shall provide a channel for restricted exchange of information and data between competent authorities, and between SoHO entities and their respective competent authorities.

3. The processing of personal data by the Member States and the Commission through the EU SoHO Platform and any one of its components shall only be carried out for the purpose of performing SoHOs related activities in accordance with this Regulation and in compliance with the applicable data protection legislation.

4. The Commission shall adopt delegated acts in accordance with Article 77 supplementing this Regulation by laying down technical specifications regarding the establishment, management and maintenance of the EU SoHO Platform.

5. The Commission shall provide instructions for SoHO entities and competent authorities on the correct use of the EU SoHO Platform.

Article 74

General functionalities of the EU SoHO Platform

1. The EU SoHO Platform shall enable SoHO entities, competent authorities, Member States and the Commission to process information, data and documents concerning SoHOs, including the submission, retrieval, storage, management, handling, exchange, analysis, publication and deletion of such data and documents as provided for in this Regulation.

2. The EU SoHO platform shall also provide a secure environment for the exchange of information between competent authorities and the Commission, in particular in relation to SAO and rapid alerts. It shall also provide public access to information regarding the registration and authorisation status of SoHO entities and shall indicate the applicable guidelines to be followed to meet the technical standards laid down in Articles 56 and 59.

3. The Commission shall adopt implementing acts laying down technical specifications for the EU SoHO Platform, including its functions, the roles and responsibilities of each of the parties listed in paragraph 1, the retention periods for personal data and the technical and organisational measures to ensure the safety and security of personal data processed.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

CHAPTER XII

PROCEDURAL PROVISIONS

Article 75

Confidentiality

1. Unless otherwise provided for in this Regulation or in national legislation on confidentiality, and without prejudice to Regulation (EC) No 1049/2001 of the European Parliament and of the Council[20], each party involved in the application of this Regulation shall respect the confidentiality of information and data obtained in carrying out their tasks in order to protect the following:

   (a) personal data in accordance with Article 76;

   (b) the effective implementation of this Regulation, in particular for the purpose of authorisations, inspections, investigations or Commission controls.

2. Information may be exchanged on a confidential basis between competent authorities and between competent authorities and the Commission, but shall not be disclosed without the prior agreement of the authorities from whom that information originates.

3. Paragraphs 1 and 2 shall not affect the rights and obligations of the Commission, Member States and competent authorities with regard to the exchange of information and the dissemination of alerts, nor the obligations of persons to provide information under national criminal law.

4. The Commission and Member States may exchange confidential information with regulatory authorities of third countries as necessary and proportionate for the protection of human health.

5. Competent authorities may publish or make otherwise available to the public the outcome of SoHO supervisory activities regarding individual SoHO entities provided that the following conditions are met:

   (a) the SoHO entity concerned is given the opportunity to comment on the information that the competent authority intends to publish or make otherwise available to the public, prior to its publication or release, taking into account the urgency of the situation;

   (b) the information which is published or made otherwise available to the public takes into account the comments expressed by the SoHO entity concerned or is published or released together with such comments;

   (c) the information concerned is made available in the interest of public health protection and is proportionate to the severity, extent and nature of the associated risk.

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[20] 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).

6. Regarding information or data that is, by its nature, covered by professional secrecy and that is obtained by competent authorities in carrying out SoHO supervisory activities, competent authorities may only publish or make that information or data available to the public, provided that the following conditions are met:

   (a) the information or data made available to the public is in the interest of public health protection and is necessary and proportionate to the severity, extent and nature of the associated risk;

   (b) the information or data made available to the public does not unnecessarily undermine the protection of commercial interests of a SoHO entity or any other natural or legal person;

   (c) the information or data made available to the public does not undermine the protection of court proceedings and legal advice.

7. The provisions of this Article shall also apply to delegated bodies.

Article 76

Data protection

1. Personal data required for the application of Articles 5(5) and 6(2), Article 18(3), point (a), Articles 19(2) and 21(3), Article 27(2), Article 28(2), Articles 35 and 36, Article 53(1), points (f) and (g), Article 53(3), Article 58(11), and Articles 63 and 75 shall be collected for the purpose of identifying the relevant contact persons within the relevant SoHO entities, competent authorities or delegated bodies, and shall only be processed further for the purpose of ensuring the administration and transparency of the supervisory activities and SoHO activities concerned.

2. Personal data, including data concerning health, required for the application of Articles 74 and 75 shall be processed in the interest of public health and, in particular, for the following purposes:

   (a) to help to identify and evaluate risks associated with a particular SoHO donation or SoHO donor;

   (b) to process relevant information on clinical outcome monitoring.

3. Personal data, including data concerning health, required for the application of Articles 35, 36, 41 and 47, Article 53(1), points (f) and (g), Article 53(3), and Article 58(11), (13) and (14), shall only be processed for the purpose of ensuring safety and quality of SoHOs and protecting the concerned SoHO donors, SoHO recipients and offspring from medically assisted reproduction. Those data shall be directly related to the performance of the supervisory activities and SoHO activities concerned and be limited to the extent necessary and proportionate for that purpose.

