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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Directive on the Union code relating to medicinal products for human use *- Analysis of the final compromise text with a view to agreement*

Delegations will find in Annex the final compromise text of the Directive on the Union code relating to medicinal products for human use.

ANNEX

Proposal for a

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DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Union code relating to medicinal products for human use, and repealing Directive 2001/83/EC and Directive 2009/35/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 Articles 114(1) and 168(4)(c) 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,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

PUBLIC

Whereas:

(1) The Union general pharmaceutical legislation was established in 1965 with the dual objective of safeguarding public health and harmonising the internal market for medicines. It has developed considerably since then, but these overarching objectives have guided all revisions. The legislation governs the granting of marketing authorisations for all medicines for human use by defining conditions and procedures to enter and remain on the market. A fundamental principle is that a marketing authorisation is granted only to medicines with a positive benefit-risk balance after assessment of their quality, safety and efficacy.

(2) The most recent comprehensive revision took place between 2001 and 2004 while targeted revisions on post-authorisation monitoring (pharmacovigilance) and on falsified medicines were adopted subsequently. In the almost 20 years since the last comprehensive revision, the pharmaceutical sector has changed and has become more globalised, both in terms of development and manufacture. Moreover, science and technology have evolved at a rapid pace. However, there continues to be unmet medical needs, i.e. diseases without or only with suboptimal treatments ***for the concerned patient populations***. Moreover, some patients may not benefit from innovation because medicines may be unaffordable or not placed on the market in the Member State concerned. There is also a greater awareness of the environmental impact of medicines. More recently, the COVID-19 pandemic has stress tested the framework.

PUBLIC

(2a) This Directive contributes to the implementation of the One Health Approach, stressing the well-established interconnectedness between human, animal and ecosystem health, and the need to include those three dimensions when addressing public health threats. Environmental stress and degradation, including biodiversity loss, contribute to the transmission of diseases between, and the disease burden of, humans and animals. In addition, pollution from active pharmaceutical ingredients negatively affects the quality of waters and ecosystems, causes antimicrobial resistance to increase rapidly, posing risks to public health globally.

(3) This revision is part of the implementation of the Pharmaceutical strategy for Europe and aims to promote innovation, in particular for unmet medical needs, while reducing regulatory burden and the environmental impact of medicines; ***create an attractive environment for research, development and manufacturing of medicines in the Union;*** ensure access***, including affordability,*** to innovative and established medicines for patients, with special attention to enhancing security of supply and addressing risks of shortages, taking into account the challenges of the smaller markets of the Union; and create a balanced and competitive system that keeps medicines affordable for health systems ***and patients*** while rewarding innovation.

(3a) Complementarily to this revision, the Union takes other actions, such as the Life Sciences Strategy, to strengthen the European pharmaceutical ecosystem to accelerate research and development of new medicinal products and support innovation.

PUBLIC

(3b) ***A range of Union programmes are used to fund pharmaceutical research projects, such as Horizon Europe, InvestEU, EU4Health, cohesion policy and the Digital Europe Programme. The Union should also prioritise in its research agenda participation in cross-country collaboration enabling transnational research to meet public health needs.***

(4) This revision focuses on provisions relevant to achieve its specific objectives; therefore it covers all but provisions concerning falsified medicines, homeopathic and traditional herbal ~~medicines~~***medicinal products***. Nevertheless, for the sake of clarity, it is necessary to replace Directive 2001/83/EC of the European Parliament and of the Council[~~1~~*1*] with a new Directive. The provisions on falsified medicines, homeopathic ~~medicines~~***medicinal products*** and traditional herbal medicines are therefore maintained in this Directive without changing their substance compared to previous harmonisations. However, in view of the changes in the governance of the Agency, the Herbal Committee is replaced by a working group. ***In addition, labeling requirements for homeopathic medicinal products have been updated to include additional information on the interaction between homeopathic medicinal products and other medicinal products.***

~~1~~ ~~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).~~

(5) The essential aim of any rules governing the authorisation, manufacturing, supervision, distribution and use of medicinal products must be to safeguard public health. Such rules should also ensure the free movement of medicinal products and the elimination of obstacles to trade in medicinal products to all patients in the Union.

(6) The regulatory framework for medicinal products ***for human*** use should also take into account the needs of the undertakings in the pharmaceutical sector and trade in medicinal products within the Union, without jeopardising the quality, safety and efficacy of medicinal products.

(7) The EU and all its Member States as parties to the United Nations Convention on the Rights of Persons with Disabilities are bound by its provisions to the extent of their competences. This includes the right to access information as set out in Article 21 and the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability as set in Article 25.

PUBLIC

(8) This revision maintains the level of harmonisation that has been achieved. Where necessary and appropriate, it further reduces the remaining disparities, by laying down rules on the supervision and control of medicinal products and the rights and duties incumbent upon the competent authorities of the Member States with a view to ensuring compliance with legal requirements. In the light of experience gained on the application of the Union pharmaceutical legislation and the evaluation of its functioning, the regulatory framework ~~need~~***needs*** to be adapted to scientific and technological progress, the current market conditions and economic reality within the Union. Scientific and technological developments induce innovation and development of medicinal products, including for therapeutic areas where there is still unmet medical need. To harness these developments, the Union pharmaceutical framework should be adapted to meet scientific developments such as genomics, accommodate cutting edge medicinal products, e.g. personalised medicinal products***, novel health treatments*** and technological transformation such as data analytics, digital tools and the use of artificial intelligence. These adaptations also contribute to competitiveness of the Union pharmaceutical industry.

PUBLIC

(8a) Without affecting the rules laid down in this Directive, Member States remain the sole responsible for their own national security. They are responsible in defending their essential state functions, including ensuring their territorial integrity and safeguarding national security. In particular, under Article 346 TFEU, no Member State is obliged to supply information the disclosure of which it considers contrary to the essential interests of its security. For this reason, Member States should be able to waive some of the information obligations related to the marketing of medicinal products when these medicinal products are supplied for military and defence purposes and insofar as the application of such requirements imply a risk to national security and defence.

PUBLIC

(9) Medicinal products for rare diseases and for children, should be subject to the same conditions as any other medicinal product concerning their quality, safety and efficacy, for example for what concerns the marketing authorisation procedures, quality and the pharmacovigilance requirements. However, specific requirements also apply to them considering their unique characteristics. Such requirements, which are currently defined in separate legislations, should be integrated in ***the*** general pharmaceutical legal framework in order to ensure clarity and coherency of all the measures applicable to these medicinal products. Furthermore, as some medicinal products authorised for use in children are authorised by the Member States, specific provisions should be integrated in this Directive. ***It is important to address problems encountered which concern medicinal products for children, such as the failure to timely accomplish paediatric clinical studies and to obtain data required for marketing authorisation, which results in significant delay in the approval of medicinal products for children compared to adults.***

PUBLIC

(10) The system of a directive and regulation for the general pharmaceutical legislation should be maintained to avoid fragmentation of national legislation on medicinal products for human use, given that the legislation is based on a system of national Member States and Union marketing authorisations. Member States national marketing authorisations are granted and managed on the basis of national law implementing the Union pharmaceutical law. The evaluation of the general pharmaceutical legislation has not shown that the choice of legal instrument has caused specific problems or created disharmonisation. In addition, a REFIT Platform[2] opinion in 2019 showed that there was not support among the Member States to turn Directive 2001/83/EC into a Regulation.

(11) The Directive should work in synergy with the Regulation to enable innovation and promote competitiveness of the Union pharmaceutical industry, in particular ***of*** SMEs. In this respect a balanced system of incentives is proposed that rewards innovation especially in areas of unmet medical need**,** and innovation that ~~reaches patients and improves access across~~***stems from development in*** the Union***. Moreover, companies are incentivised to apply early for marketing authorisations within the Union to bring innovation faster to the Union and its patients***. To make the regulatory system more efficient and innovation-friendly the Directive also aims at reducing administrative burden and simplifying procedures for undertakings.

[2] The EU's efforts to simplify legislation – 2019 Annual Burden survey, https://commission.europa.eu/system/files/2020-08/annual_burden_survey_2019_4_digital.pdf.

(11a) This Directive is consistent with the Union's objectives with regard to promotion of research, innovation, digitalisation, trade, international development and industrial competitiveness.

(12) The definitions and scope of ~~Directive 2001/83/EC~~ ***Union pharmaceutical legislation*** should be clarified in order to achieve high standards for the quality, safety and efficacy of medicinal products and to address potential regulatory gaps, without changing the overall scope, due to scientific and technological developments, e.g. low-volume products, bedside-manufacturing or personalised medicinal products that do not involve an industrial manufacturing process.

(13) To avoid the duplication of requirements for medicinal products in this Directive and in the Regulation, the general standards in regards to quality, safety ~~and~~***,*** efficacy ***and environmental risk*** of medicinal products laid down in this Directive shall be applicable to medicinal products covered by national marketing authorisation and also to medicinal products covered by centralised marketing authorisation. Therefore, the requirements for an application for medicinal product are valid for both, also the rules on prescription status, product information, regulatory protection and rules on manufacturing, supply, advertising, supervision and other national requirements shall be applicable to medicinal products covered by centralised marketing authorisation.

PUBLIC

(14) The determination of whether a product falls within the definition of a medicinal product must be made on a case-by-case basis taking into account the factors set out in this Directive, such as the product's presentation or pharmacological, immunological or metabolic properties.

(15) In order to take account both of the emergence of new therapies and of the growing number of so-called 'borderline' products between the medicinal product sector and other sectors, certain definitions and derogations should be modified, so as to avoid any doubt as to the applicable legislation. With the same objective of clarifying situations when a product fully falls within the definition of a medicinal product and also meet the definition of other regulated products, the rules for medicinal products under this Directive apply. Furthermore, to ensure the clarity of applicable rules, it is also appropriate to improve the consistency of the terminology of the pharmaceutical legislation and clearly indicate the products excluded from the scope of this Directive.

PUBLIC

(16) The new definition for a substance of human origin (SOHO) by the [SoHO Regulation] ***(EU) 2024/1938 of the European Parliament and the Council***[3] covers any substance collected from the human body in whatever manner, whether it contains cells or not and regardless of whether it meets the definition of 'blood', 'tissue' or 'cell', for example human breast milk, intestinal microbiota and any other SoHO that may be applied to humans in the future. Such substances of human origin, other than tissues and cells, may become SoHO derived medicinal products, other than ATMPs, when the SoHO is subject to an industrial process involving ***pooling of donations,*** systematisation, reproducibility and operations performed on a routine basis or batch-wise resulting in a product of standardised consistency. ***The pooling of a limited number of donations for the preparation of SoHOs is not in itself an industrial process.*** When a process concerns extraction of an active ingredient from the SoHO, other than tissues and cells, or a transformation of a SoHO, other than tissues and cells, by changing its inherent properties, this should also be considered a SoHO derived medicinal product. When a process concerns concentrating, separating***, inactivating pathogens*** or isolating elements ***[or a combination of these processes]*** in the preparation of ~~blood components, this~~ ***SoHO such a process in and of itself*** should ***normally*** not be considered as changing their inherent properties.

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[3] ***Regulation (EU) 2024/1938 of the European Parliament and of the Council of 13 June 2024 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 (OJ L 1938, 17.07.2024, p. 1)***

(17) For avoidance of doubt, the safety and quality of human organs intended for transplantation are regulated only by Directive 2010/53/EU of the European Parliament and of the Council[4], and the safety and quality of substances of human origin intended for medically assisted reproduction are regulated only by ~~[SoHO~~ Regulation ~~or if not in force, Directive 2004/23/EC]~~***(EU) 2024/1938 of the European Parliament and the Council***.

PUBLIC

[4] Directive 2010/45/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).

(18) Advanced therapy medicinal products ~~that are~~***(ATMPs)*** prepared on a non-routine basis according to specific quality standards, and used within the same Member State in a hospital under the exclusive professional responsibility of a medical practitioner, in order to comply with an individual medical prescription for a custom-made product for an individual patient, should be ~~excluded~~***subject to an exemption*** from the ~~scope of~~***general requirements set in*** this Directive ~~whilst at the same time~~***and the [revised Regulation (EU) No. 726/2004], while*** ensuring that relevant Union rules related to quality and safety are not undermined ('hospital exemption'). Experience has shown that there are ~~great differences~~***significant variations*** in the ~~application~~***implementation*** of hospital exemption among Member States. To improve the ~~application of~~***implementation of the*** hospital exemption***,*** this Directive introduces measures for collection, reporting of data as well as review of these data yearly by the competent authorities and their publication by the Agency in a repository. Furthermore, the Agency should ~~provide~~***prepare*** a report on the implementation of hospital exemption ***based*** on ~~the basis of~~ contributions from Member States ~~in order to examine~~***to assess*** whether an adapted framework should be ~~established~~***developed*** for certain less complex ATMPs that have been developed and used under the hospital exemption. When an ~~authorisation~~***approval*** for the manufacturing and use of an ATMP under hospital exemption is revoked ~~because of~~***due to*** safety concerns, the relevant competent authorities ~~shall inform the~~***should notify the Agency, which should then disseminate this information to the other Member States'*** competent authorities ~~of other Member States~~.

(18a) In accordance with scientific knowledge, haptens, when combined with an endogenous carrier substance, are allergens and should be construed as such for the purpose of pharmaceutical legislation.

(19) This Directive should be without prejudice to the provisions of Council Directive 2013/59/Euratom[5], including with respect to justification and optimisation of protection of patients and other individuals subject to medical exposure to ionising radiation. In the case of radiopharmaceuticals used for therapy, marketing authorisations, posology and administration rules have to notably respect that Directive's requirements that exposures of target volumes are to be individually planned, and their delivery appropriately verified taking into account that doses to non-target volumes and tissues are to be as low as reasonably achievable and consistent with the intended therapeutic purpose of the exposure.

[5] Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1).

(20) In the interest of public health, a medicinal product should only be allowed to be placed on the market in the Union when the marketing authorisation has been granted to the medicinal product, and its quality, safety and efficacy have been demonstrated. However, exemption should be provided from this requirement in situations characterised by an urgent need to administer a medicinal product to address the specific needs of a patient, or confirmed spread of pathogenic agents, toxins, chemical agents or nuclear radiation that could cause harm. In particular, to fulfil special needs, Member States should be allowed to exclude from the provisions of this Directive medicinal products supplied in response to a bona fide unsolicited order ***or anticipated bonafide unsolicited order***, formulated in accordance with the specifications of an authorised healthcare professional and for use ~~by an~~***to fullfill the needs of*** individual ~~patient~~***patients*** under their direct personal responsibility. Member States should be also allowed to temporarily authorise the distribution of an unauthorised medicinal product in response to a suspected or confirmed spread of pathogenic agents, toxins, chemical agents or nuclear radiation any of which could cause harm.

PUBLIC

(20a) Pharmacies, including hospital pharmacies, play a crucial role in providing medicinal products to patients. They may prepare specific formulations, known as magistral formulas, tailored to individual needs of patients based on the instructions of a doctor. In certain situations, it may be necessary to cater for the needs of individual patients to prepare these formulations in advance on the basis of anticipated prescriptions within a defined period. This could include for example cases where these formulations would need to be immediately available because of the urgency of the situation or in situations where in advance preparations would be required for reasons of dose accuracy and quality of the specific medicinal product. Purely financial reasons should not justify the use of this possibility.

(20b) Additionally, pharmacies are responsible for creating standard pharmaceutical preparations, referred to as officinal formulas. These are made according to established guidelines found in pharmacopeias. Officinal formulas are designed for general use and adhere to standardised recipes that are set by authoritative pharmaceutical bodies. Unlike magistral formulas, they are not customised for individual patients. Generally, these preparations are exempt from authorisation requirements outlined in this Directive, though they may still be subject to national regulations.

PUBLIC

(20c) In exceptional cases, to ensure availability of the concerned medicinal products or suitable alternatives for their patients, the Directive allows Member States to exclude medicinal products from the scope to fulfil special needs of individual patients. In addition, to effectively mitigate shortages, it is important to address the patients' needs on population level and allow the preparation of medicinal products, under strict conditions. Any other reasons, such as financial interests, should not be a justification for allowing these exemptions. Such exceptions should never be aimed at distorting competition and should be interpreted narrowly, and only used to mitigate or resolve a shortage or in a situation where there is no relevant authorised product available on the market. Member States should, in any event, undertake their best efforts to find suitable alternatives under the rules set out in this Directive and Regulation [revised 726/2004].

(20d) It is recognised that improved access to information contributes to public awareness about the assessment and authorisation of medicinal products. When assessing the marketing authorisation application of the medicinal product, the competent authority of the Member State should draw up the assessment report on the quality, safety, efficacy, and the environmental risk assessment, as applicable, of the medicinal product and the reasons for its opinion. The competent authority of the Member State should make publicly available a summary of the assessment report and a summary of the environmental risk assessment, after the deletion of any information of a commercially confidential nature and written in a manner that is understandable to the public. To the extent information under the ERA would entail environmental information under Directive 2003/4, the provisions in that Directive apply.

PUBLIC

(21) Marketing authorisation decisions should be taken on the basis of the objective scientific criteria of quality, safety and efficacy of the medicinal product concerned, to the exclusion of economic or any other considerations. However, Member States should be able exceptionally to prohibit the use in their territory of medicinal products.

(22) The particulars and documentations that are to accompany an application for marketing authorisation for a medicinal product demonstrate that the therapeutic efficacy of the product overweight potential risks. The benefit-risk balance of all medicinal products will be assessed when they are placed on the market, and at any other time the competent authority deems appropriate.

(22a) In the context of medicines development and authorisation, it is crucial that particular attention is given to the composition of clinical trials, to ensure comprehensive clinical data and, where appropriate, gender-based equity.

(23) As market forces alone have proven insufficient to stimulate adequate research into, and the development and authorisation of, medicinal products for the paediatric population, a system of both obligations and rewards and incentives has been put in place.

PUBLIC

(24) It is therefore necessary to introduce a requirement for new medicinal products or when developing paediatric indications of already authorised products covered by a patent or a supplementary protection certificate to present either the results of studies in the paediatric population in accordance with an agreed paediatric investigation plan or proof of having obtained a waiver or deferral, at the time of filing a marketing authorisation application or an application for a new therapeutic indication, new pharmaceutical form or new route of administration. However, in order to avoid exposing ***patients, especially*** children, to unnecessary clinical trials or due to the nature of the medicinal products, that requirement should not apply to generics or similar biological medicinal products and medicinal products authorised through the well-established medicinal use procedure, nor to homeopathic medicinal products and traditional herbal medicinal products authorised through the simplified registration procedures of this Directive.

(25) In order to ensure that the data supporting the marketing authorisation concerning the use of a product in children to be authorised under this ~~regulation~~***Directive and [revised Regulation 726/2004]*** have been correctly developed, the competent authorities should check compliance with the agreed paediatric investigation plan and any waivers and deferrals at the validation step for marketing authorisation applications.

PUBLIC

(26) In order to reward the compliance with all the measures included in the agreed paediatric investigation plan, for products covered by a supplementary protection certificate, if relevant information on the results of the studies conducted is included in the product information, a reward should be granted in the form of a six month extension of the supplementary protection certificate created by [Regulation (EC) No 469/2009 of the European Parliament and of the Council[6]- OP please replace reference by new instrument when adopted].

(27) Certain particulars and documentation that are normally to be submitted with an application for a marketing authorisation should not be required if a medicinal product is a generic medicinal product or a ~~similar biological~~***biosimilar*** medicinal product ~~(biosimilar)~~ that is authorised or has been authorised in the Union. Both generic and biosimilar medicinal products are important to ensure access of medicinal products to a wider patient population***, at more affordable prices*** and create a competitive internal market. In a joint statement authorities of the Member States confirmed that the experience with approved biosimilar medicinal products over the past 15 years has shown that in terms of efficacy, safety and immunogenicity they are comparable to their reference medicinal product and are therefore interchangeable and can be used instead of its reference product (or vice versa) or replaced by another biosimilar of the same reference product.

[6] Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ L 152, 16.6.2009, p. 10).

(28) Experience has shown that it is advisable to stipulate precisely the cases in which the results of toxicological and pharmacological tests or clinical studies do not have to be provided with a view to obtaining authorisation for a medicinal product that is essentially similar to an authorised product, while ensuring that innovative undertakings are not placed at a disadvantage. For these specified categories of medicinal products an abridged procedure allows applicants to rely on data submitted by previous applicants and therefore to submit only some specific documentation.

(29) For generic medicinal products only the equivalence of the generic medicinal product with the reference medicinal product has to be demonstrated. For biological medicinal products, only the results of comparability tests and studies are provided to the competent authorities. For hybrid ***and bio-hybrid*** medicinal products i.e. in cases where the medicinal product does not fall within the definition of a generic ***or biosimilar*** medicinal product or has changes in strength, pharmaceutical form, route of administration or therapeutic indications, compared to the reference medicinal product, the results of the appropriate non-clinical tests or clinical studies shall be provided to the extent necessary to establish a scientific bridge to the data relied upon in the marketing authorisation for the reference medicinal product. The same applies to bio-hybrids i.e. in cases where a biosimilar medicinal product has changes in strength, pharmaceutical form, route of administration or therapeutic indications, compared to the reference biological medicinal product. In the latter two situations, the scientific bridge establishes that the active substance of the hybrid does not differ significantly in properties with regard to safety or efficacy. Where it differs significantly in respect of those properties, the applicant needs to submit a full application.

PUBLIC

(30) Regulatory decision-making on the development, authorisation and supervision of medicines may be supported by access and analysis of health data, including real world data i.e. health data generated outside of clinical studies~~,~~ where appropriate. The competent authorities should be able to use such data, including via the European Health Data Space interoperable infrastructure. ***Data generated via in silico methods, such as computational modelling and simulation, molecular modelling, mechanistic modelling, digital twin and artificial intelligence, where appropriate, could also be used to support regulatory decision making.***

PUBLIC

(31) ~~Directive 2010/63/EU of the European Parliament and of the Council[7] lays down provisions on the protection of animals used for scientific purposes based on the principles of replacement, reduction and refinement.~~ Any study involving the use of animals, which provides essential information on the quality, safety and efficacy of a medicinal product, should take into account ~~those~~***the*** principles of replacement, reduction and refinement ***and apply them in compliance with Directive 2010/63/EU***, where they concern the care and use of live animals for scientific purposes, and should ***only be used as necessary and*** be optimised in order to provide the most satisfactory results whilst using the minimum number of animals. The procedures of such testing should be designed to avoid causing pain, suffering, distress or lasting harm to animals and should follow the available EMA and ICH guidelines. ~~In particular,~~ The marketing authorisation applicant ~~and the marketing authorisation holder~~ should ~~take into account the principles laid down in Directive 2010/63/EU, including,~~***not carry out animal tests*** where ~~possible, use new approach methodologies in place of animal~~***scientifically satisfactory non-animal*** testing ***methods are available***. These can include but are not limited to: in vitro models, such as microphysiological systems including organ-on-chips, (2D and 3D-) cell culture models, organoids and human stem cells-based models; in silico tools or read-across models. ***Where scientifically satisfactory non-animal testing methods are not available, applicants that use animal testing should ensure that the rules of Directive 2010/63/EU are applied, including the principles of reduction and refinement of animal testing for scientific purposes with regard to any animal study conducted for the purpose of supporting the application.***

~~[7] Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes (OJ L 276, 20.10.2010, p. 33).~~

(32) Procedures should be in place to facilitate joint animal testing, wherever possible, in order to avoid unnecessary ~~duplication of~~ testing using live animals covered by Directive 2010/63/EU. Marketing authorisation applicants and marketing authorisation holders should make all efforts to reuse animal study results and make the results obtained from animal studies publicly available. For abridged applications marketing authorisation applicants should refer to the relevant studies conducted for the reference medicinal product.

(33) With respect to clinical trials, in particular those conducted outside the Union, on medicinal products destined to be authorised within the Union, it should be verified, at the time of the evaluation of the marketing authorisation application, that these trials were conducted in accordance with the principles of good clinical practice and the ethical requirements equivalent to the provisions of Regulation (EU) 536/2014 of the European Parliament and of the Council[8].

[8] 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).

(34) There is the possibility under certain circumstances for marketing authorisations to be granted, subject to specific obligations or conditions, on a conditional basis or under exceptional circumstances. The legislation should allow under similar circumstances for medicinal products with a standard marketing authorisation for new therapeutic indications to be authorised on a conditional basis or under exceptional circumstances. The products authorised on a conditional basis or under exceptional circumstances should in principle satisfy the requirements for a standard marketing authorisation with the exception of the specific derogations or conditions outlined in the relevant conditional or exceptional marketing authorisation and shall be subject to specific review of the fulfilment of the imposed specific conditions or obligations. The grounds for refusal of a marketing authorisation should apply mutatis mutandis for such cases.

(34a) In justified cases, even when comprehensive safety and efficacy data have been supplied, post-authorisation studies could be imposed to enhance the safe and effective use of the medicinal product or to allow for evidence-based treatment optimisation.

PUBLIC

(34b) Furthermore, it should be possible to impose marketing authorisation holders to conduct post-authorisation environmental risk assessment studies, collection of monitoring data or information on use, or to implement appropriate risk mitigation measures, where identified or potential concerns about risks to the environment or public health, including antimicrobial resistance need to be further investigated or mitigated after the medicinal product has been marketed.

(34c) Where the competent authorities consider that there are reasons to believe that a medicinal product could present a potential serious risk to human health, a scientific evaluation of the medicinal product should be undertaken, subject to the relevant procedures, leading to a decision whether to maintain, vary, suspend or revoke the marketing authorisation. The competent authorities should also be able to act where the conditions attached to the authorisation are not complied with, including the condition to conduct post-authorisation environmental risk assessment studies.

PUBLIC

(35) With the exception of those medicinal products that are subject to the centralised authorisation procedure established by [revised Regulation (EU) No. 726/2004], a marketing authorisation for a medicinal product should be granted by a competent authority in one Member State. In order to avoid unnecessary administrative and financial burdens for applicants and competent authorities, a full in-depth assessment of an application for the authorisation of a medicinal product should be carried out only once. It is appropriate therefore to lay down special procedures for the mutual recognition of national authorisations. Moreover, it should be possible to submit ***through decentralised procedure*** the same application in parallel in several Member States for the purpose of a common assessment under the lead of one of the Member States concerned.

(36) Moreover, rules should be established under those procedures to resolve any disagreements between competent authorities in a coordination group for mutual recognition and decentralised procedures medicinal products ('the coordination group') without undue delay. In the event of a disagreement between Member States about the quality, the safety or the efficacy of a medicinal product, a scientific evaluation of the matter should be undertaken according to a Union standard, leading to a single decision on the area of disagreement binding on the Member States concerned. Whereas this decision should be adopted by a rapid procedure ensuring close cooperation between the Commission and the Member States.

PUBLIC

(37) In certain cases of major disagreement that cannot be solved, the case should be ~~escalated and be subject to a scientific opinion of the Agency, which is then~~ implemented through a Commission Decision. ***However, the matter could be referred to the Committee for Medicinal Products for Human Use for a scientific opinion before the implementation.***

(38) In order to better protect public health and avoid any unnecessary duplication of effort during the examination of application for a marketing authorisation for medicinal products, Member States should systematically prepare assessment reports in respect of each medicinal product that is authorised by them, and exchange the reports upon request. Furthermore, a Member State should be able to suspend the examination of an application for authorisation to place a medicinal product on the market that is currently under active consideration in another Member State with a view to recognising the decision reached by the latter Member State.

(39) In the interest of as broad as possible access to medicinal products, a Member State that has an interest in receiving access to a particular medicinal product undergoing authorisation through the decentralised and mutual recognition procedures should be able to opt-into that procedure.

PUBLIC

(40) In order to increase availability of medicinal products, in particular on smaller markets, it should, in cases where an applicant does not apply for an authorisation for a medicinal product in the context of the mutual-recognition procedure in a given Member State, be possible for that Member State, for justified public health reasons, to authorise the placing on the market of the medicinal product.

(41) In the case of generic medicinal products of which the reference medicinal product has been granted a marketing authorisation under the centralised procedure, applicants seeking marketing authorisation should be able to choose either of the two procedures, on certain conditions. Similarly, the mutual-recognition or decentralised procedure should remain available as an option for certain medicinal products, even if they represent a therapeutic innovation or are of benefit to society or to patients. Since generic medicines account for a major part of the market in medicinal products, their access to the Union market should be facilitated in the light of the experience acquired, therefore, the procedures to include other Member States concerned to such procedure should be further simplified.

(42) The simplification of procedures should not have an impact on standards or the quality of scientific evaluation of medicinal products to guarantee the quality, safety and efficacy and therefore, the scientific evaluation period should remain. However, the reduction of overall period for marketing authorisation procedure from 210 days to 180 days is foreseen.

PUBLIC

(43) Member States should ensure adequate funding of competent authorities to carry out their tasks under this Directive and [revised Regulation (EU) 726/2004]. In addition, Member States should ensure adequate resources are assigned by the competent authorities for the purpose of their contributions to the work of the Agency, taking into account the cost-based remuneration they receive from the Agency.

(44) As regards access to medicinal products, previous amendments to the Union pharmaceutical legislation have addressed this issue by providing for accelerated assessment of marketing authorisation applications or by allowing conditional marketing authorisation for medicinal products for unmet medical need. While these measures accelerated the authorisation of innovative and promising therapies ***in some areas, certain public health priorities remain unaddressed. Additionally***, these medicinal products do not always reach the patient and patients in the Union still have different levels of access to medicinal products. Patient access to medicinal products depends on many factors. Marketing authorisation holders are not obliged to market a medicinal product in all Member States; they may decide not to market their medicinal products in, or withdraw them from, one or more Member States ***often due to commercial reasons***. National pricing and reimbursement policies, the size of the population, the organisation of health systems and national administrative procedures are other factors influencing market launch and patient access.

PUBLIC

(45) Addressing unequal patient access and affordability of medicinal products has become a key priority of the Pharmaceutical Strategy for Europe, as also highlighted by Council conclusions[~~9~~*1*] and a resolution of the European Parliament[~~10~~*2*]. Member States called for revised mechanisms and incentives for development of medicinal products tailored to the level of unmet medical need, while ensuring health system sustainability, patient access and availability of affordable medicinal products in all Member States. ***Monitoring and evaluating access to medicinal products at Union level is important to understand the results achieved.***

(46) Access also comprise affordability. In this regard, the Union pharmaceutical legislation respects the competence of the Member States in terms of pricing and reimbursement. In a complementary manner, it aims to have a positive impact on affordability and sustainability of health systems with measures that support competition from generic and biosimilar medicinal products. The competition from generic and biosimilar medicinal products should also, in turn, increase patient access to medicinal products.

PUBLIC

~~9~~ ~~Council conclusions on strengthening the balance in the pharmaceutical systems in the EU and its Member States, (OJ C, C/269, 23.07.2016, p. 31). Council Conclusions on Access to medicines and medical devices for a Stronger and Resilient EU, (2021/C 269 I/02).~~

~~10~~ ~~European Parliament resolution of 2 March 2017 on EU options for improving access to medicine (2016/2057(INI)) Shortages of medicines, 2020/2071(INI).~~

(47) To ensure dialogue among all actors in the medicines lifecycle, discussions on policy issues related to the application of the rules related to ~~prolongation of regulatory data protection for market launch~~***access and availability of medicinal products*** shall take place in the Pharmaceutical Committee. The Commission may invite bodies responsible for health technology assessment as referred to in Regulation (EU) 2021/2282 or national bodies responsible for pricing and reimbursement, as required, to participate in the deliberations of the Pharmaceutical Committee.

(48) While pricing and reimbursement decisions are a Member State competence, the Pharmaceutical Strategy for Europe announced actions to support cooperation of Member States to improve affordability. The Commission has transformed the group of National Competent Authorities on Pricing and Reimbursement and public healthcare payers (NCAPR) from an ad-hoc forum to a continuous voluntary cooperation with the aim to exchange information and best practices on pricing, payment and procurement policies to improve the affordability and cost-effectiveness of medicines and health system's sustainability. The Commission is committed to stepping up this cooperation and further supporting information exchange among national authorities, including on public procurement of medicines, while fully respecting the competences of Member States in this area. The Commission may also invite NCAPR members to participate in deliberations of the Pharmaceutical Committee on topics that may have an impact on pricing or reimbursement policies, such as the market launch incentive.

PUBLIC

(49) Joint procurement, whether within a country or across countries, can improve access, affordability, and security of supply of medicines, in particular for smaller countries. Member States interested in joint procurement of medicines can make use of Directive 2014/24/EU[11], which sets out purchasing procedures for public buyers, the Joint Procurement Agreement[12] and the proposed revised Financial Regulation[13]. Upon request from the Member States the Commission may support interested Member States by facilitating coordination to enable access to medicines for patients in the Union as well as information exchange, in particular for medicines for rare and chronic diseases.

PUBLIC

[11] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

[12] Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU.

[13] COM/2022/223 final.

(50) The establishment of a criteria-based definition of 'unmet medical need' is required to incentivise the development of medicinal products in therapeutic areas that are currently underserved. To ensure that the concept of unmet medical need reflects scientific and technological developments and current knowledge in underserved diseases, the ~~Commission~~***Agency*** should***, in the form of scientific guidelines,*** specify ~~and update using implementing acts, the criteria of satisfactory method~~***the conditions concerning clinically relevant improvement in efficacy, or in safety with at least comparable efficacy, in comparison with existing medicinal products or other methods*** of diagnosis, prevention or treatment~~, 'remaining high morbidity or mortality', 'relevant patient population' following scientific~~ ***authorised in the Union. The guidelines should cover clinical efficacy endpoints such as survival, symptoms and health-related quality of life, and clinical safety endpoints such as side effects, and provide further technical details regarding their*** assessment~~ by the Agency~~.~~-~~The Agency ~~will~~***should*** seek input from a broad range of authorities or bodies active along the lifecycle of medicinal products in the framework of the consultation process established under the [revised Regulation (EC) No 726/2004] and also take into account scientific initiatives at EU level or between Member States related to analysing unmet medical needs, burden of disease and priority setting for research and development. The ~~criteria for 'unmet medical need' can be subsequently used by Member States to identify specific therapeutic areas of interest~~***Agency should also seek input from other relevant stakeholders, including relevant patient populations***.

(51) The inclusion of new therapeutic indications to an authorised medicinal products contributes to the access of patients to additional therapies and therefore should be incentivised.

(51a) Repurposing of medicinal products to new therapeutic indications should be supported as it can provide significant health benefits to patients in a timely and affordable manner.

(52) For the ~~initial~~ marketing authorisation application for medicinal products containing a new active substance, the submission of clinical trials that include ~~as a comparator~~ an evidence-based existing treatment ***as a comparator, in line with a scientific advice by the Agency,*** should be incentivised~~,~~. ***This is*** in order to foster the generation of comparative clinical evidence that is relevant and can accordingly support subsequent health technology assessments and decisions on pricing and reimbursement by Member States.

(52a) The Agency and national competent authorities should support the design of comparative clinical trials, wherever possible, when providing pre-authorisation scientific advice.

PUBLIC

(53) A marketing authorisation holder should***, within the limits of its responsibility,*** ensure the appropriate and continuous supply of a medicinal product throughout its lifetime ~~irrespective of whether that~~***, including by ensuring appropriate stock levels, to wholesale distributors, pharmacies or persons authorised to supply*** medicinal ~~product is covered by a~~***products so that the needs of patients in the Member State in question are met. Member States may specify the obligation in national law to the effect that sufficient supplies to wholesalers are necessary to ensure an adequate*** supply ~~incentive or not~~***to the patients in the Member State in question***.

PUBLIC

(53a) Access to medicinal products in all Member States and guaranteeing a timely, stable, reliable and high-quality supply of medicinal products is an essential objective to achieve an overall high level protection of human health in the Member States, thus contributing to the protection of human health and human life in the Union. The responsibility of ensuring a timely, adequate and continuous supply of medicinal products so that to ensure that the needs of patients in a Member State are covered rests, mainly, on the marketing authorisation holder. In principle, when a marketing authorisation is granted, the medicinal product is placed on the market by the marketing authorisation holder on its own initiative. Practice shows, however, that in certain Member States the placing on the market of authorised medicinal products does not occur or is delayed or occurs in quantities that do not correspond to the needs of those Member States. Therefore, Member States should, based on grounds of public health protection with due regard to the principle of proportionality and in compliance with Union law, in particular concerning the free movement of goods and competition, be enabled to require to the MAHs specific actions with a view to comply with their market launch and supply obligations pursuant to this Directive and [revised Regulation 726/2004/EC]. To this aim, Member States should be able to request the marketing authorisation holder, one or more of the following actions: to submit a valid application for pricing and reimbursement, to participate in any relevant national procurement procedures or draw up and implement a roll-out plan that is acceptable for that Member State. The implementation of the roll-out plan should ensure sufficient and continuous supply to meet the needs of the patients in that Member State.

PUBLIC

(53b) A roll out plan aims at ensuring a predictable and continuous supply of medicinal products in a given Member State. It responds to the need of coordinated planning between the marketing authorisation holder and the competent authorities of the Member State and it would allow national authorities to anticipate availability and plan public-health measures and companies to plan manufacturing and distribution. Following a request by a Member State, the marketing authorisation holder should draw up a roll out plan specifying the quantities and timing of supply of the medicinal product for a defined period of time taking into account the supply needs declared by the Member State and other objective considerations such manufacturing or distribution capacity. Based on the draft roll out plan submitted by the marketing authorisation holder, the Member State and the marketing authorisation holder should discuss the plan which will require the final agreement of the Member State. Later, both the Member State and the marketing authorisation holder may require an update of the roll-out plan, to reflect any important developments such as evolving demand, or changes in manufacturing or distribution capacity. For the development, agreement, adaptations and effective implementation of the roll-out plan, the marketing authorisation holder and the Member State should be obliged to cooperate fully and provide timely and accurate information.

~~(54) Micro, small and medium-sized enterprises ('SMEs'), not-for-profit entities or entities with limited experience in the Union system should benefit from additional time to market a medicinal product in the Member States where the marketing authorisation is valid for the purposes of receiving additional regulatory data protection.~~

PUBLIC

(55) ~~When applying the provisions on market launch incentives,~~ Marketing authorisation holders and Member States should do their utmost to achieve a mutually agreed supply of medicinal products in accordance with the needs of the Member State concerned, without unduly delaying or hindering the other party from enjoying its rights under this Directive.

~~(56) Member States have the possibility to waive the condition of launch in their territory for the purpose of the prolongation of data protection for market launch. This can be done through a statement of non-objection to prolong the period of regulatory data protection. This is expected to be the case particularly in situations where launch in a particular Member State is materially impossible or because there are special reasons why a Member State wishes that launch take place later.~~

~~(57) The issuing of documentation from the Member States as regards the prolongation of data protection for the purpose of supply of medicinal products in all Member States where a marketing authorisation is valid, in particular the waiver to the conditions for such prolongation, does not affect at any time the powers of the Member States as regards the supply, setting of prices for medicinal products or their inclusion in the scope of national health insurance schemes. Member States do not waive the possibility to request release or supply of the product concerned at any time before, during or after the prolongation of the data protection period.~~

PUBLIC

~~(58) An alternative way of demonstrating supply relates to the inclusion of medicinal products in a positive list of medicinal products covered by the national health insurance system in accordance with Directive 89/105/EEC. The related negotiations between companies and the Member State should be conducted in good faith.~~

(58a) Cross-border healthcare, including under the provisions of Directive 2011/24/EU, is an additional pathway for patients to access a treatment that might otherwise not be available to them, notably in cases where the medicinal product cannot be administered to the patient in their home Member State.

~~(59) A Member State that considers that the conditions of supply have not been met for its territory should provide a reasoned statement of non-compliance at the latest in the Standing Committee on Medicinal Products for Human Use procedure of the variation linked to the provision of the relevant incentive.~~

~~(60) The Commission and Member States shall continuously monitor any data and learnings from the application of the incentives system in order to improve, including through implementing acts, how these provisions are applied. The Commission shall establish a list of national contact points in this regard.~~

PUBLIC

(61) ***The possibility of using compulsory licences in situations of national emergency or other circumstances of extreme urgency is explicitly provided for under the TRIPS Agreement.*** When a compulsory licence has been granted by a relevant authority in the Union***[pursuant to Reg…] or national compulsory licensing frameworks*** ~~to tackle a public health emergency~~, regulatory data protection may, if still in force, prevent the effective use of the compulsory licence as they impede the authorisation of generic medicinal products, and thus access to the medicinal products needed to address the crisis. For this reason, data and market protection should be suspended when a compulsory licence has been issued ~~to tackle a public health emergency~~. Such a suspension of the regulatory data protection should be allowed only in relation to the compulsory licence granted and its beneficiary. The suspension shall comply with the objective, the territorial scope, the duration and the subject matter of the granted compulsory licence.

(62) The suspension of the regulatory data protection should be granted only for the duration of the compulsory licence ***in the Member States where the compulsory licence has been granted.*** A 'suspension' of data and market protection ~~in cases of public health emergency~~ shall mean that data and market protection shall produce no effect in relation to the particular licensee of the compulsory licence while that compulsory licence is in effect. When the compulsory licence ends, the data and market protection shall resume their effect. ***However, the period of compulsory licencing should not be recouped, and therefore*** the suspension should not result in an extension of the original duration ***of the regulatory protection***.

(63) It is currently possible for applicants for marketing authorisation of generic, biosimilar, hybrid and bio-hybrid medicinal products to conduct studies, trials and the subsequent practical requirements necessary to obtain regulatory approvals for those medicinal products during the term of protection of the patent or Supplementary Protection Certificate (SPC) of the reference medicinal product, without this being considered patent or SPC infringement. The application of this limited exemption is however fragmented across the Union and it is considered necessary, in order to facilitate the market entry of generic, biosimilar, hybrid and bio-hybrid medicinal products ~~that rely on a reference medicinal product,~~ to clarify its scope in order to ensure a harmonised application in all Member States, both in terms of beneficiaries and in terms of activities covered. The exemption must be confined to conduct ***the necessary*** studies ~~and~~**,** trials and other activities needed for ~~the regulatory approval process~~***obtaining a marketing authorisation***, ***conducting*** health technology assessment and ***obtaining*** pricing ***and*** reimbursement ~~request~~***approvals as well as submitting an application on procurement tenders, to the extent that the submission of an application on procurement tenders does not entail the sale or offering to sale during the term of protection***, even though ~~this~~***these activities*** may require substantial amounts of test production to demonstrate reliable manufacturing. During the term of protection of the patent or SPC of the reference medicinal product, there can be no commercial use of the resulting final medicinal products obtained for the purposes of the regulatory approval process.

(64) ~~It~~***The exemption*** will allow~~,~~ inter alia, to conduct studies to support pricing and reimbursement as well as the manufacture or purchase of patent protected active substances for the purpose of seeking marketing authorisations during that period, contributing to the market entry of generics and biosimilars on day one of loss of the patent or SPC protection ***and timely access to these products***.

(65) The competent authorities should refuse the validation for an application for a marketing authorisation referring to data of a reference medicinal product only on the basis of the grounds set out in this Directive. The same applies to any decision to grant, vary, suspend, restrict or revoke the marketing authorisation. The competent authorities cannot base their decision on any other grounds. In particular, those decisions cannot be based on the patent or SPC status of the reference medicinal product. ***From these rules it also stems that the protection of intellectual property rights does not represent a valid ground to refuse, revoke or suspend decisions related to relevant pricing and reimbursement, health technology assessment procedures, or where applicable, application for procurement tenders. Member States remain free to introduce rules to ensure the readiness to supply a medicinal product on the market of that Member State for the period when the patent and SPC have expired.***

PUBLIC

(65a) The One Health Approach is needed in order to address antimicrobial resistance, one of the most significant, current health threats. High levels of cooperation are required across sectors and globally. This Directive puts in place coordinated action in order to ensure prevention and minimisation of environmental risks throughout the supply chain, use and disposal, awareness raising among patients, consumers and healthcare professionals and prudent and responsible use of antimicrobials.

(66) In order to address the challenge of antimicrobial resistance***, where the pack is intended for direct dispensing to patient***, antimicrobials should be packaged in quantities that are appropriate for the therapy cycle relevant for that product and national rules on antimicrobial subject to prescription ensure that they are dispensed in a way that corresponds to the quantities described by the prescription.

(67) The provision of information to healthcare professionals and to patients on the appropriate use, storage and disposal of antimicrobials is a joint responsibility of marketing authorisation holders and of Member States***. Member States*** ~~who~~ should ensure appropriate collection ***and management*** system for all ***unused or expired*** medicinal products.

PUBLIC

(67a) Pharmacists and other health care professionals should play a role in antimicrobial stewardship, including advising on the prudent use of antibiotics and other antimicrobials, as well as their correct disposal.

(68) While this Directive restricts the use of antimicrobials by setting ~~certain~~ categories of antimicrobials under prescription status, due to the growing antimicrobial resistance in the Union, competent authorities of the Member States should consider further measures ~~for example~~ expanding the prescription status of antimicrobials***, initiatives for prudent use of antimicrobials in hospitals taking into account that the combined use of several antimicrobial active substances may represent a particular risk, sufficient training of healthcare professionals on stewardship regarding the use of antimicrobials and*** ~~or~~ the mandatory use of diagnostic tests before prescription. Competent authorities of the Member States should consider such further measures according to the level of antimicrobial resistance in their territory and the needs of patients. ***With regards to antimicrobials for topical use, Member States should have the possibility to waive the mandatory prescription-only status, including taking into account the maximum single dose, the maximum daily dose, the strength the pharmaceutical form and certain types of packaging.***

PUBLIC

(69) The pollution of waters and soils with pharmaceutical residues is an emerging environmental problem, and there is scientific evidence that the presence of those substances in the environment from their manufacturing, use and disposal poses a risk to the environment and public health. The evaluation of the legislation showed that strengthening of existing measures to reduce the impact of medicinal products' lifecycle on the environment and public health is required. Measures under this ~~Regulation~~***Directive*** complement the main environmental legislation, in particular the Water Framework Directive (2000/60/EC[14]), the Environmental Quality Standard Directive (2008/105/EC[15]) the Groundwater Directive (2006/118/EC[16]), the Urban Wastewater Treatment Directive (91/271/EEC[17]), the Drinking Water Directive (2020/2184[18]) ~~and~~**,** the Industrial Emissions Directive (2010/75/EU[19]) ***and the Waste Framework Directive (2008/98/EC[20])***.