4. All information shall be processed by the Commission, Member States, competent authorities, including SoHO National Authorities, delegated bodies and SoHO entities, including any third party contracted by a SoHO entity, as applicable, in such a way that the personal data of the subjects remain protected in accordance with the applicable legislation on personal data protection. The Commission, Member States, competent authorities, including SoHO National Authorities, delegated bodies and SoHO entities, including any third party contracted by a SoHO entity, shall, in particular, minimise the risk that subjects can be identified and shall limit the

information processed to elements necessary and appropriate for carrying out their tasks and fulfilling their obligations under this Regulation.

5. The Commission, Member States, competent authorities, including SoHO National Authorities, delegated bodies and SoHO entities, including any third party contracted by a SoHO entity, shall implement appropriate technical and organisational measures to protect information and personal data processed against unauthorised or unlawful access, disclosure, dissemination, alteration, destruction or accidental loss, in particular where the processing involves transmission over a network.

6. In relation to their responsibilities to process personal data to comply with the obligations of this Regulation, the SoHO entities and competent authorities of the Member States shall be regarded as controllers as defined in Article 4, point (7), of Regulation (EU) 2016/679 and they are bound by the rules of that Regulation.

7. In relation to its responsibility to establish and manage the EU SoHO Platform, as referred to in Article 73 and the processing of personal data that might result from that activity, the Commission shall be regarded as controller as defined in Article 3, point (8), of Regulation (EU) 2018/1725 and it is bound by the rules of that Regulation.

8. For the purposes of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 77 supplementing this Regulation by laying down the retention periods for personal data as appropriate to their purpose and specific criteria that would allow identification of data relevant for public health protection as referred to in paragraph 2.

Article 77

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 Articles 28(10), 42(3), 53(6), 58(15), 69(6), 73(4), and 76(8) shall be conferred on the Commission for an indeterminate period of time from … [OP please insert the date = date of entry into force of this Regulation].

3. The delegation of power referred to in Articles 28(10), 42(3), 53(6), 58(15), 69(6), 73(4), and 76(8) 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. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to the provisions listed in paragraph 2 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 78

Urgency procedure

1. 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 77(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

Article 79

Committee procedure

1. The Commission shall be assisted by a committee. 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.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Article 80

Penalties

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by … [OP please insert the date = 3 years after the date of entry into force of this Regulation], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

CHAPTER XIII

TRANSITIONAL PROVISIONS

Article 81

Transitional provisions concerning establishments designated, authorised, accredited or licensed under Directives 2002/98/EC and 2004/23/EC

1. Blood establishments designated, authorised, accredited or licensed based on Article 5(1) of Directive 2002/98/EC and tissue establishments designated, authorised,

accredited or licensed on the basis of Article 6(2) of Directive 2004/23/EC before the date of application of this Regulation shall be deemed to be registered as SoHO entities and deemed to be authorised as SoHO establishments, in accordance with this Regulation and shall, as such, be subject to the relevant obligations provided for under this Regulation.

2. Tissue establishments that are designated, authorised, accredited or licensed as importing tissue establishments on the basis of Article 6(2) of Directive 2004/23/EC before the date of application of this Regulation shall be deemed to be authorised as importing SoHO entities in accordance with this Regulation and shall, as such, be subject to the relevant obligations provided for under this Regulation.

3. For blood establishments referred to in paragraph 1, competent authorities shall:

   (a) verify whether those establishments meet the definition of SoHO establishment in Article 3, point (40);

   (b) submit the information referred to in Article 18(3), points (a) and (d), and information regarding the registration and authorisation status according to the verification referred to in point (a) of this paragraph to the EU SoHO Platform as referred to in Chapter XI.

4. For tissue establishments referred to in paragraph 1, the Commission shall:

   (a) verify whether those establishments meet the definition of SoHO establishment in Article 3, point (40);

   (b) transfer the relevant information from the EU Tissue Establishment Compendium of the EU Coding Platform laid down in Directive 2006/86/EC, including the information regarding the registration and authorisation status according to the verification referred to in point (a) of this paragraph, to the EU SoHO Platform as referred to in Chapter XI of this Regulation;

   (c) inform the competent authorities of the establishments that do not meet the definition of SoHO establishment according to the verification referred to in point (a).

5. Competent authorities shall inform those establishments not meeting the definition of SoHO establishment, according to the verification referred to in paragraph 3, point (a), and paragraph 4, point (a) and based on the information referred to in paragraph 4, point (c), that they are deemed to be registered as SoHO entities only and that they, as such, are subject to the obligations relevant for SoHO entities provided for under this Regulation.

6. For tissue establishments referred to in paragraph 2 of this Article, the Commission shall transfer the relevant information from the EU Tissue Establishment Compendium of the EU Coding Platform laid down in Directive 2006/86/EC to the EU SoHO Platform as referred to in Chapter XI of this Regulation.

Article 82

Transitional provisions concerning SoHO preparations

1. The preparations resulting from tissue and cell preparation processes designated, authorised, accredited or licensed on the basis of Article 6(2) of Directive 2004/23/EC before the date of application of this Regulation shall be deemed to be authorised as the corresponding SoHO preparations in accordance with this

Regulation and shall, as such, be subject to the relevant obligations provided for under this Regulation.

2. Blood components that were verified by competent authorities as complying with applicable quality and safety requirements for blood components on the basis of Article 5(3) and Article 23 of Directive 2002/98/EC or with the blood component monographs included in the edition of the Guide to the preparation, use and quality assurance of blood components of the EDQM indicated on the EU SoHO Platform on … [OP please insert the date = two years after the date of entry into force of this Regulation], or that were otherwise designated, authorised, accredited or licensed under national legislation before the date of application of this Regulation, shall be deemed to be authorised as the corresponding SoHO preparations in accordance with this Regulation and shall, as such, be subject to the relevant obligations provided for under this Regulation.

3. Competent authorities shall submit the information referred to in paragraphs 1 and 2 to the EU SoHO Platform, and link those entries to the respective SoHO entities.

4. The Commission may adopt implementing acts in order to establish uniform procedures for ensuring that SoHO preparations deemed to be authorised pursuant to paragraphs 1 and 2 are fully documented in line with the requirements for SoHO preparation authorisation in this Regulation.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Article 83

Status of SoHOs released for distribution, distributed or in storage before the application of this Regulation

1. SoHOs already released for distribution before … [OP please insert the date = date of application of this Regulation] shall not be subject to the relevant obligations provided for under this Regulation, provided those SoHOs are distributed at the latest by … [OP please insert the date = one year after the date of application of this Regulation] and under the condition that those SoHOs were fully compliant with the applicable Union legislation and national law in force at the time when those SoHOs were released for distribution.

2. SoHOs which have been distributed before … [OP please insert the date = date of application of this Regulation] and kept under appropriate control conditions until that date shall not be subject to the relevant obligations provided for under this Regulation.

3. SoHOs already in storage before … [OP please insert the date = date of application of this Regulation], and for which no alternative SoHOs are available, in particular because the SoHOs are autologous, intended for within couple use or highly matched for a specific recipient, shall only be subject to Article 61. Those SoHOs shall be subject to that Article from… [OP please insert date = date of application of this Regulation].

Article 84

Transitional measures for the adoption of certain delegated and implementing acts

Without prejudice to the dates of application referred to in Article 87 and the transitional provisions provided for in this Chapter, the Commission is empowered to adopt the delegated acts referred to in Articles 42(3) and 73(4) and the implementing acts referred to in Articles 26(4), 43(6), 44(3), 46(3), 67(7) and 74(3) as from … [OP please insert the date = one day after the date of entry into force of this Regulation]. Such acts shall apply from the date of application in accordance with Article 87(1), second subparagraph, without prejudice to any transitional rules provided for in this Chapter.

CHAPTER XIV

FINAL PROVISIONS

Article 85

Repeals

Directives 2002/98/EC and 2004/23/EC are repealed with effect from … [OP please insert the date = two years after the date of entry into force of this Regulation].

Article 86

Evaluation

The Commission shall, by … [OP please insert the date = five years after the date of application of this Regulation] assess the application of this Regulation, produce an evaluation report on the progress towards achievement of the objectives of this Regulation and present the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions.

The Commission shall use aggregated and anonymised data and information gathered from supervisory and SoHO activities and information submitted to the EU SoHO Platform for the purposes of the evaluation report.

Member States shall provide the Commission with additional information necessary and proportionate for the preparation of the evaluation report.

Article 87

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*.

   Unless otherwise provided for in paragraph 2, it shall apply from … [OP please insert the date = two years after the date of entry into force of this Regulation].

2. Article 81(3) to (6) and Article 82(3) shall apply from … [OP please insert the date = three years after the date of entry into force of this Regulation].

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

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LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Regulation of the European Parliament and of the Council on standards of quality and safety for substances of human origin intended for human application and repealing Directives 2002/98/EC and 2004/23/EC

1.2. Policy area(s) concerned

Heading 2: Cohesion, Resilience and Values

1.3. The proposal/initiative relates to:

☐ **a new action**

☐ **a new action following a pilot project/preparatory action**[1]

☐ **the extension of an existing action**

x **a merger or redirection of one or more actions towards another/a new action**

1.4. Objective(s)

1.4.1. General objective(s)

The overall objective of this initiative is to ensure a high level of health protection for EU citizens that donate, or are in need of treatment with, substances of human origin (SoHOs).

1.4.2. Specific objective(s)

Specific objective No 1

To ensure safety and quality for patients treated with SoHO therapies, for SoHO donors and for offspring from medically assisted reproduction, and enforcement of safety and quality requirements.

Specific objective No 2

To optimize access to SoHO therapies, and avoid shortages of SoHOs.

Specific objective No 3

To ensure the framework is future-proof and facilitates the development of innovative SoHO therapies that are safe and effective.