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14 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

15 Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

16 Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ L 372, 27.12.2006, p. 19).

17 Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ L 135, 30.5.1991, p. 40).

18 Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (recast) (OJ L 435, 23.12.2020, p. 1).

19 Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (recast) (OJ L 334, 17.12.2010, p. 17).

20 ***Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).***

(70) Marketing authorisation applications for medicinal products in the Union should include an Environmental Risk Assessment (ERA) and risk mitigation measures***. However, when preparing their ERAs, the applicants for marketing authorisations of generic and biosimilar medicines should be able to refer to ERA studies conducted for the reference medicinal product or to ERA studies of any other medicinal product containing the same active substances. The same applies to hybrid and bio-hybrid medicines as well as to fixed dose combinations medicines***. If the applicant fails to submit a complete or sufficiently substantiated environmental risk assessment or they do not propose risk mitigation measures to sufficiently address the risks identified in the environmental risk assessment, the marketing authorisation should be refused. The ERA should be updated when new data or knowledge about relevant risks become available.

PUBLIC

(71) Marketing authorisation applicants should take into account environmental risk assessment procedures of other EU legal frameworks that may apply to chemicals dependent on their use. Further to this Regulation, there are four main other frameworks: (i) Industrial chemicals (REACH, (Regulation (EC) No 1907/2006); (ii) Biocides (Regulation (EC) No 528/2012); (iii) Pesticides (Regulation (EC) No 1107/2009); and (iv) Veterinary medicines (Regulation (EU) 2019/6)). As a part of the Green Deal, the Commission has proposed a 'one-substance one-assessment' (OS-OA) approach for chemicals[21], in order to increase the efficiency of the registration system, reduce costs and unnecessary animal testing.

(72) The emissions and discharges of antimicrobials to the environment from manufacturing sites may lead to antimicrobial resistance ("AMR"), which is a global concern regardless where the emissions and discharges take place. Therefore, the ERA scope should be extended to cover the risk of AMR selection during the entire life cycle of antimicrobials, including manufacturing. ***In order to specify technical details to conduct the ERA, the Agency should issue guidelines on how to measure antimicrobial resistance other than for antibiotic resistance.***

[21] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, Brussels (2019), COM(2019) 640 final.

(73) The proposal also includes provisions for a risk-based approach regarding the ERA obligations of marketing authorisation holders before October 2005 and the setting-up of an ERA monograph system for active substances. This ERA monograph system should be available to applicants for use when conducting an ERA for a new application.

(74) For medicinal products authorised prior to October 2005, without any ERA, specific provisions should be introduced to set up a ~~risk based~~***risk-based*** prioritisation programme for the ERA submission or update by the market authorisation holders. ***For generic, biosimilar, hybrid and bio-hybrid medicinal products and fixed-dose combination medicinal products, for which the reference medicinal product was authorised before 30 October 2005 and included in this programme, the ERA could be submitted after the outcome of the ERA of the relevant reference medicinal product is made publicly available by the Agency, unless the marketing authorisation holders concerned have participated in a joint study conducted for the relevant active substance. The same should apply for new applications of such generic, biosimilar, hybrid and bio-hybrid medicinal products and fixed-dose combination medicinal products for which the reference medicinal product was authorised before 30 October 2005 and included in this programme.***

PUBLIC

(75) ~~Cyprus, Ireland, Malta and~~ Northern Ireland ~~have~~***has*** historically relied on the supply of medicinal products from or through parts of the United Kingdom other than Northern Ireland. Following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, to prevent shortages of medicinal products and ultimately to ensure a high level of public health protection, specific ~~derogations to~~***provisions have been put in place.*** This Directive ~~need to be included for medicinal products supplied to Cyprus, Ireland, Malta and Northern Ireland from or through parts of~~***replaces Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 listed in point 20 of Annex 2 to the Windsor Framework and would therefore apply to and in*** the United Kingdom ~~other than~~***in respect of Northern Ireland in accordance with Article 5(4) read in conjunction with Article 13(3) of the Framework. To ensure the continued effectiveness of the specific provisions that have already been put in place, it is therefore appropriate to stipulate that certain provisions of this Directive should not apply to and in the United Kingdom in respect of*** Northern Ireland. ~~In order to ensure uniform application of Union law in the Member States, the derogations applicable in Cyprus, Ireland and Malta should be of a temporary nature only.~~

PUBLIC

(76) To ensure that all children in the Union have access to the products specifically authorised for paediatric use, when an agreed paediatric investigation plan has led to the authorisation of a paediatric indication for a product already marketed for other therapeutic indications, the marketing authorisation holder should be obliged to place the product in the same markets within two years of the date of approval of the indication.

(77) It is necessary in the interest of public health to ensure the continuing availability of safe and effective medicinal products authorised for paediatric indications. Therefore, if a marketing authorisation holder intends to withdraw such a medicinal product from the market then arrangements should be in place so that the paediatric population can continue to have access to the medicinal product in question. In order to help achieve this, the ***competent authority*** ~~Agency~~ should be informed in good time of any such intention and should make that intention publicly available.

(78) To avoid unnecessary administrative and financial burdens both for the marketing authorisation holders and the competent authorities, certain streamlining measures should be introduced, in line with the digital by default principle. Electronic application for marketing authorisation and for variations to the terms of the marketing authorisation should be introduced.

PUBLIC

(79) As a general rule, risk management plans for generic and biosimilar medicinal products should not be developed and submitted, considering that the reference medicinal product has such a plan, except in specific cases, where a risk management plan should be provided. ~~Furthermore, as a general rule a~~***In addition the risk management plan for hybrid and bio-hybrid medicinal products should be limited to the differences between this medicinal product and the reference medicinal product, as indicated in the application for the marketing authorisation, provided that no additional risk minimisation measures exist for the reference medicinal product and provided that the*** marketing authorisation ~~should be granted for an unlimited period; exceptionally, one renewal may be decided only on justified grounds related to the safety of the~~***for the reference*** medicinal product ***has not been withdrawn prior to the submission of the application***.

(79a) Furthermore, as a general rule a marketing authorisation should be granted for an unlimited period; exceptionally, one renewal may be decided only on justified grounds related to the safety of the medicinal product.

(80) In the event of a risk to public health, the marketing authorisation holder or the competent authorities should be able to make urgent safety or efficacy restrictions on their own initiative. In such case, when the referral procedure is launched, any duplication of assessment should be avoided.

PUBLIC

(81) To address patients' needs, an increasing number of innovative medicinal products derive from or are combined with other products that may be manufactured or tested and regulated under more than one Union legal framework. Similarly, the same sites are increasingly overseen by the authorities established under different Union legal frameworks. To ensure safe and efficient production and supervision of such products and to allow an appropriate delivery to patients, it is important to ensure coherence. The coherence and sufficient alignment can only be ensured through appropriate cooperation in the development of the practices and principles applied under the different Union legal frameworks. An appropriate cooperation should therefore be embedded within several provisions of this Directive, such as those regarding classification advice, oversight, or the development of guidelines.

(82) For products that combine a medicinal product and a medical device***, including in vitro diagnostics medical device,*** the applicability of the two respective regulatory frameworks should be specified and the appropriate interaction between the ~~two~~ ***three*** applicable regulatory frameworks should be ensured. The same should apply to combinations of medical products and products other than medical devices.

PUBLIC

(83) To ensure that the competent authorities have all the information needed for their assessment in the case of integral combinations of a medicinal product with a medical device***, including in vitro diagnostics medical device,*** or of combinations of a medicinal product with a product other than a medical device, the marketing authorisation applicant shall submit data establishing the safe and effective use of the integral combination of the medicinal product with the medical device***, including in vitro diagnostics medical device,*** or of the combination of a medicinal product with the other product. The competent authority should assess the benefit-risk balance of the integral combination taking into account the suitability of the use of the medicinal product together with the medical device***, in vitro diagnostics medical device*** or the other product.

(84) To ensure that the competent authorities have all the information needed for their assessment of medicinal products in exclusive use with a ***medical device or in vitro diagnostics*** medical device (that is to say medicinal products that are presented in a package with a medical device or that are to be used with a medical device referenced in the summary of product characteristics) the marketing authorisation applicant shall submit data establishing the safe and effective use of the medicinal product taking into account its use with the medical device ***or in vitro diagnostics medical device***. The competent authority should assess the benefit-risk balance of the medicinal product, also taking into account the use of the medicinal product with the medical device.

PUBLIC

(85) The Directive also clarifies that a medical device that is part of an integral combination has to comply with the general safety and performance requirements set out in Annex I of Regulation (EU) 2017/745 of the European Parliament and of the Council[22]. A medical device in exclusive use with a medical device needs to meet all of the requirements of Regulation (EU) 2017/745. A medicinal product in exclusive use with a medical device that is not ancillary to that of the medical device shall comply with the requirements of this Directive and of the [revised Regulation (EC) No 726/2004] taking into account its use with the medical device, without prejudice to the specific requirements of the Regulation (EU) 2017/745 ***and of the Regulation (EU) 2017/746[23], as applicable***.

PUBLIC

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22 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).

23 ***Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176–332)***

(86) For all these products (integral combinations of a medicinal product and a ***medical device or in vitro diagnostic*** medical device, medicinal products in exclusive use with medical devices and combinations of a medicinal product with a product other than a medical device) the competent authority should also be able to request the marketing authorisation applicant to transmit any additional information needed and the marketing authorisation applicant should be bound to submit any such information requested. For medicinal product in exclusive use with a medical device that is not ancillary to that of the medical device, the marketing authorisation applicant shall also, upon request from the competent authority, submit any additional information related to the medical device taking into account its use with the medicinal product and that is relevant for the post-authorisation monitoring of the medicinal product, without prejudice to the specific requirements of the [revised Regulation (EC) No 726/2004].

(87) For integral combination of a medicinal product with a medical device and for combinations of a medicinal product with a product other than a medical device, the marketing authorisation holder should also bear the overall responsibility for the whole product in terms of compliance of the medicinal product with the requirements of this Directive and the [revised Regulation(EC) No 726/2004] and should ensure coordination of the information flow between the sectors throughout the assessment procedure and the lifecycle of the medicinal product.

PUBLIC

(88) In order to ensure the quality, safety and efficacy of medicinal product at all stages of manufacturing and distribution the marketing authorisation holder shall be responsible, when necessary to trace back an active substance, excipient or any other substance that used in the manufacturing of medicinal product and intended to be part of the medicinal product or expected to be present in the medicinal product, for example impurities, degradation products or contaminants.

(89) In the interests of public health marketing authorisation holders should be able to ensure the traceability of any substance that is used, intended or expected to be present in a medicinal product at all stages of manufacturing and distribution, and identify any natural or legal person from whom they have been supplied these substances. Therefore, procedures and systems should be placed to provide that information in case it should be necessary with the view of quality, safety or efficacy of medicinal products.

(90) It is recognised that the development of pharmaceuticals is an area where neither science, nor technology stand still. The last decades have seen new categories of medicinal products emerging from biological medicinal products to biosimilars or advanced therapy medicinal products or in the future phages therapies. Those categories of products may in some instances require adapted rules to fully take account of their specific characteristics. For that reason a forward looking legal framework should include provisions to enable such adapted frameworks subject to strict criteria and under a Commission empowerment guided by the scientific input of the European Medicines Agency.

PUBLIC

(91) The adaptations may entail ~~adapted, enhanced, waived or deferred~~ ***specific requirements and targeted technical adaptations to the*** requirements compared to standard medicinal products. They could in particular include changes to the dossier requirements for such medicinal products, the way their quality, safety and efficacy is demonstrated by applicants or tailored manufacturing controls and good manufacturing practices requirements, as well as additional control methods prior and during their administration and use. The adaptions should however not go beyond what is necessary for the attainment of the objective of adaptation to the specific characteristics ***or methods related to the medicinal product or category of medicinal products concerned***.

(92) In order to increase the preparedness and responsiveness against health threats, in particular the emergence of antimicrobial resistance, adapted frameworks may be relevant to facilitate the rapid change of antimicrobials composition to maintain their efficacy. The use of established platforms would allow efficient and timely adaptation of those medicinal products to the clinical context.

PUBLIC

(93) To optimise the use of resources for both applicants for marketing authorisation and competent authorities and avoid duplication of assessment of chemical active substances of medicinal products, marketing authorisation applicants should be able to rely on an active substance master file certificate or a ***certificate of suitability to the*** monograph of the European Pharmacopeia, instead of submitting the relevant data as required in accordance with Annex II. An active substance master file certificate may be granted by the Agency when the relevant data on the active substance concerned is not already covered by a monograph of the European Pharmacopeia or by another active substance master file certificate***. Where a certificate of suitability to the monographs of the European Pharmacopoeia or an active substance master file certificate is used as part of the marketing authorisation application, there may be a need to provide additional quality data that are not covered by those processes, as part of the marketing authorisation dossier to demonstrate the suitability of the active substance in the context of its intended use in the medicinal product***. The Commission should be empowered to establish the procedure for the single assessment of an active substance master file. To further optimise the use of resources, the Commission should be empowered to allow use a certification scheme also for additional quality master files i.e. for active substances other than chemical active substances, or for other substances present or used in the manufacture of a medicinal product, required in accordance with Annex II, e.g. in case of novel excipients, adjuvants, radiopharmaceutical precursors and active substance intermediates, when the intermediate is a chemical active substance by itself or used in conjugation with a biological substance.

PUBLIC

(93a) The concept of platform technology master files allows the reliance on data—encompassing aspects of quality, non-clinical, and clinical information—that has been pre-evaluated in the marketing authorisation application of a medicinal product. Platform technologies include, but are not limited to, viral and bacterial vector systems, recombinant protein-based methods, nucleic acid sequences, viral and bacterial vectors and synthetic biology approaches such as oligonucleotides and mRNA. The platform technology master file that documents the platform technology should be certified by the Agency to allow future uses. In the context of applying for marketing authorisations, products developed and manufactured utilising platform technology master files must focus on the customization of the platform to address the particular attributes of the medicinal product in question. This methodology avoids the duplication of assessments and minimizes the repetition of studies, thereby streamlining the development and regulatory evaluation processes for medicinal products. A fundamental requirement for the effective application of platform technology is the presence of a common dataset that remains applicable across medicinal products employing the same technology. To qualify the use of a platform technology master file, applicants are obligated to demonstrate the applicability of the common dataset, substantiate the development and manufacturing platform, and furnish scientific justification that underscores the pertinence of the platform data to the medicinal product in question. While the owner of a platform technology master file and the marketing authorisation holder may not be necessarily the same - some platform technologies may emanate from academic research and development, the marketing authorisation holder relying on a platform technology master file retails full responsibility for its marketing authorisation including the parts covered by the master file.

PUBLIC

(94) For reasons of public health and legal consistency, and with a view to reducing the administrative burden and strengthening predictability for economic operators, variations to all types of marketing authorisations should be subject to harmonised rules.

(95) The terms of a marketing authorisation for a medicinal product may be varied, after it has been granted. While the core elements of a variation are laid down in this Directive, the Commission should be empowered to complement these elements by laying down further necessary elements, to adapt the system to scientific and technological progress, including digitalisation, and to ensure that unnecessary administrative burden is avoided for both the marketing authorisation holders and competent authorities.

(95a) Competent authorities should have the power to evaluate additional evidence that may affect the benefit-risk balance of medicinal products, beyond what is provided by marketing authorisation holders. When justified, competent authorities may recommend that the marketing authorisation holder varies the terms of its marketing authorisation.

PUBLIC

(96) Scientific and technological progresses in data analytics and data infrastructure provide valuable support to the development, authorisation and supervision of medicinal products. The digital transformation has affected regulatory decision-making, making it more data-driven and multiplying the possibilities for regulatory authorities to access evidence, across the lifecycle of a medicinal product. This Directive recognises the competent authorities of the Member States' capacity to access and analyse data submitted independently from the marketing authorisation applicant or marketing authorisation holder. On this basis, competent authorities of the Member States should take initiative to update the summary of product characteristics in case new efficacy or safety data impacts the benefit-risk balance of a medicinal product.

PUBLIC

(97) Access to individual patient data from clinical studies in structured format allowing for statistical analyses ~~is valuable to~~***can*** assist regulators in understanding the submitted evidence and to inform regulatory decision-making on the benefit-risk balance of a medicinal product. The introduction of such possibility in the legislation is important to further enable data-driven benefit-risk assessments at all stages of the lifecycle of a medicinal product. This Directive therefore empowers competent authorities of Member States to request***, as necessary,*** such data as part of the assessment of initial and post-marketing authorisation applications. Due to the sensitive nature of health data, the competent authorities should safeguard its processing operations and ensure that they respect the data protection principles of lawfulness, fairness and transparency, purpose limitation, data minimisation, accuracy, storage limitation, integrity and confidentiality. Where the processing of personal data is necessary for the purposes of this Directive, such processing should be done in accordance with Union law on the protection of personal data. Any processing of personal data under this Directive should take place in accordance with Regulation (EU) 2016/679[24] and Regulation (EU) 2018/1725[25] of the European Parliament and of the Council.

[24] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

[25] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

(98) Pharmacovigilance rules are necessary for the protection of public health in order to prevent, detect and assess adverse reactions to medicinal products placed on the Union market, as the full safety profile of medicinal products can only be known after they have been placed on the market.

(99) In order to ensure the continued safety of medicinal products in use, it is necessary to ensure that pharmacovigilance systems in the Union are continually adapted to take account of scientific and technical progress.

(100) It is necessary to take account of changes arising as a result of international harmonisation of definitions, terminology and technological developments in the field of pharmacovigilance.

PUBLIC

(101) The increasing use of electronic networks for communication of information on adverse reactions to medicinal products marketed in the Union is intended to allow competent authorities to share the information at the same time. ***In order to simplify the reporting of suspected adverse reactions, the marketing authorisation holders and the Member States should report those reactions only to the Union pharmacovigilance database and data-processing network referred to in [revised Regulation (EU) No. 726/2004], (the 'Eudravigilance database'). The Eudravigilance database will be equipped to immediately forward reports on suspected adverse reactions received from marketing authorisation holders to the Member States on whose territory the reaction occurred. The Agency may, in consultation with the Commission, Member States and Marketing authorisation holders, draw up and publish a detailed guide regarding the monitoring of relevant adverse reaction databases maintained outside the Union and the entry of relevant information from these databases into the Eudravigilance database.***

PUBLIC

(101a) Member States and marketing authorisation holders should operate a pharmacovigilance system to collect information that is useful for the monitoring of medicinal products, including information on suspected adverse reactions arising from use of a medicinal product within the terms of the marketing authorisation as well as from use outside the terms of the marketing authorisation, including off-label use, overdose, misuse, abuse and medication errors by patients and healthcare professionals. Mistakes in the prescribing, dispensing, storing, preparation and administration of a medicine are common types of medication errors. Suspected adverse reactions should be recorded and reported by Member States and marketing authorisations holders to the Eudravigilance database for the monitoring of safety of medicinal products. The reports should be part of the continuous evaluation of the benefit-risk balance of the medicinal products. Summaries of data relevant to the benefit-risk balance should be included in periodic safety update reports. Marketing authorisation holders should also record and report information on adverse reactions occurring in the context of post-authorisation studies, including post authorisation studies in specific populations such as children, for evaluation of the benefit-risk balance.

(102) It is the interest of the Union to ensure that the pharmacovigilance systems for centrally authorised medicinal products and those authorised by other procedures are consistent.

(103) Marketing authorisation holders should be proactively responsible for on-going pharmacovigilance of the medicinal products they place on the market ***including for an appropriate period after the marketing authorisation has been withdrawn or revoked***.

PUBLIC

(104) The use of colours in human and veterinary medicinal products is currently regulated by Directive 2009/35/EC of the European Parliament and of the Council[26], and restricted to those authorised in accordance with Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives[27], for which specifications are laid down in Commission Regulation (EU) No 231/2012[28]. Uses of excipients other than colours in medicinal products are subject to the Union rules on medicinal products and are evaluated as part of the overall benefit risk profile of a medicinal product.

(105) Experience has shown the need to maintain to a certain extent the principle of the use in medicinal products of those colours authorised as food additives. However, it is also appropriate to foresee a specific assessment for the use of the colour in medicines when a food additive is removed from Union list of food additives. Therefore, in this specific case, EMA should carry out its own assessment for the use of the colour in medicines, taking into account the EFSA opinion and its underlying scientific evidence, as well as any additional scientific evidence and giving particular consideration to the use in medicines. EMA should also be responsible for following any scientific evidence for the colours retained for specific medicine use only. Directive 2009/35/EC should therefore be repealed.

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26 Directive 2009/35/EC of the European Parliament and of the Council of 23 April 2009 on the colouring matters which may be added to medicinal products (OJ L 109, 30.4.2009, p. 10).

27 Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

28 Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council (OJ L 83, 22.3.2012, p. 1).

(106) With regard to the supervision and inspections, manufacturing and import of starting materials ~~or~~**,** intermediate ***products, excipients*** and ~~also of~~ functional ~~excipient~~***excipients*** shall be under surveillance due to their ***possible*** ancillary action to the active substance and to their possible impact to the quality, safety and efficacy to the medicinal products~~.~~

(107) The main purpose of any regulation on the manufacture and distribution of medicinal products should be to safeguard public health.

(107a) Manufacturing and wholesale distribution authorisations are to be subject to certain essential conditions and it is the responsibility of the Member State concerned to ensure that such conditions are met; whereas each Member State is to recognise authorisations granted by other Member States.

(108) It should be ensured that, in the Member States, the supervision and control of the manufacture and the distribution of medicinal products is carried out by official representatives of the competent authority who fulfils minimum conditions of qualification.