1.4.3. Expected result(s) and impact

Protect citizens (specific objective 1)

Citizens that donate, or are treated with SoHOs, or offspring from medically assisted reproduction, will be better protected in the following ways:

- common general standards for safety and quality will be defined for protecting citizens and outdated specific technical provisions will be removed from legislation

[1] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

and replaced with a responsive implementation of such standards, with reference to guidelines set primarily by expert bodies ensuring that risks to SoHO donors and SoHO recipients are mitigated promptly;

- the scope of the Regulation will include all SoHOs applied to human persons with specific exceptions (organs, and autologous substances applied during the same surgical procedure without processing), ensuring the protection of SoHO donors and recipients of human substances not currently regulated (e.g. breast milk, faecal microbiota transplants and autologous substances processed at the bedside). Improved reporting on adverse occurrences will be implemented (including self-reporting by SoHO donors and recipients) to improve safety monitoring.

Optimise access (specific objective 2)

Strengthen oversight

Exchange of SoHOs between Member States will be facilitated, resulting in improved access for patients. This will be achieved by increasing trust in Member State oversight systems as follows:

- stronger oversight principles (e.g. independence of inspectors);

- a legal basis for Commission controls, including audits, of national competent authorities and for joint inspections with inspectors from more than one Member State;

- implementation of a scheme for voluntary mutual peer audits among authorities with inspector and auditor training and guidance provided by the Commission;

- increased efficiency of oversight through the introduction of a graded approach proportionate to the risk level of the establishments/activities carried out.

Improve resilience, mitigating risk of shortages

The sector will be better equipped to manage crises in the future through the following changes:

- obligations will be introduced to ensure measures for crisis preparedness at the operator and national levels are in place;

- obligations on supply monitoring will be introduced to support Member States to take measures in order to address shortages and dependencies on other Member States or third countries. This will be facilitated by the provision of an EU digital platform for data reporting, aggregation, extraction and publication;

- Member States will be better equipped to intervene to control and adjust supply, as necessary, under their national competence, and monitoring will allow evidence-based support action at EU level.

Foster innovation (specific objective 3):

Innovation in the sector will be more robust, with increased patient access to novel SoHOs that are safe and effective through the following:

- a risk-based authorisation of SoHOs processed or used in new ways will be implemented, with proportionate requirements for clinical data to demonstrate efficacy (benefits) of new SoHO preparations

- such authorisations will be registered in an EU SoHO Platform and can be referred to and accepted by other Member States to facilitate the use of the same process with minimal administrative burden

- a coordination Board will provide advice to Member States on the applicability of the Regulation for SoHOs at the borderlines with other regulatory frameworks (including the consultation of equivalent advisory bodies established in these frameworks).

Digital-ready implementation (horizontal across the objectives)

An EU-wide data system in the SoHO sector will support the use of best available evidence and data for the professionals, health providers, innovators, public authorities and other stakeholders through federated interoperable systems. The development of such a network of resilient, secure and trustworthy infrastructures and technologies will provide the framework for a fit-for purpose, coherent interoperable and technology-driven regulatory reporting. Central investment in common data infrastructure and services as well as technical support and capacity building to local data owners will maximise the use of data to support the achievement of the objectives of this initiative.

1.4.4. Indicators of performance

Protect citizens (objective 1)

Number of technical guideline updates

- time between identification of an issue and availability of the procedure or technical guidelines to be followed to address it

- quality of the standard, expert body guidelines, measured by their uptake in the sector

- serious adverse occurrences reported

For the protection of citizens, there will be continuous updating of technical guidelines to support the achievement of high standards of quality and safety for SoHOs and concerning the protection of SoHO donors. The appropriate application of guidelines to implement the standards will be verified during inspection. A comprehensive vigilance (serious adverse occurrences) reporting and monitoring system for patients and donors will be put in place. A SoHO Coordination Board will support a uniform implementation of the quality and safety rules. This compares to a baseline where technical updates in Commission legislation lag behind epidemiological risk and technology and the up-to-date technical guidelines of expert bodies have no legal basis. Timeliness, quality and uptake of new guidelines need to be assessed as well. EU vigilance reporting requirements already exist but criteria for reporting are unclear, denominators (number of units of blood or blood components issued for transfusion or number of tissues and cells distributed) are not reported or are reported inconsistently, and there is no obligation to report adverse outcomes in donors or offspring from medically assisted reproduction.

Optimise access (objective 2)

Numbers of donations, human applications, cross-border exchanges, imports and exports of critical SoHOs by Member States

Numbers of donations, human applications, cross-border exchanges, imports and exports of critical SoHOs will be monitored at the EU level. The administrative burden associated with reporting this data will be minimised by the provision of an EU level digital platform that can also be used by Member States for monitoring at the national level, without the need to recreate a similar monitoring tool.

Monitoring should demonstrate increased availability and use of SoHO therapies resulting from increased inter-Member State confidence in oversight sytems and will highlight shortages and dependencies on other Member States or third countries thus enabling Member States to take appropriate actions. The Commission will audit competent authorities' supervisory functions. In particular, this will help to assess effective and consistent implementation as well as exisence of robust emergency plans to prepare for effective management of supplies in future crises.