PUBLIC

(109) There may be cases where manufacturing ~~or~~***, including*** testing steps***,*** of medicinal products need to take place in sites close to patients***, taking into account the properties of the medicinal product as well as considerations related to its quality, safety and efficacy***, for example advanced therapy medicinal products with short shelf-life***, or where proximity to the treated patient or customisation for an individual patient to their benefit, where deemed appropriate by the national competent authority or the Agency for authorising of the placing on the market of such medicine during the authorisation procedure***. In such cases, these manufacturing ~~or testing steps~~ may need to be decentralised to multiple sites to reach patients across the Union. When the manufacturing ~~or testing~~ steps are decentralised, they should be carried out under the responsibility of the qualified person of an authorised central site. The decentralised sites should not require a separate manufacturing authorisation from the one granted to the relevant central site but should be registered by the competent authority of the Member State in which the decentralised site is established ***and supervised by this authority***. In the case of medicinal products containing, consisting or derived from ~~autologous~~ SoHO, the decentralised sites have to be registered as a SoHO entity as defined in and pursuant to [SoHO Regulation] for the activities of donor review and eligibility assessment, donor testing and collection, ~~or just for collection in the case of products manufactured for autologous use~~ ***where applicable. In respect of decentralised sites falling within the scope of this framework and engaging in activities covered by other Union legal acts, and in order to ensure their effective functioning, the competent authorities of the Member States responsible for the supervision of the central and decentralised sites should cooperate and exchange information with the authorities supervising these activities under other Union legal acts***. ***This cooperation should, where appropriate, pertain to the coordination of authorisation, registration and supervision activities, including joint inspections, related to the central site and the decentralised sites, aiming to ensure efficiency of these activities.***

PUBLIC

(110) The quality of medicinal products manufactured or available in the Union should be guaranteed by requiring that the active substances used in their composition comply with the principles of good manufacturing practice in relation to those medicinal products. It has proved necessary to reinforce the Union provisions on inspections and to compile a Union database of the results of those inspections.

(111) Verification of compliance with the legal requirements of manufacturing, distribution and use of medicinal products by relevant entities through a system of supervision, is of fundamental importance to ensure that the objectives of this Directive are effectively achieved. Therefore, the competent authorities of the Member States should have the power to perform on site or remote inspections, as part of the system of supervision at all stages of manufacturing, distribution and use of medicinal products or active substances and rely on the outcome of inspections conducted by trusted ~~third countries~~***non-Union*** competent authorities. To preserve the effectiveness of the inspections, the competent authorities should have the possibility to perform joint inspections and also, where necessary, unannounced inspections.

(112) The frequency of controls should be established by the competent authorities having regard to the risk and to the level of compliance expected in different situations. That approach should allow those competent authorities to allocate resources where the risk is the highest. In some cases, the system of supervision should be applied irrespective of the level of risk or suspected non-compliance, for example ~~prior to~~ ***in the context of*** granting manufacturing authorisations.

PUBLIC

(113) Within the procedure for "Certification of Suitability to the monographs of the European Pharmacopoeia" the European Directorate for the Quality of Medicines and Healthcare verifies by means of inspections whether the data submitted by the applicant established by the Council of Europe confirms the suitability of monographs to control the chemical purity, microbiological quality and TSE risk (if relevant). It also verifies whether the manufacturing complies with good manufacturing practice for active substances. Depending ~~of~~ ***on*** the outcome of the inspection, a certificate of compliance or non-compliance of good manufacturing practice, is issued by the European Directorate for the Quality of Medicines and Healthcare or by the Member State participating in the inspection.

(114) Each undertaking that manufactures or imports medicinal products should set up a mechanism to ensure that all information supplied about a medicinal product conforms to the approved conditions of use.

(115) The conditions governing the supply of medicinal products to the public should be harmonised.

PUBLIC

(116) In this connection persons moving around within the Union have the right to carry a reasonable quantity of medicinal products lawfully obtained for their personal use. It should also be possible for a person established in one Member State to receive from another Member State a reasonable quantity of medicinal products intended for their personal use.

(117) By virtue of [revised Regulation (EC) No 726/2004], certain medicinal products are the subject of a Union marketing authorisation. In this context, the prescription status of medicinal products covered by a Union marketing authorisation needs to be established. It is therefore important to set the criteria on the basis of which Union decisions will be taken.

(118) It is therefore appropriate to harmonise the basic principles applicable to the prescription status of medicinal products in the Union or in the Member State concerned, while taking as a starting point the principles already established on this subject by the Council of Europe as well as the work of harmonisation completed within the framework of the United Nations, concerning psychotropic or narcotic substances - the United Nations Single Convention of 1961 on narcotic drugs and Convention on Psychotropic Substances of 1971.

(119) Many operations involving the wholesale distribution of medicinal products may cover several Member States simultaneously.

PUBLIC

(120) It is necessary to exercise control over the entire chain of distribution of medicinal products, from their manufacture or import into the Union through to supply to the public, so as to guarantee that such products are stored, transported and handled in suitable conditions. The requirements that should be adopted for this purpose will considerably facilitate the withdrawal of defective products from the market and allow more effective efforts against counterfeit products.

(121) Any person involved in the wholesale distribution of medicinal products should be in possession of a special authorisation. Pharmacists and persons authorised to supply medicinal products to the public, and who confine themselves to this activity, should be exempt from obtaining this authorisation. It is however necessary, in order to control the complete chain of distribution of medicinal products, that pharmacists and persons authorised to supply medicinal products to the public keep records showing transactions in products received.

~~(122) Marketing authorisation is to be subject to certain essential conditions and it is the responsibility of the Member State concerned to ensure that such conditions are met; whereas each Member State is to recognize authorisations granted by other Member States.~~

PUBLIC

(123) Certain Member States impose on wholesalers who supply medicinal products to pharmacists and on persons authorised to supply medicinal products to the public certain public service obligations. Those Member States should be able to continue to impose those obligations on wholesalers established within their territory. They should also be able to impose them on wholesalers in other Member States on condition that they do not impose any obligation more stringent than those that they impose on their own wholesalers and provided that such obligations may be regarded as warranted on grounds of public health protection and are proportionate in relation to the objective of such protection.

(124) Rules should be laid down as to how the labelling and package leaflets are to be presented. ***The package leaflet should be easily legible, clearly comprehensible by users, including especially the target patient groups, and indelible Design choices should primarily serve function and readability, rather than aesthetics.***

(125) The provisions governing the information supplied to users should provide a high degree of consumer protection, in order that medicinal products may be used correctly on the basis of full and comprehensible information.

(126) The marketing of medicinal products whose labelling and package leaflets comply with this Directive should not be prohibited or impeded on grounds connected with the labelling or package leaflet.

PUBLIC

(127) The use of electronic and technological possibilities other than paper package leaflets can facilitate access to medicinal products, medicinal products distribution and should always guarantee equal ~~or better~~ quality of information to all patients compared to the paper form of product information~~.~~ ***and can additionally allow other forms of transmission of such information to persons with sensory impairments for example through audiovisual or other means***

(128) Member States have varying levels of digital literacy and internet access. In addition, patient and healthcare professional needs may differ. It is therefore necessary that Member States have a discretion on the adoption of measures enabling the ***exclusive*** electronic provision of product information ***for specific categories or for all medicines*** while ensuring that no patient is left behind, taking into account the needs of different age categories and the different levels of digital literacy in the population, and making sure that product information is easily accessible to all patients. Member States should ~~progressively allow~~***when appropriate, consider allowing*** the possibility for ~~electronic~~***providing*** product information ***only in electronic version***, while ensuring full compliance with the rules on protection of personal data, ***notably with Regulation (EU) 2016/679, and should prevent the identification, profiling or tracking of individuals and should***~~and~~ adhere to harmonised standards developed at EU level.

PUBLIC

(129) Where Member States decide that the package leaflet should be made available ~~in principle~~ only electronically, ***all concerned marketing authorisation holders*** ~~they~~ should ~~also~~ ensure that a paper version of the package leaflet is ~~to be~~ made available on demand and without ~~additonal~~***additional*** cost to patients. ***Marketing authorisation holders*** ~~They~~ should also ensure ***adherence to all specifications, standards and format specified by the relevant implementing acts and guidance and*** that the information in digital format is easily accessible to all patients, for instance by including in the outer packaging of the product a digitally readable ***element, for example a QR code, a data matrix code, a*** barcode, ***or any other appropriate technology*** which would direct the patient to the electronic version of the package leaflet ***in a simple, user friendly and effective manner***.

(130) The use of ~~multi-language~~***multi-country*** packages ***that are also multi-lingual*** can be a tool for access to medicinal products, in particular for small markets and in public health emergencies. Where ~~multi-language~~***such*** packages are used, Member States may ***also*** allow the use on the labelling and package leaflet of an official language of the Union that is commonly understood in the Member States where the ~~multi-language~~***multi-country*** package ***that is also multi-lingual*** is marketed.

PUBLIC

(130a) Security of supply in Malta continues to be hindered by the low availability of medicinal products with package leaflets in the official languages of that Member State. For these reasons, it is deemed appropriate to allow for the competent authorities of Malta to maintain in force marketing authorisations that were granted, extended or maintained in accordance with Article 126c of Directive 2001/83/EC until after the rules on electronic product information become applicable in all Member States, taking also into account the deferred application of those rules for medicinal products already placed on the market.

(131) To ensure a high level of transparency of public support to the research and development of medicinal products, the reporting of public contribution for the development of a particular medicinal product should be a requirement for all medicines. Given however the practical difficulty to identify how indirect public funding instruments, such as tax advantages, have supported a particular product, the reporting obligation should only concern the direct public financial support, such as direct grants or contracts***, received from any public authority, publicly funded body, philanthropic organisation, or not-for-profit organisation or fund***. Therefore, the provisions of this Directive ensure, without prejudice to the rules on the protection of confidential and personal data, transparency regarding any direct financial support received from any public authority or ***publicly funded body, philanthropic organisation, or not-for-profit organisation or fund*** ~~public body~~ to carry out any activities for the research and development of medicinal products.

PUBLIC

(132) To ensure the accuracy of the information made publicly available by the marketing authorisation holder, the declared information has to be subject to audit by an independent auditor.

(133) In order to ensure a harmonised and consistent reporting of public contribution for the development of a particular medicinal products, the Commission should ~~be able to~~ adopt implementing acts to clarify the principles and format that the marketing authorisation holder should adhere to when reporting this information.

(134) This Directive is without prejudice to the application of measures adopted pursuant to Directive 2006/114/EC of the European Parliament and of the Council[29] or pursuant to Directive 2005/29/EC of the European Parliament and of the Council[30]. Therefore the provisions regarding the advertising of medicinal products of this Directive should therefore be considered, where relevant, as a lex specialis with respect to Directive 2005/29/EC.

PUBLIC

[29] Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21).

[30] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

(135) Advertising, even of medicinal products not subject to a prescription, could affect public health and distort competition. Therefore, advertising of medicinal products should meet certain criteria. Persons qualified to prescribe, administer or supply medicinal products can properly evaluate the information available in advertising because of their knowledge, training and experience. The advertising of medicinal products to persons who cannot properly assess the risk associated with their use may lead to medicinal product misuse or overconsumption which is liable to harm public health. Therefore advertisement to the general public of medicinal products that are available only on medical prescription should be prohibited. Furthermore, distribution of samples free of charge to the general public for promotional ends is to be prohibited, also teleshopping for medicinal products shall be prohibited pursuant to Directive 2010/13/EU of the European Parliament and of the Council[31]. It should be possible within certain restrictive conditions to provide samples of medicinal products free of charge to persons qualified to prescribe or supply them so that they can familiarise themselves with new products and acquire experience in dealing with them.

[31] Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 095 15.4.2010, p. 1).

(136) Advertising of medicinal products should aim at disseminating objective and unbiased information about the medicinal product. For that purpose, it is expressly forbidden highlight negatively another medicinal product or to suggest that advertised medicinal product might be safer or more effective than another medicinal product. Comparison of medicinal products should only be allowed if such information is listed in the ~~summary~~***summaries*** of product characteristics of the ***concerned*** medicinal ~~product being advertised~~***products***. This prohibition covers any medicinal product, also biosimilars, and therefore it would be misleading to refer in the advertising, that a biosimilar medicinal product would not be interchangeable with the original biological medicinal product or another biosimilar from the same original biological medicinal product. Additional strict rules about negative and comparative advertising of competitor medicinal products will prohibit claims that can mislead persons qualified to prescribe, administer or supply them.

(137) The dissemination of information which encourages the purchase of medicinal products should be considered within the concept of advertising of medicinal products, even where that information does not refer to a specific medicinal product, but to unspecified medicinal products.

(138) Advertising of medicinal products should be subject to strict conditions and effective, adequate monitoring. Reference in this regard should be made to the monitoring mechanisms set up by Directive 2006/114/EC.

PUBLIC

(139) Medical sales representatives have an important role in the promotion of medicinal products. Therefore, certain obligations should be imposed upon them, in particular the obligation to supply the person visited with a summary of product characteristics.

(139a) Even minimal inducement can result in biased decisions with regard to prescription behaviour by physicians. Therefore, to avoid conflict of interest, in the absence of national rules governing the disclosure of transfers of value, Member States should establish and maintain a publicly available list of disclosure platforms operated by trade associations or by marketing authorisation holders for the reporting of transfers of value related to the advertising activities.

(140) Innovative, 'combination medicinal products' and other developed medicinal products are complex in regards to their composition and administration. Therefore, in addition to persons qualified to prescribe medicinal products, also persons qualified to administer medicinal products need to be familiar with all characteristics of those medicinal products, especially with safe administration and use, including the comprehensive instructions to the patients. For that purpose information about medicinal products subject to medical prescription is also clearly allowed to persons qualified to administer them.

(141) Persons qualified to prescribe, administer or supply medicinal products should have access to a neutral, objective source of information about products available on the market. Whereas it is nevertheless for the Member States to take all measures necessary to this end, in the light of their own particular situation.

PUBLIC

(141a) In order to avoid waste, reduce the burden on the environment, mitigate shortages and realise cost savings, it is feasible to allow redispensing of medicinal products, under strict conditions. Through the practice of redispensing, a pharmacy can take back and redispense a medicinal product that has already been supplied to a patient. Member States should ensure that the redispensing can only be done by the same pharmacy that initially supplied the product. Pharmacy can only redispense medicinal products to a named patient on the basis of informed consent. The returned products can be redispensed only after the pharmacy has verified that the medicinal product concerned is not a falsified medicinal product, that the expiration date has not been exceeded and the package has been stored under the right conditions. To check these parameters, instruments such as a temper proof bag and temperature logger can be used. The pharmacy must record the medicinal product and the recipient for the purpose of inspections. Redispensing might not be feasible for all medicinal products. Member States should be able to identify and list in national legislation which specific products are allowed to be redispensed in that Member State, such as oral oncological medicinal products, which could provide for a pilot category. Member States should lay down rules on liability for potential damages resulting from the use of the medicinal products that have been redispensed when such damages are a consequence of failure to ensure appropriate storage and transport conditions between the initially dispensing and returning to the pharmacy, or a failure to ensure that the product re-dispensed has not been falsified. The provision in this Directive does not affect the possibility for Member States to set additional restrictive conditions under which medicinal products may be redispensed. Member States should ensure that the collection, re-dispensing will not be used for obtaining economic gains and preventing penetration of the re-dispensed medicines to the supply chain.

PUBLIC

(142) In order to ensure that information on the use of the medicinal products in children are appropriately taken into account at the moment of marketing authorisation, it is ~~therefore~~ necessary to introduce a requirement for new medicinal products or when developing paediatric indications of already authorised products covered by a patent or a supplementary protection certificate, to present either the results of studies in the paediatric population in accordance with an agreed paediatric investigation plan or proof of having obtained a waiver or deferral, at the time of filing a marketing authorisation application or an application for a new therapeutic indication, new pharmaceutical form or new route of administration. In order to ensure that the data supporting the marketing authorisation concerning the use of a product in children ***are adequate***, the competent authorities responsible for the authorisation of a medicinal product should check compliance with the agreed paediatric investigation plan and any waivers and deferrals at the validation step for marketing authorisation applications.

(143) To provide healthcare professionals and patients with information on the safe and effective use of medicinal products in the paediatric population, the results of the studies conducted in accordance with a paediatric investigation plan, independently from the fact that they support or not the use of the medicinal product in children, ~~appropriate information~~ should be included in the summary of product characteristics and, if appropriate, in the package leaflet. Information on waivers should also be included in product information. When all the measures in the paediatric investigation plan have been complied with, that fact should be recorded in the marketing authorisation, and that should then be the basis upon which companies can obtain rewards.

PUBLIC

(144) Relevant data and information collected through clinical studies conducted before the introduction in the Union of a paediatric medicines Regulation and received by the competent authorities should be assessed without undue delay and taken into consideration for eventual variation of existing marketing authorisations.

(145) In order to ensure uniform conditions for the implementation of this ~~Regulation~~***Directive***, 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[32].

(146) Due to the need to reduce overall approval times for medicinal products, the time between the opinion of the Committee for Medicinal Products for Human Use (CHMP) and the final decision on any Commission Decision concerning national marketing authoristions, in particular for referrals, should be reduced to, in principle, 46 days.

[32] 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).

(147) On the basis of the opinion of the Agency, the Commission should adopt a decision on the referral by means of implementing acts. In justified cases, the Commission may return the opinion for further examination or deviate in its decision from the opinion of the Agency. Taking into account the need to make medicinal products swiftly available to patients, it should be acknowledged that the chairperson of the Standing Committee for Medicines for Human Use will use the available mechanisms under Regulation 182/2011 and notably the possibility to obtain the committees opinion in written procedure and within expeditious deadlines which, in principle, will not exceed 10 calendar days.

(148) The Commission should be empowered to adopt any necessary changes to Annex II in order to take into account scientific and technical progress.

PUBLIC

(149) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of specifying the procedure for examination of application of active substance master file certificate, the publication of such certificates, the procedure for changes to the active substance master file and its certificate, access to the active substance master file and its assessment report; specifying additional quality master files to provide information on a constituent of a medicinal product, the procedure for examination of application of a quality master file certificate, the publication of such certificates, the procedure for changes to the quality master file and its certificate, and access to the quality master file and its assessment report; ***identifying the substances to which the provisions on additional quality master file apply,*** determining the situations in which post-authorisation efficacy studies may be required; specifying the categories of medicinal products to which a marketing authorisation subject to specific obligations could be granted and specifying the procedures and requirements for granting such a marketing authorisation and for its renewal; specifying exemptions to variation and the categories in which variations should be classified and establishing procedures for the examination of applications for variations to the terms of marketing authorisations as well as specifying conditions and procedures for cooperation with third countries and international organisations for examination of applications for such variations. It is of particular importance that the Commission carry 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[~~33~~***1***]. 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.

[~~33~~] ~~OJ L 123, 12.5.2016, p. 1.~~

(150) This Directive seeks to enable the right access to preventive healthcare and to benefit from medical treatment under the conditions established by national laws and practices and to ensure a high level of human health protection in the definition and implementation of all the Union's policies and activities as laid down in Article 35 of the Charter of Fundamental Rights of the European Union.

(151) Since the objectives of this Directive, namely to establish rules on medicinal products ensuring the protection of public health and the environment as well as the functioning of the internal market, cannot be sufficiently achieved by the Member States as national rules would lead to disharmonisation, unequal patient access to medicinal products and barriers to the internal market, but can rather, by reason of its effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

PUBLIC

(152) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[34], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

HAVE ADOPTED THIS DIRECTIVE:

PUBLIC

[34] OJ C 369, 17.12.2011, p. 14.

Chapter I

Subject matter, scope and definitions

Article 1

Subject matter and scope

1. This Directive lays down rules for the placing on the market, manufacturing, import, export, supply, distribution, pharmacovigilance, ***advertising, supervision,*** control and use of medicinal products for human use.

2. This Directive shall apply to medicinal products for human use intended to be placed on the market.

3. In addition to the products referred to in paragraph 2, Chapter XI shall also apply to starting materials, active substances, excipients and intermediate products.

4. In cases where~~, taking into account all its characteristics,~~ a product falls within the definition of a 'medicinal product' and within the definition of a product covered by other Union law and there is a conflict between this Directive and other Union law, the provisions of this Directive shall prevail.

PUBLIC

5. The Directive shall not apply to:

(a) medicinal products prepared in a pharmacy in accordance with a medical prescription ***or, where provided for in national law, with a written instruction of a doctor, to meet the special needs of*** ~~for~~ an individual patient (~~'~~'magistral formula~~'~~ ***medicinal product'***);

(b) medicinal ~~product~~***products*** prepared in a pharmacy in accordance with a pharmacopoeia and intended to be supplied directly to the patients served by the pharmacy in question ('officinal formula')~~;~~***:***

(c) investigational medicinal ~~product~~***products*** as defined in Article 2, paragraph 5, of Regulation (EU) No 536/2014.

(d) substances of human origin, unless they fall within the definition of an advanced therapy medicinal product or a SoHO-derived medicinal product other than ATMPs.

The exceptions under points (a) and (b) shall not apply for medicinal products listed in points 1 and 2 of Annex I of the [revised Regulation (EU) 726/2004].

Member States may allow the supply of officinal formula by the pharmacy to a hospital it serves upon the request of that hospital, subject to the approval of the competent authority concerned.

PUBLIC

6. ***When necessary to ensure the availability of a magistral formula medicinal product to meet the special needs of individual patients, Member States may allow pharmacies to prepare magistral formula*** medicinal products ~~referred to in paragraph 5, point (a), may be prepared in~~***in advance when*** duly justified ~~cases in advance by a pharmacy serving a hospital,~~***and*** on the basis of the ~~estimated~~***anticipated*** medical prescriptions ~~within that hospital~~***or instructions, as appropriate, for the patient population concerned. These magistral formula medicinal products shall be prepared*** for the following seven days***, or, when duly justified and taking into account the properties of the medicinal product, for a period of up to three weeks***.

The Member States shall ensure that the justification for the preparation of magistral formula medicinal products in accordance with this paragraph is documented by the pharmacy and that the relevant documentation is readily available for inspection.

~~7. Member States shall take the necessary measures to develop the production and use of medicinal products derived from substances of human origin coming from voluntary unpaid donations.~~

PUBLIC

8. ***Without affecting the rules set out in Regulation (EU) 2024/1938, including as regards the principle of voluntary and unpaid donations,*** this Directive and all Regulations referred to therein shall be without prejudice to the application of national legislation prohibiting or restricting the use of any specific type of substance of human origin or animal cells, or the sale, supply or use of medicinal products containing, consisting of or derived from these animal cells or substances of human origin, on grounds not dealt with in the aforementioned Union law. The Member States shall communicate the national legislation concerned to the Commission.

9. The provisions of this Directive shall not affect the powers of the Member States' authorities either as regards the setting of prices for medicinal products or their inclusion in the scope of national health insurance schemes, on the basis of health, economic and social conditions.

PUBLIC

10. This Directive shall not affect the application of national legislation prohibiting or restricting the ~~following:~~

~~(a) the sale, supply or use of medicinal products as contraceptives or abortifacients;~~

~~(b) the use of any specific type of substance of human origin or animal cells, on grounds not dealt with in the aforementioned Union law;~~

~~(c) the sale, supply or use of medicinal products containing, consisting of or derived from these animal cells or substances of human origin, on grounds not dealt with in Union law.~~

The Member States shall communicate the national legislation concerned to the Commission.