This compares to a baseline where activity data reporting is fragmented or non-existent, hampering the ability of the Member States to launch initiatives to increase donations or reduce wastage as appropriate. Member States conduct oversight functions in variable ways and often place barriers to exchanges with other Member States due to a lack of confidence. There is significant dependence on third countries for some SoHOs but the extent of this is not monitored and is not, therefore, transparent.

Foster innovation (objective 3)

The number of SoHO preparations authorised at EU level

Number of SoHO preparations authorisations shared and accepted between Member States

The number of SoHO preparations authorised, and the number of authorisations shared and accepted between Member States, will be monitored to assess the rate of innovation and the rate of sharing of innovation across the EU. The number of patients treated with these innovative SoHO preparations will also be monitored, as well as the role of the public sector in this innovative cycle.

This compares to a baseline where developers report challenges relating to knowing which legislative framework applies to their substance/product and a lack of data available on the approval of new SoHO preparations.

Digital-ready implementation (horizontal across the objectives)

The development of the EU SoHO Platform will be monitored (connections of databases established, including more composite indicators on the resilience of the networks; registered entities etc.). Key indicator will be the number of connected authorities, entities and databases.

This compares with a baseline where there is limited vigilance data sharing at the EU level and no mechanism for the sharing of activity data or authorisation of new SoHO preparations.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The provisions in the current Directives on safety and quality of blood (Directive 2002/98/EC) and of tissues and cells (Directive 2004/23/EC) have been instrumental in managing and avoiding health concerns related to the use of these therapies.

However the 2019 evaluation has also demonstrated that the provisions are no longer able to keep track of the many biotechnological developments and communicable diseases outbreaks.

The evaluation has also identified some legal gaps of therapies that are currently unregulated and a concern that the directives do not facilitate innovation.

Furthermore the evaluation identified significant divergences in national transposition and implementation of the requirements, leading to barriers for cross-border exchange and sub-optimal access for patients to BTC treatments.

The new legal act will make the framework future-proof and fit to accommodate innovations in the SoHO sector and ensure their safety and quality. The proposal of a regulation will also help increase uniform implementation across the EU.

The adoption is expected for 2023, with preparatory activities for the implementation starting during 2024.

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone?

Reasons for action at European level (ex-ante)

Ever-evolving disease threats, such as Zika, Human Immunodeficiency Virus (HIV), Viral Hepatitis B, C and D, which can be transmitted through SoHOs, or more recently COVID-19, constitute cross-border threats to public health. The exchange of SoHOs between Member States and with third countries is necessary for ensuring patient access and sufficiency of supply. The extent of exchange is considerable, although it varies highly from substance to substance. The BTC legislation evaluation concluded that, *in general, the Directives improved the quality and safety of BTC in a manner that would not have happened, or would have happened more slowly, without EU legislation*; indeed intensive activity to raise safety and quality to a common level were seen across the EU following the adoption of the legislation. The outdating of technical requirements over the years has led to a diversification of standards with more stringent national requirements compensating for shortcomings of the legislation. Although this is permitted by the Treaty, it limits exchanges between Member States. EU action is required to reinforce the framework, increase trust and facilitate that patients in all Member States can benefit equally from safe and effective SoHOs. Increasing cross-border exchanges of SoHOs necessitate ever closer cooperation between a number of health professional groups and authorities to ensure that SoHOs remain traceable from the donor to the recipient and vice versa. The evaluation confirmed the benefits of setting standards of quality and safety for BTC at EU level although pointed to a need for a more responsive approach to changing risks.

Also, some sector-specific expertise might not be easily available in all Member States, and it brings simplification and efficiency to provide for a framework allowing and supporting joint practices, such as joint inspections of establishments (those providing SoHOs to many Member States, or those having a specific technology/process in place), joint assessment of new processes etc. This will result overall in a stronger implementation of the legislation in all Member States, hence an equal level of health protection of EU citizens.

Expected generated Union added value (ex-post)

Overall, for the five problems highlighted, more collaboration and support among National Competent Authorities (NCAs) will help to address the issues, bring simplification and improve the effectiveness of the legislation and the efficiency of its implementation. Sharing information across Member States at authority level, e.g. on the supply of critical SoHOs, authorisations of SoHO preparations, or results of the inspection of an establishment, will help other Member States. NCAs may re-use the SoHO preparation authorisation already given (by assessing if the procedure is equivalent, without re-assessing the complete risk assessment or clinical evidence provided). Commission audits of competent authorities and increased collaboration among Member States (e.g. joint inspections and joint preparation process assessments) will lead to increased sharing of expertise and building more trust among the them. This will ultimately facilitate exchange of SoHOs, hence access for patients. All this will be more efficient at EU level, compared to equivalent individual actions being taken by all Member States.

1.5.3. Lessons learned from similar experiences in the past

The evaluation of the BTC legislation demonstrated that adopting legislation in this sector improved the safety and quality of BTC across the EU. The legislation, adopted in 2002 for blood and 2004 for tissues and cells was complemented by a series of implementing acts during mostly in 2005 and 2006. The legislation overall included many technical rules and specifications that became outdated due to changing risks and technologies. Efforts were made to update certain provisions but this proved slow compared to the pace of change. The lesson learned was that the legislation should provide robust principles and oversight mechanisms, while the technical rules should be kept up to date in a more dynamic and responsive manner.

The COVID-19 pandemic highlighted the risks for supply interruptions, the need for adequate SoHO donor and SoHO recipient protection, and the need for rapid and adequate authorisations of health innovations in the SoHO sector. By providing a framework for cross-border cooperation, based on a common set of rules, EU-level measures are best placed to address such issues effectively. The importance of digital tools to support the sharing of big data emerged as a clear lesson. The benefits that can be achieved from pooling such data from across 27 Member States are significant but need investment in digital support to minimise the administrative burden at the Member State and professional levels.

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The costs are foreseen to be funded from the EU4Health programme (including technical assistance to the sector and IT costs) as per Article 4, point (h) of the EU4Health Regulation[2]. Part of the actions (in particular on supply monitoring to prevent shortages in crisis; emergency update) should be aligned with the activities funded under the remit of DG HERA, the new Health Emergency preparedness and Response Authority (HERA) created.

[2] Regulation (EU) 2021/522 of the European Parliament and of the Council of 24 March 2021 establishing a Programme for the Union's action in the field of health ('EU4Health Programme') for the period 2021-2027, and repealing Regulation (EU) No 282/2014 (OJ L 107, 26.3.2021, p. 1).

Furthermore, automated reporting in the sector will both support and benefit from broader initiatives of the digitalisation of the healthcare (e.g. European Health Data Space, common European digital infrastructure). For certain activities – in particular investment in the digitalisation and interoperability of healthcare records in lower-income EU regions – structural and cohesion funds could be leveraged.

Finally, synergies could be explored with other EU policies in particular related to resilience building of national healthcare services (REFORM, Recovery and Resilience Facility, European Investment Bank/Fund) and research into personalised medicine (Horizon Europe).

1.5.5. Assessment of the different available financing options, including scope for redeployment

[N/A]

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

– ☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY

– ☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

X unlimited duration

– Implementation as of 2024

– followed by full-scale operation.

1.7. Management mode(s) planned[3]

X Direct management by the Commission

– ☐ by its departments, including by its staff in the Union delegations;

– ☐ by the executive agencies

☐ **Shared management** with the Member States

X Indirect management by entrusting budget implementation tasks to:

– ☐ third countries or the bodies they have designated;

– **X** international organisations and their agencies (to be specified);

– ☐ the EIB and the European Investment Fund;

– **X** bodies referred to in Articles 70 and 71 of the Financial Regulation;

– ☐ public law bodies;

– ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

– ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

– ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

– *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

The European Directorate for the Quality of Medicines & HealthCare (EDQM), a department of the Council of Europe (CoE) is proposed to play a technical expert role in the new legal framework. A similar and parallel role is proposed for the European Centre for Disease Prevention and Control (ECDC); however this has been covered by the ECDC extended mandate.

[3] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

The proposal includes the set-up of a central digital platform (the EU SoHO Platform), which will facilitate the monitoring of several indicators. For these, continuous information and data will be available. For monitoring the progress towards the achievement of the objectives of the new Regulation, the proposal plans for the preparation of an evaluation report that, in addition to the above information and data, will be based on the information and data collected via the EU SoHO Platform in relation to supervisory and SoHO activities, five years after the date of application of the Regulation. Member States will provide additional information necessary for such evaluation report.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The actions ensuring a high level of health protection for EU citizens that donate, or are in need of treatment with SoHOs will be implemented through direct management, using the implementation modes offered by the Financial Regulation, mainly being grants and procurement. Direct management allows to establish grant agreements/contracts with beneficiaries/contractors directly engaged in activities that serve Union policies. The Commission ensures direct monitoring over the outcome of the actions financed. The payment modalities of the actions funded will be adapted to the risks pertaining to the financial transactions.

In order to ensure the effectiveness, efficiency and economy of the Commission controls, the control strategy will be oriented towards a balance of ex-ante and ex-post checks and focus on three key stages of grant/contract implementation, in accordance with the Financial Regulation:

- selection of proposals/tenders that fit the policy objectives of the Regulation

- operational, monitoring and ex-ante controls that cover project implementation, public procurement, pre-financing, interim and final payments, management of guarantees

- ex-post controls at the beneficiaries/contractors' sites will also be carried out on a sample of transactions. The selection of these transactions will combine a risk assessment and a random selection.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

The implementation of the new Regulation on standards of safety and quality for SoHOs focuses on the attribution of public procurement contracts as well as a number of grants for specific activities and organisations.

The public procurement contracts will mainly be concluded in areas such as digitalisation, provision of consulting/expertise and training (to support uptake).

Grants will mainly be awarded for support activities to non-governmental organisations, respective competent authorities of the Member States, health and healthcare professional organisations, national agencies, etc. The period of execution of the subsidised projects and activities varies from one to three years mostly.