PUBLIC

Article 2

Advanced therapy medicinal products prepared under hospital exemption

1. By way of derogation from Article 1(1), only this Article shall apply to advanced therapy medicinal products prepared ***within the Member State*** on a non-routine basis in accordance with the requirements set in paragraph 3 and used within the same Member State in a hospital under the exclusive professional responsibility of a medical practitioner~~,~~ in order to comply with an individual medical prescription for a custom-made product ~~for~~***to meet the needs of*** an individual patient ('advanced therapy medicinal products prepared under hospital exemption').

2. The manufacturing ***and use*** of an advanced therapy medicinal product prepared under hospital exemption shall require an approval by the competent authority of the Member State ('hospital exemption approval'). Member States shall notify any such approval, as well as subsequent changes, to the Agency.

   The application for a hospital exemption approval shall be submitted to the competent authority of the Member State where the hospital is located.

PUBLIC

3. Member States shall ensure that advanced therapy medicinal products prepared under hospital exemption comply with the requirements equivalent to the good manufacturing practices and traceability for advanced therapy medicinal products referred to in Articles 5 and 15 of Regulation (EC) No 1394/2007[35] respectively, and with pharmacovigilance requirements equivalent to those provided for at Union level pursuant to [revised Regulation (EC) No 726/2004].

4. Member States shall ensure that data on the use, safety and the efficacy of advanced therapy medicinal products prepared under hospital exemption ***as well as any relevant data specified in the implemented acts referred to in paragraph 7,*** is collected and reported by the hospital exemption approval holder to the competent authority of the Member State at least annually***. The data shall be collected and reported in a structured and standardised way that enables robust, reliable and comparable results and conclusions***. The competent authority of the Member State shall review such data and shall verify the compliance of advanced therapy medicinal products prepared under hospital exemption with the requirements referred to in paragraph 3. ***Upon request, the competent authorities shall provide scientific and regulatory advice to developers of advanced therapy medicinal products to be prepared and used under hospital exemption and to hospital exemption approval holders on the further development of their advanced therapy medicinal product, and when appropriate for the purpose of obtaining a marketing authorisation by the Union.***

[35] 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. 1).

5. If a hospital exemption approval is revoked due to safety or efficacy concerns the competent authority of the Member States that approved the hospital exemption shall inform the Agency ~~and~~. ***The Agency shall inform*** the competent authorities of the other Member States.

6. The competent authority of the Member State shall transmit the data related to the use, safety and efficacy of an advanced therapy medicinal product prepared under the hospital exemption approval to the Agency annually. The Agency shall, in collaboration with the competent authorities of Member States and the Commission, set up and maintain a repository of that data***, including the mechanism for electronic submission***.

7. The Commission shall adopt implementing acts to specify the following:

   (a) details of the application for the approval of hospital exemption referred to in paragraph ~~1~~***2***, second subparagraph, including the evidence on quality, safety and efficacy of the advance therapy medicinal products prepared under hospital exemption for the approval and the subsequent changes;

   (b) the ***content and*** format for collection and reporting of data referred to in paragraph 4;

   (c) the modalities for the exchange of knowledge between hospital exemption approval holders within the same Member State or different Member States;

PUBLIC

(d) the modalities for preparation and use of advanced therapy medicinal products under hospital exemption on a non-routine basis.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 214(2).

8. The Agency shall provide to the Commission a report on the experience acquired with the hospital exemption approvals on the basis of contributions from Member States and the data referred to in paragraph 4. The ***report shall be made publicly available. The*** first report shall be provided three years after [OP please insert the date ~~=18~~***24*** months after the date of entering into force of this Directive] and then every five years thereafter.

PUBLIC

Article 3

Exceptions under certain circumstances

1. A Member State may, in order to fulfil special needs, exclude from the scope of this Directive medicinal products supplied in response to a bona fide unsolicited order ***or anticipated bonafide unsolicited order, formulated or used***~~, prepared~~ in accordance with the specifications of an authorised healthcare professional and for use ~~by an~~ ***to fulfil the needs of*** individual ~~patient~~***patients*** under their direct personal responsibility. However, in such ~~case~~ ***cases*** Member States shall encourage healthcare professionals and patients to report data on the safety of the use of such products to the competent authority of the Member State in accordance with Article 97.

For allergen medicinal products supplied in accordance with this paragraph, the competent authorities of the Member State may request the submission of relevant information in accordance with Annex II.

PUBLIC

1a. ***In justified cases, and where other possible measures are deemed insufficient by the Member State to ensure availability of the concerned medicinal products or suitable alternatives for their patients, a Member State may temporarily allow the preparation and supply of medicinal products prepared to mitigate or resolve a shortage in that Member State, or to address the specific needs of the patients in that Member State in a situation where a marketing authorisation holder has withdrawn the marketing authorisation of a medicinal product for reasons unrelated to quality, safety or efficacy or to address a situation, where there is an authorised medicinal product in the Union but it does not cover the specific strength, pharmaceutical form or formulation needed to address the specific needs of patients in that Member State.***

The exceptions referred to in this paragraph shall apply only when there is no suitable alternative medicinal product authorised in the Union, or where such an alternative exists, but is not available within that Member State, or cannot be supplied in accordance with paragraph 1, and to the extent necessary to meet the specific needs of the patients, and in the case of shortage, when the shortage in the relevant Member State cannot be resolved through Union coordinated actions. Member States shall endeavour, to the extent possible, to address the shortage under the rules set out in this Directive and Regulation [revised 726/2004], before having recourse to this paragraph. Purely financial considerations shall not, lead to recognition of the existence of specific needs capable of justifying the application of this paragraph.

PUBLIC

For medicinal products prepared and supplied in accordance with this paragraph Member States shall ensure that:

(a) the preparation of the medicinal product is approved by the national competent authority on the basis of an assessment of the case and on public health grounds;

(b) in the case of a shortage, the approval under point (a) is revoked when the shortage is resolved or the medicinal product can be supplied in accordance with paragraph 1;

(c) in the cases other than shortages referred to in the first subparagraph the approval shall be limited in time and assessed at appropriate intervals for the necessity of the exemption and shall be revoked without undue delay when a suitable medicinal product is authorised in the Union and available within that Member State or the medicinal product can be supplied in accordance with paragraph 1;

(d) appropriate oversight by the national competent authority is in place and in particular any issues with regards to quality and safety are monitored and evaluated;

(e) the facility preparing the medicinal product complies with the requirements of the Good Manufacturing Practices referred to in Article 160;

PUBLIC

(f) the quality, safety and efficacy and the positive benefit-risk balance of the medicinal product is confirmed by the national competent authority;

(g) the product is supplied to patients under the supervision of an authorised healthcare professional.

1b. Member States may temporarily exclude from the scope of this Directive medicinal products manufactured and supplied exclusively to the armed forces for military or defence purposes, prepared under the responsibility of the national authority for military or defence matters and prepared on the basis of national monographs for the manufacture and quality assessment of these medicinal products.

2. Without prejudice to Article 30 of [revised Regulation (EC) No 726/2004], Member States may temporarily authorise the use and distribution of an unauthorised medicinal product in response to a suspected or confirmed spread of pathogenic agents, toxins, chemical agents or nuclear radiation any of which could cause harm.

PUBLIC

3. Member States shall ensure that marketing authorisation holders, manufacturers and healthcare professionals are not subject to civil or administrative liability for any consequences resulting from the use of a medicinal product otherwise than for the authorised therapeutic indications or from the use of an unauthorised medicinal product, where such use is recommended or required by a competent authority in response to the suspected or confirmed spread of pathogenic agents, toxins, chemical agents or nuclear radiation any of which could cause harm. Such provisions shall apply whether or not a national or a centralised marketing authorisation has been granted.

4. Liability for defective products, as provided for by [Council Directive 85/374/EEC[36] – OP please replace reference by new instrument COM(2022) 495 when adopted], shall not be affected by paragraph 3.

[36] Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States, concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

Article 4

Definitions

1. For the purposes of this Directive, the following definitions apply:

(1) 'medicinal product' means ~~any substance or combination of substances that fulfils at least one of the following conditions~~:

(a) any substance or combination of substances that is presented as having properties for treating or preventing disease in human beings; or

(b) any substance or combination of substances that may be used in or administered to human beings with a view to either restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis;

(2) 'substance' means any matter irrespective of origin, which may be:

(a) human, e.g. tissues and cells, human blood, human secretions and human blood products;

(b) animal, e.g. whole animals, animal organs and parts thereof, animal tissues and cells, animal secretions, toxins, extracts, animal blood and animal blood products;

PUBLIC

(c) vegetal, e.g. plants, including algae, parts of plants, plant secretions and exudates, extracts;

(d) chemical, e.g. elements, naturally occurring chemical materials and chemical products obtained by chemical change or synthesis;

(e) micro-organisms, e.g. bacteria, viruses and protozoa;

(f) fungi, including micro-fungi (yeast);

(3) 'active substance' means any substance or mixture of substances intended to be used in the manufacture of a medicinal product and that, when used in its production, becomes an active ingredient of that product intended to exert a pharmacological, immunological or metabolic action with a view to restoring, correcting or modifying physiological functions or to make a medical diagnosis;

(4) 'starting material' means any material from which an active substance is manufactured or extracted;

(4a) 'intermediate product' means any partly processed material which must undergo further manufacturing steps before it becomes a bulk medicinal product or finished medicinal product;

(5) 'excipient' means any ingredient of a medicinal product other than the active substance;

PUBLIC

(6) ‘functional excipient’ means an excipient that contributes to or enhances the performance of a medicinal product or performs an action ancillary to that of the active substance but does not have a therapeutic contribution on its own;

(7) ‘advanced therapy medicinal product’ means advanced therapy medicinal product as defined in Article 2(1), point (a), of Regulation (EC) No 1394/2007;

(8) ‘allergen ***medicinal*** product’ means any medicinal product that is intended to identify or induce a specific acquired alteration in the immunological response to an allergen;

(9) ‘competent ***authority*** ~~authorities’~~ means the Agency ***or*** ~~and~~ the competent ***authority*** ~~authorities~~ of the Members State~~s~~;

(10) ‘Agency’ means the European Medicines Agency;

(11) ‘non-clinical’ means a study or a test conducted in vitro***, ex vivo***, in silico, or in chemico, or a non-human in vivo test related to the investigation of the safety and efficacy of a medicinal product. Such test may include simple and complex human cell-based assays, microphysiological systems including organ-on-chip, computer modelling ***and other in silico methods***, other non-human or human biology-based test methods~~,~~ and animal-based tests;

PUBLIC

(12) ‘reference medicinal product’ means a medicinal product that is or has been authorised ~~in the Union~~ ***by a Member State or by the Commission*** under Article 5, in accordance with Article 6;

(13) ‘generic medicinal product’ means a medicinal product that has the same qualitative and quantitative composition in active substances and the same pharmaceutical form as the reference medicinal product;

(14) ‘biological medicinal product’ means a medicinal product, the active substance of which is produced by or extracted from a biological source and which due to its complexity, its characterisation and the determination of its quality may require a combination of physico-chemical-biological testing, together with its control strategy;

(14a) ‘biosimilar medicinal product’ means a biological medicinal product that is similar to a reference medicinal product and has the same strength, pharmaceutical form, route of administration;

(15) ‘letter of access’ means an original document, signed by the owner of the data or its representative, that states that the data may be used for the benefit of a third party by a competent authority or the Commission for the purposes of this Directive;

PUBLIC

(16) ‘fixed dose combination medicinal product’ means a medicinal product consisting of a combination of active substances intended to be placed on the market as a single pharmaceutical form;

(17) ‘multi-medicinal product package’ means a package that contains more than one medicinal product under a single invented name and intended to be used in a medical treatment where the individual medicinal products in the package are for medical purposes simultaneously or sequentially administered;

(18) ‘radiopharmaceutical’ means any medicinal product that, when ready for use, contains one or more radionuclides (radioactive isotopes) included for a medicinal purpose;

(19) ‘radionuclide generator’ means any system incorporating a fixed parent radionuclide from which is produced a daughter radionuclide which is to be obtained by elution or by any other method and used in a radiopharmaceutical;

(20) ‘kit ***for radiopharmaceutical preparation***’ means any preparation to be reconstituted or combined with radionuclides in the final radiopharmaceutical, usually prior to its administration;

PUBLIC

(21) ‘radionuclide precursor’ means any other radionuclide produced for the radio-labelling of another substance prior to administration;

(22) ‘antimicrobial’ means any medicinal product with a direct action on micro-organisms used for treatment or prevention of infections or infectious diseases, including antibiotics, antivirals ~~and~~**,** antifungals ***and antiprotozoals***;

(23) ‘integral combination of a medicinal product with a medical device’ means a combination of a medicinal product with a medical device, as defined by Regulation (EU) 2017/745, and where:

(a) the two form an integral product and where the action of the medicinal product is principal and not ancillary to that of the medical device, or

(b) the medicinal product is intended to be administered by the medical device and the two are placed on the market in such a way that they form a single integral product that is intended exclusively for use in the given combination and where the medical device is not reusable.

(24) ‘combined advanced therapy medicinal products’ means a product as defined in Article 2 of Regulation (EC) No 1394/2007, including when a gene therapy medicinal product is part of the combined advanced therapy medicinal product;

PUBLIC

(25) ‘medicinal product in exclusive use with a medical device’ means a medicinal product presented in a package with a medical device or to be used with a specific medical device, as defined by Regulation (EU) 2017/745, ***or with an in-vitro diagnostic medical device as defined by Regulation (EU) 2017/746,*** and referenced in the summary of product characteristics;

(26) ‘combination of a medicinal product with a product other than a medical device’ means a combination of a medicinal product with a product other than a medical device (as defined by Regulation (EU) ~~2017/745)~~***2017/745 and Regulation (EU) 2017/746 of the European Parliament and of the Council[37])*** and where the two are intended for use in the given combination in accordance with the summary of product characteristics;

(27) ‘immunological medicinal product’ means:

(a) any vaccine ~~or~~***,*** allergen ***medicinal*** product, or ***any other medicinal product eliciting an active and specific immune response;***

(b) any medicinal product consisting of toxins ~~or~~***,*** serums***, polyclonal or monoclonal antibodies or other immunoglobulins and*** used to produce passive immunity or to diagnose the state of immunity;

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[37] ***Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).***

(28) 'vaccine' means any medicinal product that is intended to elicit an immune response for prevention, including post exposure prophylaxis, and for treatment of diseases caused by an infectious agent;

(29) 'gene therapy medicinal product' means a medicinal product, except vaccines against infectious diseases, that contains or consists of:

(a) a substance or a combination of substances intended to edit the host genome in a sequence-specific manner or that contain or consists of cells subjected to such modification; or

(b) a recombinant or synthetic nucleic acid used in or administered to human beings with a view to regulating, replacing or adding a genetic sequence that mediates its effect by ***long lasting*** transcription or translation of the transferred genetic materials or that contain or consists of cells subjected to these modifications;

PUBLIC

(30) ‘somatic cell therapy medicinal product’ means a biological medicinal product that has the following characteristics:

(a) contains or consists of cells or tissues that have been subject to substantial manipulation so that biological characteristics, physiological functions or structural properties relevant for the intended clinical use have been altered, or of cells or tissues that are not intended to be used for the same essential function(s) in the recipient and the donor;

(b) is presented as having properties for, or is used in or administered to human beings with a view to treating, preventing or diagnosing a disease through the pharmacological, immunological or metabolic action of its cells or tissues.

For the purposes of point (a), the manipulations listed in Annex I to Regulation (EC) No 1394/2007, in particular, shall not be considered as substantial manipulations.

PUBLIC

(30a) 'platform technology' means a technology or collection of technologies that has the potential to be incorporated in, or used by, more than one medicinal product and is comprehensive, well-characterised, reproducible, and standardised and used for the development, the manufacturing process or quality control of medicinal products that rely on prior knowledge and are established under the same underlying scientific principles, which have reasonable scientific certainty to remain unchanged across medicinal products;

(30b) 'platform technology master file' means a document, prepared by the owner of the platform technology, that contains a detailed description of the platform technology;

(31) 'SoHO-derived medicinal product other than ATMPs' means any medicinal product containing, consisting of or deriving from a substance of human origin (SoHO), as defined in Regulation [SoHO Regulation], other than tissues and cells, that is of standardised consistency and is prepared by:

(a) a method involving an industrial process which includes pooling of donations; or

(b) a process that extracts an active ingredient from the substance of human origin or transforms the substance of human origin by changing its inherent properties;

PUBLIC

(32) ‘risk management plan’ means a detailed description of the risk management system;

(33) ‘environmental risk assessment’ means the evaluation of the risks to the environment, or risks to public health, posed by the release of the medicinal product in the environment ~~from~~***following*** the use and disposal of the medicinal product and the identification of risk prevention, limitation and mitigation measures. For ~~medicinal product with an antimicrobial mode of action~~ ***antimicrobials***, the ERA also encompasses an evaluation of the risk for antimicrobial resistance selection in the environment due to the manufacturing, use and disposal of that medicinal product;

(34) ‘antimicrobial resistance’ means the ability of a micro-organism to survive or to grow in the presence of a concentration of an antimicrobial agent that is usually ***or was previously*** sufficient to inhibit or kill that micro-organism;

(35) ‘risks related to use of the medicinal product’ means any risk:

(a) relating to the quality, safety or efficacy of the medicinal product as regards patients' health or public health;

(b) of undesirable effects on the environment posed by the medicinal product;

(c) of undesirable effects on public health due to the release of the medicinal product in the environment including anti-microbial resistance;

PUBLIC

(36) ‘active substance master file’ means a document that contains a detailed description of the manufacturing process, quality control during manufacture and process validation prepared in a separate document by the manufacturer of the active substance;

(37) ‘paediatric investigation plan’ means a research and development programme aimed at ensuring that the necessary data are generated determining the conditions in which a medicinal product may be authorised to treat the paediatric population;

(38) ‘paediatric population’ means that part of the population aged between birth and ***under*** 18 years;

(39) ‘~~medicinal~~***medical*** prescription’ means any medicinal prescription issued by a professional person qualified to do so;

(40) ‘abuse of medicinal products’ means persistent or sporadic, intentional excessive use of medicinal products that is accompanied by harmful physical or psychological effects;

(41) ‘benefit-risk balance’ means an evaluation of the positive therapeutic effects of the medicinal product in relation to the risks referred to in point (35), subpoint (a);

PUBLIC

(42) ‘marketing authorisation holder representative’ means the person, commonly known as local representative, designated by the marketing authorisation holder to represent the marketing authorisation holder in the Member State concerned;

(43) ‘package leaflet’ means information for the user that accompanies the medicinal product;

(44) ‘outer packaging’ means the packaging into which is placed the immediate packaging;

(45) ‘immediate packaging’ means the container or other form of packaging immediately in contact with the medicinal product;

(46) ‘labelling’ means information on the immediate packaging or the outer packaging;

(47) ‘name of the medicinal product’ means the name, which may be either an invented name not liable to confusion with the common name, or a common or scientific name accompanied by a trademark or by the name of the marketing authorisation holder;

(48) ‘common name’ means the international non-proprietary name recommended by the World Health Organization for an active substance;

PUBLIC

(49) ‘strength of the medicinal product’ means the content of the active substances in a medicinal product, expressed quantitatively per dosage unit, per unit of volume or per unit of weight according to the dosage form;

(50) ‘falsified medicinal product’ means any medicinal product with a false representation of:

(a) its identity, including its packaging and labelling, its name or its composition as regards any of the ingredients including excipients or the strength of those ingredients;

(b) its source, including its manufacturer, its country of manufacturing, its country of origin or its marketing authorisation holder; or

(c) its history, including the records and documents relating to the distribution channels used;

This definition does not include unintentional quality defects and is without prejudice to infringements of intellectual property rights.

(51) ‘public health emergency’ means a public health emergency recognised at Union level by the Commission under Article 23(1) of Regulation (EU) 2022/2371 of the European Parliament and of the Council[38];

[38] Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU (OJ L 314, 6.12.2022, p. 26).

(52) ~~'~~***"Not-for-profit*** entity ~~not engaged in an economic activity'~~***"*** means ~~any legal or~~***: a*** natural ***or legal*** person that is ***not making or not intended to make profits; or a natural or legal person that is not owned or controlled directly or indirectly by any entity that is profit-making, and has not concluded agreements with such entity concerning sponsorship or participation to the medicinal product development. "Entities*** not engaged in an economic activity***" referred to in Annex V of Regulation (EU) 2024/568 of the European Parliament and of the Council of 7 February 2024 on fees and charges payable to the European Medicines Agency,, shall be considered as a 'not-for-profit entity' as defined in this Directive.*** ~~and that:~~

~~(a) is not an undertaking or controlled by an undertaking; and,~~

~~(b) has not concluded any agreements with any undertaking concerning sponsorship or participation to the medicinal product development;~~

(53) 'micro, small and medium-sized enterprises' means micro, small and medium-sized enterprises as defined in Article 2 of Commission Recommendation 2003/361/EC[39];

[39] Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

(54) ‘variation’ or ‘variation of the terms of a marketing authorisation’ means any amendment to:

(a) the contents of the particulars and documents referred to in Article 6(2), Articles 9 to 14 and Article 62, Annex I and Annex II thereto and Article 6 of the [revised Regulation (EC) No 726/2004]; or

(b) the terms of the decision granting the marketing authorisation for a medicinal product, including the summary of product characteristics and any conditions, obligations, or restrictions affecting the marketing authorisation, or changes to the labelling or the package leaflet related to changes to the summary of product characteristics;

(55) ‘post-authorisation safety study’ means any study relating to an authorised medicinal product conducted with the aim of identifying, characterising or quantifying a safety hazard, confirming the safety profile of the medicinal product, or of measuring the effectiveness of risk management measures;

(56) ‘pharmacovigilance system’ means a system used by the marketing authorisation holder and by Member States to fulfil the tasks and responsibilities set out in Chapter IX and designed to monitor the safety of authorised medicinal products and detect any change to their benefit-risk balance;

PUBLIC

(57) ‘pharmacovigilance system master file’ means a detailed description of the pharmacovigilance system used by the marketing authorisation holder with respect to one or more authorised medicinal products;

(58) ‘risk management system’ means a set of pharmacovigilance activities and interventions designed to identify, characterise, prevent or minimise risks relating to a medicinal product, including the assessment of the effectiveness of those activities and interventions;

(59) ‘adverse reaction’ means a response to a medicinal product that is noxious and unintended;

(60) ‘serious adverse reaction’ means an adverse reaction that results in death, is life-threatening, requires inpatient hospitalisation or prolongation of existing hospitalisation, results in persistent or significant disability or incapacity, or is a congenital anomaly or a birth defect;

(61) ‘unexpected adverse reaction’ means an adverse reaction, the nature, severity or outcome of which is not consistent with the summary of product characteristics;

(62) ‘homeopathic medicinal product’ means a medicinal product prepared from homeopathic stocks in accordance with a homeopathic manufacturing procedure described by the European Pharmacopoeia or, in the absence thereof, by the pharmacopoeias currently used officially in the Member States;

PUBLIC

(63) ‘traditional herbal medicinal product’ means a herbal medicinal product that fulfils the conditions laid down in Article 134(1);

(64) ‘herbal medicinal product’ means any medicinal product, exclusively containing as active ingredients one or more herbal substances or one or more herbal preparations, or one or more such herbal substances in combination with one or more herbal preparations;

(65) ‘herbal substances’ means all mainly whole, fragmented or cut plants, plant parts, algae, fungi, lichen in an unprocessed, usually dried or fresh form, and certain exudates that have not been subjected to a specific treatment are also considered to be herbal substances. Herbal substances are precisely defined by the plant part used and the botanical name according to the binomial system (genus, species, variety and author);

(66) ‘herbal preparations’ means preparations obtained by subjecting herbal substances to treatments such as extraction, distillation, expression, fractionation, purification, concentration or fermentation including comminuted or powdered herbal substances, tinctures, extracts, essential oils, expressed juices and processed exudates;

PUBLIC

(67) 'corresponding ~~traditional herbal medicinal~~ product' means a ~~traditonal herbal medicinal~~ product with the same active substances, irrespective of the excipients used, the same or similar intended purpose, equivalent strength and posology and the same or similar route of administration as the traditional herbal medicinal product applied for;

(67a) 'manufacture of medicinal products' means any operation which is part of the process of bringing active substances and excipients into a medicinal product and any related operation, including but not limited to processing, filling, sterilisation, assembly, labelling, immediate and outer packaging and repackaging, storage, quality control testing, and release of the medicinal product;

(67b) Decentralised manufacturing' means a set of manufacturing activities of medicinal products that are carried out under the control of a central site which supervises one or more decentralised sites where manufacturing activities take place, and which are located in sufficient proximity to patients;

(67c) 'manufacture of active substances' means any operation involved in producing the active substance from starting materials and any related operation, including but not limited to, processing, packaging, repackaging, labelling, storage, quality control testing and release of the active substance;

PUBLIC

(68) ‘wholesale distribution of medicinal products’ means all activities, consisting of procuring, holding, supplying or exporting medicinal products, whether for profit or not, apart from supplying medicinal products to the public. Such activities are carried out with manufacturers or their depositories, importers, other wholesale distributors or with pharmacists and persons authorised or entitled to supply medicinal products to the public in the Member State concerned;

(69) ‘brokering of medicinal products’ means all activities in relation to the sale or purchase of medicinal products, except for wholesale distribution, that do not include physical handling and that consist of negotiating independently and on behalf of another legal or natural person;

(70) ‘public service obligation’ means to ~~guarantee~~***ensure*** permanently an adequate range of medicinal products to meet the requirements of a specific geographical area and to deliver the supplies requested within a very short time over the whole of the area in question.

2. The Commission is empowered to adopt delegated acts in accordance with Article 215 to amend the definitions in paragraph 1, points (2) to (6), (8), (14), (16) to (31), in the light of technical and scientific progress and taking into account definitions agreed at Union and international level without ~~extending~~***amending*** the scope of the definitions.

PUBLIC

Chapter II
Application requirements for national and centralised marketing authorisations

PUBLIC

SECTION 1
GENERAL PROVISIONS

Article 5

Marketing authorisations

1. A medicinal product shall be placed on the market of a Member State only when a marketing authorisation has been granted by the competent authorities of a Member State in accordance with Chapter III ('national marketing authorisation') or a marketing authorisation has been granted in accordance with [revised Regulation (EC) No 726/2004] ('centralised marketing authorisation').

2. When an initial marketing authorisation has been granted in accordance with paragraph 1, any development concerning the medicinal product covered by the authorisation such as additional therapeutic indication, strengths, pharmaceutical forms, administration routes, presentations, as well as any variations of the marketing authorisation shall also be granted an authorisation in accordance with paragraph 1 or be included in the initial marketing authorisation. All those marketing authorisations shall be considered as belonging to the same global marketing authorisation, in particular for the purpose of the marketing authorisations applications under Articles 9 to 12, including as regards the expiry of the regulatory data protection period for applications using a reference medicinal product.

Article 6

General requirements for marketing authorisation applications

1. In order to obtain a marketing authorisation, an electronic marketing authorisation application shall be submitted to the competent authority concerned in a common format. The Agency shall make available such format after consultation with the Member States.

2. The marketing authorisation application shall include the particulars and documentation listed in Annex I, submitted in accordance with Annex II. ***Where appropriate, the marketing authorisation application may include summary documents, certificates, protocols or master files in accordance with Chapter II section 4 and Annex II.***

3. The documents and information concerning the results of the pharmaceutical and non-clinical tests and the clinical studies referred to in Annex I shall be accompanied by detailed summaries in accordance with Article 7 and supportive raw data ***in accordance with Article 29 of this Directive or Article 6 of [revised Regulation (EC) No 726/2004].***

4. The risk management system referred to in Annex I shall be proportionate to the identified risks and the potential risks of the medicinal product, and the need for post-authorisation safety data.

PUBLIC

5. The marketing authorisation application for a medicinal product that is not authorised in the Union at the time of entry into force of this Directive and for new therapeutic indications, including paediatric indications, new pharmaceutical forms, new strengths and new routes of administration of authorised medicinal products which are protected either by a supplementary protection certificate under [Regulation (EC) No 469/2009 - OP please replace reference by new instrument when adopted], or by a patent which qualifies for the granting of the supplementary protection certificate, shall include one of the following:

(a) the results of all studies performed and details of all information collected in compliance with an agreed paediatric investigation plan;

(b) a decision of the Agency granting a product-specific waiver pursuant to Article 75(1) of [revised Regulation No (EC) 726/2004];

(c) a decision of the Agency granting a class waiver pursuant to Article 75(2) of [revised Regulation No (EC) 726/2004];

(d) a decision of the Agency granting a deferral pursuant to Article 81 of [revised Regulation No (EC) 726/2004];

(e) a decision of the Agency taken in consultation with the Commission pursuant to Article 83 of [revised Regulation No (EC) 726/2004] to temporarily derogate from the provision referred to in points (a) to (d) above in case of health emergencies.

The documents submitted under points (a) to (d) shall, cumulatively, cover all subsets of the paediatric population.

6. The provisions of paragraph 5 shall not apply to medicinal products authorised under Articles 9, 11, 13, Articles 125 to 141 and medicinal products authorised under Articles 10 and 12 which are not protected either by a supplementary protection certificate under [Regulation (EC) No 469/2009 - OP please replace reference by new instrument when adopted], or by a patent which qualifies for the granting of the supplementary protection certificate.

7. The marketing authorisation applicant shall demonstrate that the principle of replacement, reduction and refinement of animal testing for scientific purposes has been applied in compliance with Directive 2010/63/EU with regard to any animal study conducted in support of the application.

The marketing authorisation applicant shall not carry out animal testing in case scientifically satisfactory non-animal testing methods are available. ***Where scientifically satisfactory non-animal testing methods are not available, animal testing shall be carried out in accordance with Directive 2010/63/EU.***

PUBLIC

Article 7

Expert verification

1. The marketing authorisation applicant shall ensure that the detailed summaries referred to in Article 6(3) have been drawn up and signed by experts with the necessary technical or professional qualifications before they are submitted to the competent authorities. The technical or professional qualifications of the experts shall be set out in a brief curriculum vitae.

2. The experts referred to in paragraph 1 shall justify any use made of scientific literature under Article 13 in accordance with the requirements set out in Annex II.

Article 8

Medicinal products manufactured outside the Union

Member States shall take all appropriate measures to ensure that:

(a) the competent authorities ~~of the Member States~~ verify that manufacturers and importers of medicinal products coming from third countries are able to carry out manufacture in compliance with the particulars supplied pursuant to Annex I~~, or to~~ ***and*** carry out controls according to the methods described in the particulars accompanying the application in accordance with Annex I;

PUBLIC

(b) the competent authorities ~~of the Member States~~ may allow manufacturers and importers of medicinal products coming from third countries, in justifiable cases, to have certain stages of manufacture or certain of the controls referred to in point (a) carried out by third parties; in such cases, the verifications by the competent authorities ~~of the Member States~~ shall also be made in the establishment designated.

SECTION 2

SPECIFIC REQUIREMENTS FOR ABRIDGED, BIBLIOGRAPHIC OR CONSENT BASED APPLICATIONS FOR MARKETING AUTHORISATION

Article 9

Applications concerning generic medicinal products

1. By way of derogation from Article 6(2), the applicant for a marketing authorisation for a generic medicinal product shall not be required to provide to the competent authorities the results of non-clinical tests and of clinical studies if equivalence of the generic medicinal product with the reference medicinal product is demonstrated.

2. For the purpose of demonstrating the equivalence as referred to in paragraph 1, the applicant shall submit to the competent authorities equivalence studies, or a justification as to why such studies were not performed, and demonstrate that the generic medicinal product meets the relevant criteria set out in the appropriate detailed guidelines.

PUBLIC

3. Paragraph 1 shall also apply if the reference medicinal product has not been authorised in the Member State in which the application for the generic medicinal product is submitted. In this case, the applicant shall indicate in the application the name of the Member State in which the reference medicinal product is or has been authorised. At the request of the competent authority of the Member State in which the application is submitted, the competent authority of the other Member State shall transmit within a period of one month a confirmation that the reference medicinal product is or has been authorised together with the full composition of the reference medicinal product and if necessary, any other relevant documentation.

The various immediate-release oral pharmaceutical forms shall be considered to be the same pharmaceutical form.

4. The different salts, esters, ethers, isomers, mixtures of isomers, complexes or derivatives of an active substance shall be considered to be the same active substance, unless they differ significantly in properties with regard to safety or efficacy. In those cases, the applicant shall submit additional information to demonstrate that the different salts, esters, ethers, isomers, mixtures of isomers, complexes or derivatives of an active substance do not differ significantly in respect of those properties.

PUBLIC

5. Where there is a significant difference in properties as referred to in paragraph 4, the applicant shall submit additional information in order to prove the safety or efficacy of the different salts, esters, ethers, isomers, mixtures of isomers, complexes or derivatives of the authorised active substance of the reference medicinal product in an application under Article 10.

Article 10

Applications concerning hybrid medicinal products

In cases where the medicinal product does not fall within the definition of a generic medicinal product or has changes in strength, pharmaceutical form, route of administration or therapeutic indications, compared to the reference medicinal product, the results of the appropriate non-clinical tests or clinical studies shall be provided to the competent authorities to the extent necessary to establish a scientific bridge to the data relied upon in the marketing authorisation for the reference medicinal product, and to demonstrate the safety and efficacy profile of the hybrid medicinal product.

PUBLIC

Article 11

Applications concerning biosimilar medicinal products

For a biological medicinal product that is similar to a reference biological medicinal product ('biosimilar medicinal product'), the results of appropriate comparability tests and studies shall be provided to the competent authorities. The type and quantity of supplementary data to be provided must comply with the relevant criteria stated in Annex II and the related detailed guidelines. The results of other tests and studies from the reference medicinal product's dossier shall not be provided.

Article 12

Applications concerning bio-hybrid medicinal products

In cases where ***the biological medicinal product does not fall within the definition of*** a biosimilar medicinal product ***or*** has changes in strength, pharmaceutical form, route of administration or therapeutic indications, compared to the reference biological medicinal product ('bio-hybrid'), the results of the appropriate non-clinical tests or clinical studies shall be provided to the competent authorities to the extent necessary to establish a scientific bridge to the data relied upon in the marketing authorisation for the reference biological medicinal product, and to demonstrate the safety ~~or~~***and*** efficacy profile of the ~~biosimilar~~***bio-hybrid*** medicinal product.

PUBLIC

Article 13

Applications based on bibliographic data

~~In cases where no reference medicinal product is or has been authorised for the active substance of the medicinal product concerned,~~ The applicant shall, by way of derogation from Article 6(2), not be required to provide the results of non-clinical tests or clinical studies if the applicant can demonstrate that the active substances of the medicinal product have been in well-established medicinal use within the Union for the same therapeutic use and route of administration and for at least ten years, with recognised efficacy and an acceptable level of safety in terms of the conditions set out in Annex II. In that event, the test and trial results shall be replaced by appropriate bibliographic data in the form of scientific literature***, and the applicant shall establish a scientific bridge between the bibliographic data and the medicinal product concerned***. ***An application based on this Article may only be submitted if the applicant can demonstrate that: (a) no reference medicinal product is or has been authorised in the Union for the active substance of the medicinal product concerned at the time of submission of the marketing authorisation application; or (b) while a reference medicinal product for the active substance of the medicinal product concerned has been authorised, it is not available on the market within the Union; or (c) the application concerns a herbal medicinal product for which efficacy and safety have been established and documented in a relevant Union herbal monograph.***

PUBLIC

Article 14

Applications based on consent

Following the granting of a marketing authorisation, the marketing authorisation holder may, by letter of access, allow use to be made of all documentation referred to in Article 6(2) ~~with a view to~~***for the purpose of*** examining subsequent applications relating to other medicinal products possessing the same qualitative and quantitative composition in terms of active substances and the same pharmaceutical form.

SECTION 3

SPECIFIC REQUIREMENTS FOR APPLICATIONS FOR CERTAIN CATEGORIES OF MEDICINAL PRODUCTS

Article 15

Fixed dose combination medicinal product, platform ~~technologies~~*marketing authorisation* and multi-medicinal product packages

1. Where justified for ~~therapeutic~~***clinical*** purposes, a marketing authorisation may be granted for a fixed dose combination medicinal product.

PUBLIC

2. Where justified for ~~therapeutic~~***clinical*** purposes, a marketing authorisation may~~, in exceptional circumstances,~~ be granted for a medicinal product comprised of a fixed component and a variable component that is pre-defined in order to, where appropriate, target different variants of an infectious agent or, where necessary, to tailor the medicinal product to characteristics of an individual patient or a group of patients (‘platform ~~technology~~***marketing authorisation***’).

An applicant that intends to submit an application for a marketing authorisation for such a medicinal product shall seek, in advance, the agreement concerning the submission of such application by the competent authority concerned.

3. Where justified for public health reasons and when the active substances cannot be combined within a fixed dose combination medicinal product, a marketing authorisation may, in exceptional circumstances, be granted to a multi-medicinal product package.

An applicant that intends to submit a an application for a marketing authorisation for such a medicinal product shall seek, in advance, the agreement concerning the submission of such application by the competent authority concerned.

PUBLIC

Article 16

Radiopharmaceuticals

1. A marketing authorisation shall be required for radionuclide generators, kits ***for radiopharmaceutical preparations***, and radionuclide precursors, unless they are used as starting material, active substance or intermediate of radiopharmaceuticals covered by a marketing authorisation under Article 5(1).

2. A marketing authorisation shall not be required for a radiopharmaceutical prepared at the time of use by a person or by an establishment authorised, according to national legislation, to use such radiopharmaceutical in an approved healthcare establishment exclusively from authorised radionuclide generators, kits ***for radiopharmaceutical preparation*** or radionuclide precursors in accordance with the ~~manufacturer's instructions~~***in the summary of product characteristics***.

PUBLIC

Article 17

Antimicrobials

1. Where the application for a marketing authorisation concerns an antimicrobial, the application shall, in addition to the information referred to in Article 6, contain the following:

   (a) an antimicrobial stewardship plan as referred to in Annex I;

   (b) a description of the special information requirements outlined in Article 69 and listed in Annex I.

2. The competent authority ~~may~~***shall review the information submitted in accordance with paragraph 1. The competent authority shall*** impose obligations on the marketing authorisation holder if it finds the risk mitigation measures contained in the antimicrobial stewardship plan unsatisfactory.

3. The marketing authorisation holder shall ensure***, where the pack is intended for direct dispensing to patients,*** that the pack size of the antimicrobial corresponds to the usual posology and duration of treatment.

PUBLIC

Article 18

Integral combinations of medicinal products and medical devices

1. For integral combinations of a medicinal product and a medical device the marketing authorisation applicant shall submit data establishing the safe and effective use of the integral combination of the medicinal product and the medical device.

   As part of the assessment, in accordance with Article 29, of the integral combination of a medicinal product and a medical device the competent authorities shall assess the benefit-risk balance of the integral combination of a medicinal product and a medical device, taking into account the suitability of the use of the medicinal product together with the medical device.

2. The relevant general safety and performance requirements set out in Annex I of Regulation (EU) 2017/745 shall apply as far as the safety and performance of the medical device part of the integral combination of a medicinal product with a medical device are concerned.

PUBLIC

3. The application for a marketing authorisation for an integral combination of a medicinal product with a medical device shall include the documentation supporting the compliance of the medical device part with the general safety and performance requirements as referred to in paragraph 2 in accordance with Annex II, including~~, where relevant,~~ ***the results of*** the conformity assessment ~~report~~***of the device part with the general safety and performance requirements of Regulation (EU) 2017/745 or an opinion on the conformity of the device part with the general safety and performance requirements of Regulation (EU) 2017/745*** by a notified body.

4. In its evaluation of the integral combination of a medicinal product with a medical device concerned, the competent authorities shall recognise the results of the assessment of compliance of the medical device part of that integral combination with the general safety and performance requirements in accordance with Annex I of Regulation (EU) 2017/745 including, where relevant, the results of the assessment by a notified body.

5. The marketing authorisation applicant shall, upon request from the competent authority, submit any additional information related to the medical device and that is relevant for the benefit-risk balance assessment of the integral combination of a medicinal product with a medical device referred to in paragraph 1.

PUBLIC

Article 19

Medicinal products in exclusive use with medical devices
or in-vitro diagnostic medical devices

1. For medicinal products in exclusive use with a ***medical device or in-vitro diagnostic*** medical device the marketing authorisation applicant shall submit data establishing the safe and effective use of the medicinal product taking into account its use with the medical device.

   As part of the assessment, in accordance with Article 29, of the medicinal product referred to in the first subparagraph, the competent authorities shall assess the benefit-risk balance of the medicinal product taking into account the use of the medicinal product together with the medical device ***or in-vitro diagnostic medical device***.

2. For medicinal products in exclusive use with a medical device ***or in-vitro diagnostic medical device the medical device or in-vitro diagnostic***~~the~~ medical device shall meet the requirements set out in Regulation (EU) 2017/745 ***or Regulation (EU) 2017/746, as applicable***.

3. The application for a marketing authorisation for a medicinal product in exclusive use with a medical device ***or in-vitro diagnostic medical device*** shall include the documentation supporting the compliance of the medical device ***or in-vitro diagnostic medical device*** with the general safety and performance requirements ~~as referred to in paragraph 2~~ in accordance with Annex II, including, where relevant, the ***results of the assessment or the*** conformity assessment report by a notified body.

PUBLIC

4. In its evaluation of the medicinal product referred to in paragraph 1 the competent authority shall recognise the results of the assessment of compliance of the medical device ***or in-vitro diagnostic medical device*** concerned with the general safety and performance requirements in accordance with Annex I of Regulation (EU) 2017/745 ***or (EU) 2017/746, as applicable,*** including, where relevant, the results of the assessment by a notified body.

5. The marketing authorisation applicant shall, upon request from the competent authority, submit any additional information related to the medical device and that is relevant for the benefit-risk balance assessment of the medicinal product referred to in paragraph 1, taking into account the use of the medicinal product with the medical device.

6. If the action of the medicinal product is not ancillary to that of the medical device, the medicinal product shall comply with the requirements of this Directive and of the [revised Regulation (EC) No 726/2004], taking into account its use with the medical device, without prejudice to the specific requirements of the Regulation (EU) 2017/745.

   In this case, the marketing authorisation applicant shall, upon request from the competent authorities, submit any additional information related to the medical device, taking into account its use with the medicinal product and that is relevant for the post-authorisation monitoring of the medicinal product, without prejudice to the specific requirements of the [revised Regulation (EC) No 726/2004].

PUBLIC

Article 20

Combinations of medicinal products with products other than medical devices

1. For combinations of a medicinal product with a product other than a medical device, the marketing authorisation applicant shall submit data establishing the safe and effective use of the combination of the medicinal product and the other product.

   As part of the assessment, in accordance with Article 29, of the combination of a medicinal product with a product other than a medical device the competent authority shall assess the benefit-risk balance of the combination of a medicinal product and a product other than a medical device, taking into account the use of the medicinal product together with the other product.

2. The marketing authorisation applicant shall, upon request from the competent authority submit any additional information related to the product other than medical devices and that is relevant for the benefit-risk balance assessment of the combination of medicinal products with the product other than medical devices, taking into account the suitability of the use of the medicinal product with the product referred to in paragraph 1.

3. The competent authority may request an opinion from the authority competent for the supervision of the product other than a medical device.

PUBLIC

SECTION 4

SPECIFIC DOSSIER REQUIREMENTS

Article 21

Risk management plan

1. The applicant of a marketing authorisation for a medicinal product referred to in Articles 9 and 11 shall not be required to submit a risk management plan and a summary thereof, provided that no additional risk minimisation measures exist for the reference medicinal product and provided that the marketing authorisation for the reference medicinal product has not been withdrawn prior to the submission of the application.

2. ***The risk management plan for medicinal products referred to in Articles 10 and 12 shall be limited to the differences between this medicinal product and the reference medicinal product, provided that no additional risk minimisation measures exist for the reference medicinal product and provided that the marketing authorisation for the reference medicinal product has not been withdrawn prior to the submission of the application.***

PUBLIC

Article 22

Environmental risk assessment and other environmental information

1. When preparing the environmental risk assessment ('ERA') to be submitted pursuant to Article 6(2), the applicant shall take into account the scientific guidelines on the environmental risk assessment of medicinal products for human use as referred to in paragraph ~~6~~***5***, or provide the ***duly justified*** reasons for any divergence from the scientific guidelines to the Agency or, as appropriate to the competent authority of the Member State concerned, in a timely manner. Where available, the applicant shall take into account existing ERAs performed under other Union legislation.

2. The ERA shall indicate whether the medicinal product or any of its ingredients or other constituents is one of the following substances according to the criteria of Annex I to the Regulation (EC) No 1272/2008:

   (a) persistent, bioaccumulative and toxic (PBT);

   (b) very persistent and very bioaccumulative (vPvB);

   (c) persistent, mobile and toxic (PMT), very persistent and very mobile (vPvM);

   or are endocrine active agents.

PUBLIC

3. The applicant shall also include in the ERA risk mitigation measures to avoid or where it is not possible, limit emissions to air, water and soil of ***ingredients and constituents of medicinal products listed as*** pollutants ~~listed~~ in Directive 2000/60/EC, Directive 2006/118/EC, Directive 2008/105/EC and Directive 2010/75/EU. The applicant shall provide detailed explanation that the proposed mitigation measures are appropriate and sufficient to address the identified risks to the environment.

4. The ERA for antimicrobials shall include an evaluation of the risk for antimicrobial resistance selection in the environment due to the entire manufacturing supply chain inside and outside the Union, use and disposal***, including by healthcare professionals and patients,*** of the antimicrobial taking into account, where relevant, the existing international standards that have established predicted no effect concentration (PNECs) specific for antibiotics.