The main risks are the following:

• Risk of not fully achievening the objectives of the Regulation due to insufficient uptake or quality/delays in the implementation of the selected projects or contracts;

• Risk of inefficient or non-economic use of funds awarded, both for grants (complexity of funding rules) and for procurement (limited number of economic providers with the required specialist knowledge entailing insufficient possibilities to compare price offers in some sectors);

• Reputational risk for the Commission, if fraud or criminal activities are discovered; only partial assurance can be drawn from the third parties' internal control systems due to the rather large number of heterogeneous contractors and beneficiaries, each operating their own control system.

The Commission put in place internal procedures that aim at covering the risks identified above. The internal procedures are in full compliance with the Financial Regulation and include anti-fraud measures and cost-benefit considerations. Within this framework, the Commission continues to explore possibilities to enhance the management and to realise efficiency gains. Main features of the control framework are the following:

Controls before and during the implementation of the projects:

• An appropriate project management system will be put in place focusing on the contributions of projects and contracts to the policy objectives, ensuring a systematic involvement of all actors, establishing a regular project management reporting complemented by on-site-visits on a case by case basis, including risk reports to senior management, as well as maintaining appropriate budgetary flexibility.

• Model grant agreements and service contracts used are developed within the Commission. They provide for a number of control provisions such as audit certificates, financial guarantees, on-site audits as well as inspections by OLAF. The rules governing the eligibility of costs are being simplified, for example, by using unit costs, lump sums, contributions not linked to costs and other possibilities offered by the Financial Regulation. This will reduce the cost of controls and put the focus on checks and controls in high risk areas.

• All staff sign up to the code of good administrative behaviour. Staff who are involved in the selection procedure or in the management of the grant agreements/contracts (also) sign a declaration of absence of a conflict of interest. Staff is regularly trained and uses networks to exchange best practices.

• Technical implementation of a project is checked at regular intervals at the desk on the basis of technical progress reports of the contractors and beneficiaries; in addition contractors'/beneficiaries' meetings and on-site-visits are foreseen on a case by case basis.

Controls at the end of the project: Ex-post audits are performed on a sample of transactions to verify on-the-spot the eligibility of cost claims. The aim of these controls is to prevent, detect and correct material errors related to the legality and regularity of financial transactions. With a view to achieving a high control impact, the selection of beneficiaries to be audited foresees to combine a risk based selection with a random sampling, and to pay attention to operational aspects whenever possible during the on-site audit.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

The yearly costs of the suggested level of controls under the third Health programme 2014-2020 represented approximately 4 to 7% of the yearly budget of the operational expenditure. This is justified by the diversity of transactions to be controlled. Indeed, in the area of health, direct management involves the attribution of numerous contracts and grants for actions of very small to very large sizes, and the payment of numerous operating grants to non-governmental organisations. The risk related to these activities concerns the capacity of (especially) smaller organisations to effectively control expenditure.

The Commission considers that the average costs of controls is likely to be the same for the actions proposed under this Regulation.

Under the third Health Programme 2014-2020, on a 5 years basis, the error rate for the on-the-spot audits of grants under direct management was 1.8% while for procurement contracts it was below 1%. This level of error is considered acceptable, as it is under the materiality level of 2%.

The proposed actions will not affect the way the appropriations are currently managed. The existing control system proved to be able to prevent and/or to detect errors and/or irregularities, and in case of errors or irregularities, to correct them. It will be adapted to include the new actions and to ensure that residual error rates (after correction) remain below the threshold of 2%.

2.3. Measures to prevent fraud and irregularities

As for its activities in direct management, the Commission shall take appropriate measures ensuring that the financial interests of the European 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, proportional and deterrent penalties. To this effect, the Commission adopted an anti-fraud strategy, latest update of April 2019 (COM(2019) 196), covering notably the following preventive, detective and corrective measures:

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. OLAF shall be authorised to carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding.

The Commission also implements a series of measures such as:

- decisions, agreements and contracts resulting from the implementation of the Regulation will expressly entitle the Commission, including OLAF, and the Court of Auditors to conduct audits, on-the-spot checks and inspections and to recover amounts unduly paid and, where appropriate, impose administrative sanctions;

- during the evaluation phase of a call for proposals/tender, the applicants and tenderers are checked against the published exclusion criteria based on declarations and the Early Detection and Exclusion System (EDES);

- the rules governing the eligibility of costs will be simplified in accordance with the provisions of the Financial Regulation ;

- regular training on issues related to fraud and irregularities is given to all staff involved in contract management as well as to auditors and controllers who verify the beneficiaries' declarations on the spot.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.[4]	from EFTA countries[5]	from candidate countries[6]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
2b	06 06 01 - EU4Health Programme	Diff.	YES	YES	YES	NO

[4] Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
[5] EFTA: European Free Trade Association.
[6] Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

– ☐ The proposal/initiative does not require the use of operational appropriations

– X The proposal/initiative requires the use of operational appropriations, as explained below. Appropriations will be redeployed within the financial envelope allocated to the EU4Health programme in the MFF 2021-27.