5. The Agency shall draw up scientific guidelines in accordance with Article 138 of [revised Regulation No (EC) 726/2004], to specify technical details regarding the ERA requirements for medicinal products for human use***, including for antimicrobials other than antibiotics***. Where appropriate, the Agency shall consult the European Chemical Agency (ECHA), the European Food Safety Authority (EFSA) ~~and~~ the European Environmental Agency (EEA***), and the European Center for Disease Prevention and Control (ECDC***) on the drafting of these scientific guidelines.

PUBLIC

6. The marketing authorisation holder shall update the ERA with new information without undue delay to the relevant competent authorities, in accordance with Article 90(2), if new information pertaining to the assessment criteria referred to in Article 29 becomes available and could lead to a change of the conclusions of the ERA. The update shall include any relevant information from environmental monitoring, including monitoring under Directive 2000/60/EC, from eco-toxicity studies, from new or updated risk assessments under other Union legislation, as referred to in paragraph 1, and environmental exposure data.

For an ERA conducted prior to [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive], the competent authority shall request the marketing authorisation holder to update the ERA if missing information has been identified for medicinal products potentially harmful to the environment.

7. For medicinal products referred to in Articles 9 to 12~~,~~ ***and 14 and fixed dose combinations*** the applicant may refer to ERA studies conducted for the reference medicinal product ***or to ERA studies of any other medicinal product containing the same active substances,*** when preparing the ERA.

PUBLIC

Article 23

ERA of medicinal products authorised before 30 October 2005

1. By [OP please insert the date = 30 months after the date of the entry into force of this Directive] the Agency shall, after consultation with the competent authorities of the Member States***, the ECDC***, the European Chemical Agency (ECHA), the European Food Safety Authority (EFSA) and the European Environmental Agency (EEA), establish a programme for the ERA to be submitted in accordance with Article 22 of the medicinal products authorised before 30 October 2005 that have not been subject to any ERA and that the Agency has identified as potentially harmful to the environment in accordance with paragraph 2.

   This programme shall be made publicly available by the Agency.

2. The Agency shall set the scientific criteria for the identification of the medicinal products as potentially harmful to the environment and for the prioritisation of their ERA, using a risk based approach. For this task, the Agency ***shall consult relevant stakeholders and*** may request from marketing authorisation holders the submission of relevant data or information.

3. The marketing authorisation holders for medicinal products identified in the programme referred to in paragraph 1 shall submit the ERA to the Agency. The outcome of the assessment of the ERA including ***a summary of the ERA***~~the~~ data submitted by the marketing authorisation holder shall be made publicly available by the Agency.

PUBLIC

4. Where there are several medicinal products identified in the programme referred to in paragraph 1 that contain the same active substance and that are expected to pose the same risks to the environment, the competent authorities of the Member States or the Agency shall encourage the marketing authorisation holders to conduct joint studies for the ERA, to minimise unnecessary duplication of data and use of animals.

5. Where a joint study as referred to in paragraph 4 has not been conducted, for medicinal products referred to in Articles 9 to 12 and 14 and fixed-dose combinations, for which the reference medicinal product or the medicinal product containing the same active substance has been authorised before 30 October 2005, and which are included in this programme, the ERA shall be submitted after the outcome of the ERA of such reference medicinal product is made publicly available by the Agency.

Article 24

System of ERA monographs of the ERA data of active substances

1. The Agency shall, in collaboration with the competent authorities of the Member States, set-up an active substance based review system of ERA data ('ERA monographs') for authorised medicinal products ***and publicise relevant information about that system***. An ERA monograph shall include a comprehensive set of physiochemical data, fate data and effect data based on an assessment of a competent authority.

PUBLIC

2. The setting-up of the system of ERA monographs shall be based on a risk-based prioritisation of active substances.

3. In the preparation of the ERA monograph referred to in paragraph 1, the Agency may request information, studies and data from competent authorities of the Member States and from marketing authorisation holders.

4. The Agency in cooperation with the competent authorities of the Member States shall conduct a proof-of-concept pilot of ERA monographs to be completed within three years after entering into force of this Directive.

5. The Commission is empowered to adopt delegated acts in accordance with Article 215 and based on the results of a proof-of-concept pilot referred to in paragraph 4, to supplement this Directive by specifying the following:

   (a) the content and format of ERA monographs;

   (b) the procedures for adopting and updating the ERA monographs;

   (c) the procedures for submission of information, studies and data referred to in paragraph 3;

PUBLIC

(d) the risk-based prioritisation criteria for the selection and prioritisation referred to in paragraph 2;

(e) the use of ERA monographs in the context of new marketing authorisation applications for medicinal products to support their ERA.

Article 25

Active substance master file ~~certificate~~

1. Marketing authorisation applicants may, instead of submitting the relevant data on a chemical active substance of a medicinal product required in accordance with Annex II, rely on an active substance master file, an active substance master file certificate granted by the Agency in accordance with this Article ('active substance master file certificate') or a certificate confirming that the quality of the active substance concerned is suitably controlled by the relevant monograph of the European Pharmacopeia.

Marketing authorisation applicants may only rely on an active substance master file if no certificate exists on the same active substance master file.

1a. The Agency shall be responsible for the granting of an active substance master file certificate.

PUBLIC

2. An active substance master file certificate may be granted by the Agency in cases where the relevant data on the active substance concerned is not already covered by a monograph of the European Pharmacopeia or by an active substance master file certificate.

In order to obtain an active substance master file certificate, an application shall be submitted to the Agency. The applicant for an active substance master file certificate shall demonstrate that the active substance concerned is not already covered by a monograph of the European Pharmacopeia or an active substance master file certificate. The Agency shall examine the application and, in case of a positive outcome, shall grant the certificate that shall be valid throughout the Union. ***The application for an active substance master file certificate may be submitted to the Agency separately from a marketing authorisation application.*** In case of centralised marketing authorisations, the application for an active substance master file certificate may be submitted as part of the marketing authorisation application for the corresponding medicinal product.

The Agency shall establish a repository of active substance master files, their assessments reports and their certificates and ensure that personal data ***and information of a commercially confidential nature*** is protected. The Agency shall ensure that the competent authorities of the Member State have access to this repository.

3. The active substance master file and the active substance master file certificate shall cover all the information required in Annex II on the active substance.

PUBLIC

4. The active substance master file certificate holder shall be the manufacturer of the active substance.

5. The active substance master file certificate holder shall keep the active substance master file up to date with scientific and technological progress and introduce the changes required to ensure that the active substance is manufactured and controlled in accordance with generally accepted scientific methods.

6. If requested by the Agency, the manufacturer of the substance for which an application for an active substance master file certificate has been submitted or the active substance master file certificate holder shall undergo an inspection to verify the information contained in the application or the active substance master file or their compliance with good manufacturing practices for active substances referred to in Article 160.

   If the manufacturer of an active substance refuses to undergo such an inspection, the Agency may suspend or terminate the application for an active substance master file certificate.

7. If the active substance master file certificate holder does not fulfil the obligations set out in the paragraphs 5 and 6, the Agency may suspend or withdraw the certificate and, the competent authorities of the Member States may suspend or revoke the marketing authorisation of a medicinal product relying on that certificate or take measures to prohibit the supply of the medicinal product relying on that certificate.

PUBLIC

8. The marketing authorisation holder of the medicinal product granted on the basis of an active substance master file certificate remains responsible and liable for that medicinal product.

9. The Commission is empowered to adopt delegated acts in accordance with Article 215 to supplement this Directive by specifying, the following:

(a) the rules governing the content and format of the application for an active substance master file certificate;

(b) the rules for the ***submission and*** examination of an application for an active substance master file certificate and for the granting of the certificate;

(c) the rules for making publicly available of active substance master file certificates;

(d) the rules for introducing changes to the active substance master file and the active substance master file certificate;

(e) the rules on access for competent authorities of the Member States to the active substance master file and its assessment report;

(f) the rules on access for marketing authorisation applicants and marketing authorisation holders relying on an active substance master file certificate to the active substance master file and to the assessment report.

PUBLIC

Article 26

Additional quality master files

1. Marketing authorisation applicants may, instead of submitting the relevant data on an active substance other than a chemical active substance, or on other substances present or used in the manufacture of a medicinal product, required in accordance with Annex II, rely on an additional quality master file, an additional quality master file certificate granted by the Agency in accordance with this Article ('additional quality master file certificate'), or a certificate confirming that the quality of that substance is suitably controlled by the relevant monograph of the European Pharmacopeia.

   Marketing authorisation applicants may only rely on an additional quality master file certificate if no certificate exists on the same additional quality master file.

2. Article 25, paragraphs 1***, 1a, 3*** to 5, 7 and 8 shall also apply mutadis mutandis to additional quality master file certification.

2a. The Commission is empowered to adopt delegated acts to identify, in the light of scientific progress, the substances to which this Article shall apply. A substance shall only be identified under this paragraph, if the use of additional quality master files is scientifically justified.

PUBLIC

3. The Commission is empowered to adopt delegated acts in accordance with Article 215 to supplement this Directive by specifying:

(a) the rules governing the content and format of the application for an ~~active substance~~ ***additional quality*** master file certificate;

(b) additional quality master files for which a certificate may be used in order to provide specific information on the quality of a substance present or used in the manufacture of a medicinal product;

(c) the rules for the examination of applications for making publicly available of additional quality master file certificates;

(d) the rules for introducing changes to the additional quality master file and the certificate;

(e) the rules on access for competent authorities of the Member State to the additional quality master file and its assessment report;

(f) the rules on access for marketing authorisation applicants and marketing authorisation holders relying on an additional quality master file certificate to the additional quality master file and to the assessment report.

PUBLIC

4. If requested by the Agency, the manufacturer of a substance present or used in the manufacture of a medicinal product for which an application for an additional quality master file certificate has been submitted or the additional quality master file certificate holder shall undergo an inspection to verify the information contained in the application or the quality master file.

If the manufacturer of this substance refuses to undergo such an inspection, the Agency may suspend or terminate the application for the additional quality master file certificate.

Article 26a

Platform technology master files

1. Marketing authorisation applicants may, instead of submitting the relevant data related to a platform technology, rely on a certified platform technology master file granted in accordance with paragraph 3. Marketing authorisation applicants shall describe the platform technology master file in accordance with the information referred to Annex II. The marketing authorisation applicants shall take into account the scientific guidelines published by the Agency in this regard.

PUBLIC

2. Marketing authorisation holders relying on a certified platform technology master file shall keep the platform technology master file up to date with scientific and technological progress and introduce the changes required to ensure that the platform technology is in accordance with generally accepted scientific methods and the state of the art. The marketing authorisation holder of the medicinal product relying on the certified platform technology master file shall remain responsible and liable for that medicinal product.

3. In order to obtain a certified platform technology master file, an application shall be submitted to the Agency. The Agency shall examine the application and, in case of a positive outcome, shall certify the platform technology master file.

4. The application for a certified platform technology master file can be submitted only after confirmation of eligibility by the Agency. Once eligibility is confirmed, the application shall be submitted as part of the marketing authorisation application for the corresponding medicinal product or after the granting of the marketing authorisation of the corresponding medicinal product.

5. The Agency shall establish a repository of certified platform technology master files and their assessments reports and ensure that personal data and information of a commercially confidential nature is protected. The Agency shall ensure that the competent authorities of the Member State have access to this repository.

PUBLIC

6. If the owner of a certified platform technology master file does not fulfil the obligations set out in this Article, the Agency may suspend or withdraw the certification and the competent authorities may suspend or revoke the marketing authorisation of medicinal products relying on the certified platform technology master file or take measures to prohibit the supply of the medicinal products relying on that master file. The owner of a certified platform technology master file shall inform the marketing authorisation holders concerned without undue delay of any information that is relevant to fulfil its obligations in accordance with paragraph 2.

7. If requested by the Agency or where relevant, a national competent authority, the platform technology may be subject to inspection to verify the information contained in the platform technology master file. If the applicant or the owner of the certified platform technology master file refuses to undergo such an inspection, the Agency may suspend or terminate the application for a certified platform technology master file or the certification.

PUBLIC

Article 26b

Medicinal products concerned with decentralised manufacturing

1 When justified by the specific properties of the manufactured medicinal product and consideration related to the quality, safety and efficacy of a medicinal product, such as short shelf life, or where proximity to the treated patient or customisation for an individual patient to their benefit, the marketing authorisation applicant may request the competent authority to approve the use of a decentralised manufacturing as referred to in Chapter XI as part of the manufacturing of the medicinal product concerned.

2. The request referred to in paragraph 1 shall be submitted as part of the marketing authorisation application in accordance with Annex II.

3. The competent authority shall assess the request referred to in paragraph 1 as part of the assessment of the marketing authorisation application.

4. The competent authority referred to in paragraph 3, shall cooperate with all relevant regulatory authorities, including with the supervisory authority in charge of the authorisation of the central site identified in the application. The manufacturing authorisation of the central site referred to in Article 142 shall be provided as part of the procedure for a marketing authorisation.

5. The approval to use decentralised manufacturing shall be included in the terms of the marketing authorisation.

PUBLIC

6. The approval to use decentralised manufacturing may be withdrawn by the competent authority, where it concludes that the justification referred to in paragraph 1 is no longer fulfilled or that the conditions for decentralised manufacturing as referred to in chapter XI are not complied with. The competent authority shall inform the supervisory authority in charge of the authorisation of the central site of such a circumstance without undue delay.

7. The marketing authorisation holders making use of decentralised manufacturing shall provide the competent authority with any new information that might entail an amendment to the terms of the marketing authorisation as referred to in paragraph 5, in accordance with Article 90.

8. The Commission may adopt implementing acts to set out the format and content of the request and on the application of principles as referred to in paragraph 1.

Article 27

Excipients

1. The applicant shall provide information on the excipients used in a medicinal product in accordance with the requirements set out in Annex II.

   Excipients shall be examined by the competent authorities as part of the medicinal product.

PUBLIC

2. Colours shall be used in medicinal products only if they are included in one of the following lists:

(a) the Union list of authorised food additives in Table 1 in Part B of Annex II to Regulation (EC) No 1333/2008 and comply with the purity criteria and specifications laid down in Commission Regulation (EU) No 231/2012;

(b) the list established by the Commission pursuant to paragraph 3.

3. The Commission may establish a list of colours permitted for use in medicinal products other than those included in the Union list of authorised food additives.

The Commission shall, where applicable on the basis of an opinion of the Agency, adopt a decision whether the colour concerned shall be added to list of colours permitted for use in medicinal products referred to in the first subparagraph.

A colour may be added to the list of colours permitted for use in medicinal products only where the colour has been removed from the Union list of authorised food additives.

Where relevant, the list of colours permitted for use in medicinal products shall include purity criteria, specifications or restrictions applicable to the colours included in that list.

PUBLIC

The list of colours permitted for use in medicinal products shall be established by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 214(2).

4. If a colour used in medicinal product is removed from the Union list of authorised food additives, on the basis of the scientific opinion of the European Food Safety Authority ('EFSA'), the Agency shall, on the request of the Commission or on its own initiative, without undue delay issue a scientific opinion as regards the use of the colour concerned in medicinal product, taking into account the opinion of the EFSA ~~if relevant~~. The opinion of the Agency shall be adopted by the Committee for Medicinal Products for Human Use.

The Agency without undue delay shall send to the Commission its scientific opinion on the use of the colour in medicinal product together with a report on the assessment.

The Commission shall, on the basis of the Agency opinion, and without undue delay, decide whether the colour concerned can be used in medicinal products and, where applicable, include it in the list of colours permitted for use in medicinal products referred to in paragraph 3.

PUBLIC

5. If a colour has been removed from the Union list of authorised food additives for reasons that do not require an EFSA opinion, the Commission shall decide on the use of the colour concerned in medicinal products and, where applicable, include it in the list of colours permitted for use in medicinal products referred to in paragraph 3. The Commission may, in such cases, request the opinion from the Agency.

6. A colour that has been removed from the Union list of authorised food additives can still be used as a colour in medicinal products until the Commission takes the decision on whether to include the colour on the list of colours permitted for use in medicinal products in accordance with paragraph 3.

7. Paragraphs 2 to 6 shall also apply to colours used in veterinary medicinal products as defined in Article 4(1) of Regulation (EU) 2019/6 of the European Parliament and of the Council[40].

[40] Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC.

SECTION 5

ADAPTED DOSSIER REQUIREMENTS

Article 28

Adapted frameworks due to the characteristics or methods ~~inherent~~*related* to the medicinal product *or category of medicinal products*

1. ***Medicinal products or category of*** medicinal products listed in Annex VII shall be subject to ~~specific~~ ***adapted*** scientific or ~~regulatory~~***technical*** requirements ***with regard*** ~~due~~ to the ~~characteristics or methods inherent to the~~***authorisation, pharmacovigilance, control and use of those medicinal products or category of medicinal products ('adapted framework'). A*** medicinal product~~,~~ ***or category of medicinal products shall be listed in Annex VII*** when:

   (a) it is not possible to adequately assess ***and monitor the quality, safety and efficacy of*** the medicinal product or category of medicinal products ***by*** applying the applicable requirements ***set out in this Directive, the [revised Regulation (EC) No 726/2004] or Regulation 1394/2007*** due to scientific or ~~regulatory challenges arising from~~***technical*** characteristics ~~or methods~~ inherent to the medicinal ***products or due to methods related to the medicinal*** product ***or category of medicinal products; and***~~;~~ ~~and~~

(b) the characteristics or methods ***related to the medicinal product or category of medicinal products*** positively ~~impact~~***contribute to*** the quality, safety and efficacy of the medicinal product or category of medicinal ~~product~~***products as provided for in this Directive [and revised Regulation 726/2004]*** or provide a major contribution to patient access ***to prevention, diagnosis, treatment*** or patient care.

2. The Commission***, after having consulted the Agency and national competent authorities,*** is empowered to adopt delegated acts in accordance with Article 215 to amend ***the list of medicinal products or categories of medicinal products listed in*** Annex VII in order to take account of scientific and technical progress.

3. The Commission is empowered***, after having consulted the Agency and national competent authorities,*** to adopt delegated acts in accordance with Article 215 to supplement this Directive by laying down~~:~~ ***the adapted framework for medicinal products or categories of medicinal produts listed in Annex VII as well as the technical documentation to be submitted by the marketing authorisation applicants for the medicinal product or category of medicinal products for which the adapted framework is laid down.***

PUBLIC

The adapted framework may entail specific requirements and targeted technical adaptations to the requirements set out in this Directive and [revised Regulation 726/2004] which are necessary for the purposes of assessing whether a marketing authorisation referred to in Article 5 can be granted for a medicinal product or category of medicinal products listed in Annex VII and for their life-cycle management. The technical adaptations shall be proportionate to the risk and impact involved and shall be based on objective and scientific considerations. In particular, any technical adaptation shall ensure that the principles of quality, safety and efficacy set out in this Directive [and revised Regulation] are respected. The adaptations shall be limited to the extent where such adaptations are strictly necessary and duly justified by the characteristics or methods related to the medicinal product or category of medicinal products. The technical adaptations shall be regularly reviewed and evaluated by the Commission.

~~(a) detailed rules for the marketing authorisation and supervision of the medicinal products referred to in paragraph 1;~~

~~(b) the technical documentation to be submitted by applicants for marketing authorisations for medicinal products referred to in paragraph 1.~~

PUBLIC

4. The ~~detailed rules~~ ***authorisation of a medicinal product subject to an adapted framework as*** referred to in paragraph 3~~, point (a), shall be proportionate to the risk and impact involved. These may entail adapted, enhanced, waived or deferred requirements. Any waiver or deferral shall be limited to the extent strictly necessary, proportionate and duly justified by the characteristics or methods inherent to~~ ***may be granted only if the benefit-risk balance of*** the medicinal product~~, and shall be regularly reviewed and evaluated. Apart from the detailed rules referred to in paragraph 3, point (a), all other rules laid out in this Directive shall apply.~~ ***is favourable.***

5. Until the adoption of ~~detailed rules for specific~~ ***technical adaptations for medicinal products or category of*** medicinal products listed in Annex VII pursuant to paragraph 3, an application for a marketing authorisation for that medicinal product may be submitted in accordance with Article 6(2).

6. When adopting delegated acts referred to in this Article, the Commission shall take into account any available information resulting from a regulatory sandbox established in accordance with Article 115 of the [revised Regulation (EC) No 726/2004].

PUBLIC

Chapter III

Procedures for national marketing authorisations

SECTION 1

GENERAL PROVISIONS

Article 29

Examination of marketing authorisation application

1. In order to examine an application submitted in accordance with Articles 6 and 9 to 14, the competent authority of the Member State:

   (a) shall verify whether the particulars and documentations submitted in support of the application comply with Articles 6 and 9 to 14 (‘validation’), and examine whether the conditions for issuing a marketing authorisation set out in Articles 43 to 45 are complied with;

PUBLIC

(b) may submit the medicinal product, its starting materials or ingredients and, if need be, its intermediate products or other ***constituents***, for testing by an Official Medicines Control Laboratory or a laboratory that a Member State has designated for that purpose in order to ensure that the control methods employed by the manufacturer of medicinal products and described in the particulars accompanying the application in accordance with Annex I are satisfactory;

(c) may, where appropriate, require the applicant to supplement the particulars accompanying the application in respect of the items listed in the Articles 6 and 9 to 14;

(d) may consider and decide upon additional evidence ***that is*** available ***to the competent authority of that Member State***, independently from the data submitted by the marketing authorisation applicant***, inform the applicant of its decision, including the grounds for that decision, and to require changes in the summary of product characteristics***.

(e) may, where appropriate, require the applicant to provide raw data concerning the pharmaceutical and non-clinical tests and the clinical studies referred to in Annex I.

~~2. Where the competent authority of the Member State avails itself of the option referred to in the first subparagraph, point (c), the time limits laid down in Article 30 shall be suspended until such time as the supplementary information required has been provided or for the time allowed to the applicant for giving oral or written explanations.~~

PUBLIC

3. Where***, in the course of the validation referred to in paragraph 1, point (a),*** the competent authority of the Member State considers that the marketing authorisation application is incomplete, or contains ~~critical~~ deficiencies ***to the extent that this***~~that~~ may prevent the evaluation of the ~~medicinal product~~***application,*** it shall inform the applicant accordingly and shall set a time limit for submitting the missing information and documentation. If the applicant fails to provide the missing information and documentation within the time limit set, the application shall be considered to have been withdrawn ***by the applicant***.

4. Where the competent authority of the Member State avails itself of the option referred to in paragraph 1, point (c), the time limits laid down in Article 30 shall be suspended until such time as the supplementary information required has been provided or for the time allowed to the applicant for giving explanations.

4. In cases where on examination of an application for a marketing authorisation the competent authority of the Member State considers that the submitted data are not of sufficient quality or maturity for the completion of the examination of the application, the examination can be terminated within 90 days of the ***date of*** validation of the application.