EUR million (to three decimal places)

Heading of multiannual financial framework	2b	

DG: SANTE			Year **2024**[1]	Year **2025**	Year **2026**	Year **2027 and subsequent years**	**TOTAL**
○ Operational appropriations							
06 06 01 - EU4Health Programme	Commitments	(1a)	15.691	11.600	9.650	11.650	**48.592**
	Payments	(2a)	7.846	13.646	10.625	16.475	**48.592**
Budget line	Commitments	(1b)	15.691	11.600	9.650	11.650	**48.592**
	Payments	(2b)	7.846	13.646	10.625	16.475	**48.592**
TOTAL appropriations for DG SANTE	Commitments	=1a+1b +3	15.691	11.600	9.650	11.650	**48.592**
	Payments	=2a+2b +3	7.846	13.646	10.625	16.475	**48.592**

[1] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

○ TOTAL operational appropriations	Commitments	(4)						
	Payments	(5)						
○ TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)						
TOTAL appropriations under HEADING 2b of the multiannual financial framework	Commitments	=4+ 6	15.691	11.600	9.650	11.650		**48.592**
	Payments	=5+ 6	7.846	13.646	10.625	16.475		**48.592**

Heading of multiannual financial framework	7	'Administrative expenditure'

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year **2024**	Year **2025**	Year **2026**	Year **2027 and subsequent years**	**TOTAL**
DG: SANTE						
○ Human resources		0.804	0.804	0.804	0.804	**3.216**
○ Other administrative expenditure		0.901	0.901	0.901	0.901	**3.603**
TOTAL DG SANTE	Appropriations	1.705	1.705	1.705	1.705	6.819

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	1.705	1.705	1.705	1.705	**6.819**

EUR million (to three decimal places)

		Year **2024**	Year **2025**	Year **2026**	Year **2027 and subsequent years**	**TOTAL**
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	17.396	13.305	11.355	13.355	55.411
	Payments	9.550	15.350	12.330	18.180	55.411

3.2.2. Estimated output funded with operational appropriations

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ⇩			Year **2024**		Year **2025**		Year **2026**		Year **2027 and subsequent years**								**TOTAL**	
	OUTPUTS																	
	Type	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 Protect citizens																		
Number of technical standard updates				0.400		1.962		2.141		2.141								6.644
Subtotal for specific objective No 1				0.400		1.962		2.141		2.141								6.644
SPECIFIC OBJECTIVE No 2																		

Optimise access																
Numbers of donations, human applications, cross-border exchanges, imports and exports of critical BTC by Member state		1.791		3.219		3.255		3.255								11.520
Subtotal for specific objective No 2		1.791		3.219		3.255		3.255								11.520
SPECIFIC OBJECTIVE No 3 . Foster innovation																
The number of BTC processes		13.500		6.419		4.254		6.254								30.427
Subtotal for specific objective No 3		13.500		6.419		4.254		6.254								30.427
TOTALS		15.691		11.600		9.650		11.650								48.592

3.2.3. *Summary of estimated impact on administrative appropriations*

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

– X The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	2024	2025	2026	2027 and subsequent years				TOTAL
HEADING 7 of the multiannual financial framework								
Human resources	0.804	0.804	0.804	0.804				**3.216**
Other administrative expenditure	0.901	0.901	0.901	0.901				**3.603**
Subtotal HEADING 7 of the multiannual financial framework	**1.705**	**1.705**	**1.705**	**1.705**				**6.819**
Outside HEADING 7 of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 7 of the multiannual financial framework								
TOTAL	1.705	1.705	1.705	1.705				**6.819**

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

3.2.3.1. Estimated requirements of human resources

– ☐ The proposal/initiative does not require the use of human resources.

– X The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		2024	2025	2026	2027 and subsequent years	Total
○ Establishment plan posts (officials and temporary staff)						
20 01 02 01 (Headquarters and Commission's Representation Offices)		4	4	4	4	4
20 01 02 03 (Delegations)						
01 01 01 01 (Indirect research)						
01 01 01 11 (Direct research)						
Other budget lines (specify)						
○ External staff (in Full Time Equivalent unit: FTE)[1]						
20 02 01 (AC, END, INT from the 'global envelope')		2	2	2	2	2
20 02 03 (AC, AL, END, INT and JPD in the delegations)						
XX 01 xx **yy zz** [2]	- at Headquarters					
	- in Delegations					
01 01 01 02 (AC, END, INT - Indirect research)						
01 01 01 12 (AC, END, INT - Direct research)						
Other budget lines (specify)						
TOTAL		6	6	6	6	6

06 is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	AD for leading audits, central coordination and chairing of SoHO Coordination Board and sub-groups and AST for logistics and administrative tasks
External staff	SNEs with sector expertise

[1] AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

[2] Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.4. Compatibility with the current multiannual financial framework

The proposal/initiative:

– X can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

Appropriations will be redeployed within the financial envelope allocated to the EU4Health programme in the MFF 2021-27

– ☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

– ☐ requires a revision of the MFF.

3.2.5. Third-party contributions

The proposal/initiative:

– X does not provide for co-financing by third parties

– ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

3.3. Estimated impact on revenue

– X The proposal/initiative has no financial impact on revenue.

– ☐ The proposal/initiative has the following financial impact:

☐ on own resources

☐ on other revenue

please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….								

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).