PUBLIC

Prior to the termination, the competent authority of the Member State shall summarise the deficiencies in writing. On this basis, the competent authority of the Member State shall inform the applicant accordingly and set a ***reasonable*** time limit to address the deficiencies. The application shall be suspended until the applicant addresses the deficiencies. If the applicant fails to address those deficiencies within the time limit set by the competent authority of the Member State, the ***examination shall be terminated and the*** application shall be considered as withdrawn ***by the applicant***.

5. When making public the information on the ERA and the antimicrobial stewardship plan referred to in Article 17, the competent authority shall delete any information of a commercially confidential nature.

5. In case a potential serious risk to public health related to the reference medicinal product is examined under a specific procedure under this Directive or [revised Regulation (EC) No 726/2004], the Member States shall suspend the examination of any marketing authorisation application submitted under Articles 9 to 12 that uses the same reference medicinal product until the end of the procedure related to the reference medicinal product.

6. Where a competent authority of the Member State becomes aware that another marketing authorisation application for the same medicinal product is being examined by a competent authority of another Member State it shall refuse to validate the application and advise the applicant to use the procedure referred to in Articles 34 or 36.

PUBLIC

7. ***Where the competent authorities of the Member States become aware that another Member State has authorised the same medicinal product, they shall refuse to validate the application unless it was submitted in compliance with the provisions referred to in Article 36.***

Article 30

Duration of examination of marketing authorisation application

Member States shall take all appropriate measures to ensure that the procedure for granting a marketing authorisation for medicinal products is completed within a maximum of 180 days after the submission of a valid application from the date of validation of a marketing authorisation application.

Article 31

Types of national marketing authorisation procedures

National marketing authorisations may be granted in accordance with the procedures laid down in Article 32 (‘purely national marketing authorisation procedure’), Articles 33 and 34 (‘decentralised procedure for national marketing authorisation’) or Articles 35 and 36 (‘mutual recognition procedure for national marketing authorisation’).

PUBLIC

SECTION 2

MARKETING AUTHORISATIONS VALID IN A SINGLE MEMBER STATE

Article 32

Purely national marketing authorisation procedure

1. An application for marketing authorisation ~~according to Article 6(2)~~ under the purely national marketing authorisation procedure shall be submitted to the competent authority in that Member State in which the marketing authorisation is applied.

2. The competent authority in the Member State concerned shall examine the application in accordance with Articles 29 and 30***, prepare an assessment report*** and grant a marketing authorisation in accordance with Articles 43 to 45 and applicable national provisions.

3. A marketing authorisation granted under the purely national marketing authorisation procedure shall be valid only in the Member State of the competent authority that granted it.

PUBLIC

SECTION 3

MARKETING AUTHORISATIONS VALID IN SEVERAL MEMBER STATES

Article 33

Scope of decentralised procedure for national marketing authorisations

1. An application for marketing authorisation under the decentralised procedure for national marketing authorisation in several Member States in respect of the same medicinal product shall be submitted to the competent authorities in those Member States in which the marketing authorisation is applied.

2. The competent authorities in the Member State concerned shall examine the applications in accordance with Articles 29, 30 and 34 and grant a marketing authorisation in accordance with Articles 43 to 45.

3. Where a competent authority of the Member State notes that another marketing authorisation application for the same medicinal product is being examined by the competent authority in another Member State, the competent authorities of the Member States concerned shall decline to examine the application and shall advise the applicant that the provisions referred to in Articles 35 and 36 apply.

PUBLIC

4. Where the competent authorities of the Member States are informed that another Member State has authorised a medicinal product that is the subject of a marketing authorisation application in the Member State concerned, they shall reject the application unless it was submitted in compliance with the provisions referred to in Articles 35 and 36.

5. Marketing authorisations granted under ***the*** decentralised procedure for national marketing authorisation shall be valid only in those Member States of the competent ~~authority~~***authorities*** that granted ~~it~~***the authorisations***.

Article 34

Decentralised procedure for national marketing authorisations

1. With a view to obtain a national marketing authorisation for a medicinal product in several Member States in respect of the same medicinal product under the decentralised procedure for national marketing authorisation, an applicant shall submit a marketing authorisation application based on an identical dossier to the competent authority of the Member State chosen by the applicant, to prepare an assessment report on the medicinal product in accordance with Article 43(5) and to act in accordance with this Section ('reference Member State for the decentralised procedure'), and to the competent authorities in the other Member States concerned.

PUBLIC

2. The application for marketing authorisation shall contain:

(a) the particulars and documentations referred to ***in*** Articles 6, 9 to 14 and 62;

(b) a list of Member States concerned by the application.

3. The applicant shall inform all the competent authorities of all Member States of its application at the time of submission. ***If necessary to meet the needs of patients in that Member State,*** the competent authority of a Member State may request ~~for justified public health reasons~~ to enter the procedure and shall inform the applicant and the competent authority of the reference Member State for the decentralised procedure of its request within 30 days from the date of submission of the application. The applicant shall provide the competent authorities of those Member States entering the procedure with the application without undue delay. ***The Member State that requests to enter the decentralised procedure under this paragraph shall be considered as Member State concerned.***

PUBLIC

3a. ***Where, in the course of the validation referred to in Article 29, paragraph 1, point (a), the competent authority of the reference Member State for the decentralised procedure considers that the information in the submitted marketing authorisation application is incomplete or contains deficiencies to the extent that this may prevent the evaluation of the application, it shall inform the applicant accordingly and shall set a reasonable time limit for submitting the missing information and documentation. If the applicant fails to provide the missing information and documentation within the time limit set, the application shall be considered to have been withdrawn by the applicant in the reference Member State of the decentralised procedure and in all Member States concerned.***

4. In cases where on examination of an application for a marketing authorisation the competent authority of the reference Member State for the decentralised procedure considers that the submitted data are not of sufficient quality or maturity for the completion of the examination of the application, the examination can be terminated within 90 days of the ***date of the*** validation of the application.

Prior to the termination, the competent authority of the reference Member State for the decentralised procedure shall summarise the deficiencies in writing. On this basis, the competent authority of the reference Member State for the decentralised procedure shall inform the applicant and the competent authorities of the Member States concerned accordingly and set a time limit to address the deficiencies. The application shall be suspended until the applicant addresses the deficiencies. If the applicant fails to address those deficiencies within the time limit set by the competent authority of the reference Member State for the decentralised procedure, the ***assessment shall be considered terminated and the*** application shall be considered as withdrawn ***by the applicant in all Member States in which it was submitted***.

The competent authority of the reference Member State for the decentralised procedure shall inform the competent authorities of the Member States concerned and the applicant accordingly.

5. Within ~~120~~***105*** days after ***the date of the*** validation of the application, the competent authority of the reference Member State for the decentralised procedure shall prepare an assessment report, a summary of product characteristics, the labelling and the package leaflet and shall send them to the Member States concerned and to the applicant.

PUBLIC

6. Within ~~60~~***75*** days of receipt of the assessment report, the competent authorities of the Member States concerned shall approve the assessment report, the summary of product characteristics and the labelling and package leaflet and shall inform the competent authority of the reference Member State for the decentralised procedure accordingly. The competent authority of the reference Member State for the decentralised procedure shall record the agreement of all parties, close the procedure and inform the applicant accordingly.

6a. Within 7 days of the receipt of the information under paragraph 6 the applicant shall submit the high quality translations of the summary of product characteristics, the labelling and the package leaflet to each of the competent authorities concerned.

7. Within 30 days after acknowledgement of the agreement, the competent authorities of all Member States concerned in which an application has been submitted in accordance with paragraph 1 shall adopt a decision according to Articles 43 to 45 and in conformity with the approved assessment report, the summary of product characteristics and the labelling and package leaflet as approved.

PUBLIC

SECTION 4

MUTUAL RECOGNITION OF NATIONAL MARKETING AUTHORISATIONS

Article 35

Scope of mutual recognition procedure for national marketing authorisations

1. Where the medicinal product has already received a marketing authorisation in accordance with Articles 43 to 45 at the time of application, it shall be recognised in other Member States in accordance with the procedure laid down in Article 36.

2. An application for marketing authorisation for mutual recognition procedure for national marketing authorisation, granted under Articles 43 to 45 and in accordance with Article 32, shall be submitted to the competent authorities of other Member States in accordance with the procedure laid down in Article 36.

PUBLIC

Article 36

Mutual recognition procedure for national marketing authorisations

1. An application for mutual recognition of a marketing authorisation, granted under Articles 43 to 45 ~~and in accordance with Article 32~~, in several Member States in respect of the same medicinal product shall be submitted to the competent authority of ***one of*** the Member ~~State~~***States*** that granted ~~the~~ ***a*** marketing authorisation ('reference Member State for the mutual recognition procedure') and to the competent authorities of the Member States concerned where the applicant seeks to obtain a national marketing authorisation.

2. Application shall include a list of Member States concerned by the application.

3. The competent authority of the reference Member State for the mutual recognition procedure shall ~~reject an application~~ ***refuse the request*** for mutual recognition of marketing authorisation of medicinal product within a year from the granting of that marketing authorisation, unless the competent authority of the Member State informs the competent authority of the reference Member State for the mutual recognition procedure of its interest in this medicinal product.

PUBLIC

4. The applicant shall inform the competent authorities of all Member States of its application at the time of submission ***referred to in paragraph 1***. ***If necessary to meet the needs of patients in that Member State,*** the competent authority of a Member State may request ~~for justified public health reasons~~ to enter the procedure and shall inform the applicant and the competent authority of the reference Member State for the mutual recognition procedure of its request within 30 days from the date of submission of the application. The applicant shall provide the competent authorities of those Member States entering the procedure with the application without undue delay. ***The Member State that requests to enter the mutual recognition procedure under this paragraph shall be considered as Member State concerned.***

5. ~~If the competent authorities of the Member States concerned so require, the marketing authorisation holder shall request~~ The competent authority of the reference Member State for the mutual recognition procedure ~~to update~~***shall send*** the assessment report ~~drawn on the medicinal~~***together with the approved summary of product characteristics, labelling and package leaflet to the*** concerned ~~by the application. In that case, the reference~~ Member ~~State shall update the assessment report~~***States and to the applicant*** within ~~90~~***30*** days after ***the date of*** validation of the application. ~~If the competent authorities of the Member States concerned do not require~~***In case*** the update of the assessment report~~, the reference~~ ***is requested by the*** Member State ~~shall provide the assessment report within 30~~***concerned, the procedure may be extended to 90*** days.

6. Within 60 days of receipt of the assessment report, the competent authorities of the Member States concerned shall approve the assessment report, the summary of product characteristics, the labelling and package leaflet and shall inform the competent authority of the reference Member State accordingly.

7. The competent authority of reference Member State for the mutual recognition procedure shall record the agreement of all parties, close the procedure and inform the applicant accordingly. ~~The assessment report together with the summary of product characteristics, labelling and package leaflet approved by the competent authority of the reference Member State for the mutual recognition procedure shall be sent to the Member States concerned and to the applicant.~~

7a. Within 7 days of the receipt of the information under paragraph 7 the applicant shall submit the high quality translations of the summary of product characteristics, the labelling and the package leaflet to each of the competent authorities concerned.

8. Within 30 days after acknowledgement of the agreement, the competent authorities of all Member States concerned in which an application has been submitted in accordance with paragraph 1 shall adopt a decision according to Articles 43 to 45 in conformity with the approved assessment report, the summary of product characteristics, the labelling and package leaflet as approved.

PUBLIC

SECTION 5

COORDINATION OF NATIONAL MARKETING AUTHORISATION

Article 37

Coordination group for decentralised and mutual recognition procedures

1. A coordination group for decentralised and mutual recognition procedures ('coordination group') shall be set up for the following purposes:

   (a) the examination of any question relating to a national marketing authorisation of a medicinal product in two or more Member States in accordance with the procedures laid down in Sections 3, 4 and 5 of this Chapter, and Article 95;

   (b) the examination of questions related to the pharmacovigilance of medicinal products covered by national marketing authorisations, in accordance with Articles 108, 110, 112, 116 and 121;

   (c) the examination of questions relating to variations of national marketing authorisations, in accordance with Article 93(1).

PUBLIC

(d) the establishment and publication of a list of medicinal products for which a harmonised summary of product characteristics is to be drawn up, in accordance with Article 40;

(e) the harmonisation of summary of product characteristics, in accordance with Article 40.

For the fulfilment of its pharmacovigilance tasks contemplated under first subparagraph, point (b), including approving risk management systems and monitoring their effectiveness, the coordination group shall rely on the scientific assessment and the recommendations of the Pharmacovigilance Risk Assessment Committee referred to in Article 149 of [revised Regulation (EC) No 726/2004].

2. The coordination group shall be composed of one representative per Member State appointed for a renewable period of three years. Member States may appoint an alternate for a renewable period of three years. Members of the coordination group may arrange to be accompanied by experts.

Members of the coordination group and experts shall, for the fulfilment of their tasks, rely on the scientific and regulatory resources available to competent authorities of the Member States. Each competent authority of the Member State shall monitor the level of expertise of the evaluations carried out and facilitate the activities of nominated coordination group members and experts.

PUBLIC

Article 147 of [revised Regulation (EC) No 726/2004] shall apply to the coordination group as regards transparency and the independence of its members.

3. The Agency shall provide the secretariat of this coordination group. The coordination group shall draw up its own Rules of Procedure, which shall enter into force after a favourable opinion has been given by the Commission. These Rules of Procedure shall be made publicly available.

4. The Executive Director of the Agency or the representative of the Executive Director and representatives of the Commission shall be entitled to attend all meetings of the coordination group.

5. The members of the coordination group shall ensure that there is appropriate coordination between the tasks of that group and the work of competent authorities of the Member States, including the consultative bodies concerned with the marketing authorisation.

6. Where otherwise provided for in this Directive, within the coordination group, all Member States representatives shall use their best endeavours to reach a position by consensus on the action to be taken. If such a consensus cannot be reached, the position of the majority of the Member States represented within the coordination group shall prevail.

7. Members of the coordination group shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

PUBLIC

Article 38

Divergent positions of Member States in decentralised or mutual recognition procedure

1. If, at the end of the period laid down in Articles 34(6) or 36(6), there is disagreement between Member States on whether the marketing authorisation can be issued, on the grounds of potential serious risk to public health, the ~~disagreeing~~ Member ~~State~~***States*** concerned shall give a detailed explanation of the points of disagreement and the reasons for its position to the reference Member State, to the other Member States concerned and to the applicant. The points of disagreement shall be referred to the coordination group without undue delay.

2. Guidelines to be adopted by the Commission shall define a potential serious risk to public health.

3. Within the coordination group, ~~all disagreeing~~ Member States ~~concerned~~ shall use their best endeavours to reach agreement on the action to be taken. They shall allow the applicant the opportunity to make its point of view known orally or in writing. If, within 60 days of the communication of the points of disagreement, the Member States reach an agreement by consensus, the reference Member State shall record the agreement, close the procedure and inform the applicant accordingly. The procedure laid down in Articles 34(7) or 36(8) shall apply.

PUBLIC

4. If within the 60-day period laid down in paragraph 3, an agreement by consensus cannot be reached, the position of the majority of the Member States represented within the coordination group***, with a detailed description of the matters on which the other Member States have been unable to reach an agreement and of all the divergent positions of Member States presented,*** shall be forwarded to the Commission~~, which~~. ***The coordination group may recommend the Commission to refer the matter to the Committee for Medicinal Products for Human Use. The Commission*** shall apply the procedure laid down in~~ Articles 41 and 42.~~ ***Article 42. Where the Commission on its own initiative or based on the recommendation of the coordination group considers that the matter shall be referred to the Committee for Medicinal Products for Human Use, Article 41 shall also apply.***

5. In the circumstances referred to in paragraph 4, Member States that have approved the assessment report, the summary of product characteristics, the labelling and package leaflet of the reference Member State may, at the request of the applicant, authorise the medicinal product without waiting for the outcome of the procedure laid down in Article ~~41~~***42***. In that event, the national marketing authorisation granted shall be without prejudice to the outcome of that procedure.

PUBLIC

Article 39

Referral procedure of divergent decisions of Member States

If applications for a national marketing authorisation have been submitted in accordance with Articles 6 and 9 to 14 for a particular medicinal product, and if Member States have adopted divergent decisions concerning the national marketing authorisation, its variation, suspension or revocation or the summary of product characteristics, the competent authority of the Member State~~,~~ ***or*** the Commission ~~or the marketing authorisation holder~~ may refer the matter to the Committee for Medicinal Products for Human Use for the application of the procedure laid down in Articles 41 and 42.

Article 40

Harmonisation of summary of product characteristics

1. In order to promote the harmonisation of national marketing authorisations for medicinal products throughout the Union, the competent authorities of the Member States ~~shall~~***may***, each year, forward to the coordination group referred to in Article 37 a list of medicinal products for which a harmonised summary of product characteristics is to be drawn up.

2. The coordination group ~~shall~~***may*** lay down a list of medicinal products for which a harmonised summary of product characteristics is to be drawn up, taking into account the proposals from the competent authorities of all Member States, and shall ~~forward that list to~~***decide on the harmonisation of summary of product characteristics for those medicinal products and shall inform*** the Commission.

~~3. The Commission or the competent authority of a Member State, in agreement with the Agency and taking into account the views of interested parties, may refer the matter concerning the harmonisation of summary of products characteristics of those medicinal products to the Committee for Medicinal Products for Human Use for the application of the procedure laid down in Articles 41 and 42.~~

3a. If, within the coordination group, the Member States represented reach agreement on the action to be taken by consensus, the chairman shall record the agreement and send it to the marketing authorisation holder and the Member States. The Member States shall adopt necessary measures to vary the marketing authorisations concerned in accordance with the timetable for implementation determined in the agreement. The marketing authorisation holder shall submit to the competent authorities of the Member States an appropriate application for a variation of marketing authorisation, including an updated summary of product characteristics and package leaflet within the determined timetable for implementation.

4. If an agreement by consensus cannot be reached, the position of the majority of the Member States represented within the coordination group, with a detailed description of the matters on which the other Member States have been unable to reach an agreement and of all the divergent positions of Member States presented, shall be forwarded to the Commission. The Commission shall apply the procedure laid down in Article 42. Where the Commission, on its own initiative or based on the recommendation of the Coordination Group, considers that the matter shall be referred to the Committee for Medicinal Products for Human Use, Article 41 shall also apply

PUBLIC

Article 41

Scientific evaluation by the Committee for Medicinal Products for Human Use in a referral procedure

1. When reference is made to the procedure laid down in this Article, the Committee for Medicinal Products for Human Use referred to in Article 148 of [revised Regulation (EC) No 726/2004] shall consider the matter concerned and shall issue a reasoned opinion within 60 days from the date when the matter was referred to it.

   However, in cases submitted to the Committee for Medicinal Products for Human Use in accordance with Articles 39, 40 and 95, this period may be extended by the Committee for Medicinal Products for Human Use for a further period of up to 90 days.

   On a proposal from its chairperson, the Committee for Medicinal Products for Human Use may agree to a shorter deadline.

2. In order to consider the matter, the Committee for Medicinal Products for Human Use shall appoint one of its members to act as rapporteur. The Committee may also appoint individual experts to advise it on specific questions. When appointing experts, the Committee for Medicinal Products for Human Use shall define their tasks and specify the time limit for the completion of these tasks.

PUBLIC

3. Before issuing its opinion, the Committee for Medicinal Products for Human Use shall provide the applicant or the marketing authorisation holder with an opportunity to present written or oral explanations within a time limit which it shall specify.

The opinion of the Committee for Medicinal Products for Human Use shall be accompanied by a summary of product characteristics, the labelling and package leaflet.

If necessary, the Committee for Medicinal Products for Human Use may call upon any other person to provide information relating to the matter before it or consider a public hearing.

The Agency shall, in consultation with the parties concerned, draw up Rules of Procedure on the organisation and conduct of public hearings, in accordance with Article 163 of [revised Regulation (EC) No 726/2004].

The Committee for Medicinal Products for Human Use may suspend the time limits referred to in paragraph 1 in order to allow the applicant or the marketing authorisation holder to prepare explanations.

PUBLIC

4. The Agency shall without undue delay inform the applicant or the marketing authorisation holder where the opinion of the Committee for Medicinal Products for Human Use provides that:

(a) the application does not satisfy the criteria for a marketing authorisation;

(b) the summary of product characteristics proposed by the applicant or the marketing authorisation holder in accordance with Article 62 is to be amended;

(c) the marketing authorisation is to be granted subject to certain conditions, that are considered essential for the safe and effective use of the medicinal product, including pharmacovigilance;

(d) a marketing authorisation is to be suspended, varied or revoked;

(e) the medicinal product satisfies the conditions set out in Article 83 regarding medicinal products addressing an unmet medical need.

Within 12 days after receipt of the opinion, the applicant or the marketing authorisation holder may notify the Agency in writing of its intention to request a re-examination of the opinion. In that case, they shall forward to the Agency the detailed grounds for the request within 60 days after receipt of the opinion.

PUBLIC

Within 60 days following receipt of the grounds for the request, the Committee for Medicinal Products for Human Use shall re-examine its opinion in accordance with Article 12(2), third subparagraph, of [revised Regulation (EC) No 726/2004]. The reasons for the conclusion reached further to its re-examination shall be annexed to the assessment report referred to in Article 12(2), third subparagraph, of [revised Regulation (EC) No 726/2004].

5. Within 12 days after its adoption, the Agency shall forward the final opinion of the Committee for Medicinal Products for Human Use to the competent authorities of the Member States, to the Commission and to the applicant or the marketing authorisation holder, together with a report describing the assessment of the medicinal product and stating the reasons for its conclusions.

In the event of an opinion in favour of granting or maintaining a marketing authorisation to place the medicinal product concerned on the market, the following documents shall be annexed to the final opinion:

(a) a summary of product characteristics, as referred to in Article 62;

(b) the details of any conditions affecting the marketing authorisation within the meaning of paragraph 4, first subparagraph, point (c);

(c) the details of any recommended conditions or restrictions with regard to the safe and effective use of the medicinal product;

(d) the labelling and package leaflet.

PUBLIC

Article 42

Commission decision

1. Within 12 days of receipt of the opinion of the Committee for Medicinal Products for Human Use ***or the position of the majority of the Member States represented within the coordination group, as set out in Article 38 (4)***, the Commission shall submit to the Standing Committee on Medicinal Products for Human Use referred to in Article 214(1) a draft of the decision on the application, on the basis of the requirements set out in this Directive.

   In duly justified cases, the Commission may return the opinion to the Agency ***or the coordination group, as applicable,*** for further consideration.

   Where a draft decision envisages the granting of a marketing authorisation, it shall include or make reference to the documents referred to in Article ***38(5) or*** 41(5), second subparagraph.

   Where a draft decision differs from the opinion of the Agency ***or of the coordination group***, the Commission shall provide a detailed explanation of the reasons for the differences.

   The Commission shall send the draft decision to the competent authorities of the Member States and the applicant or the marketing authorisation holder.

PUBLIC

2. The Commission shall, by means of implementing acts, adopt a final decision within 12 days after obtaining the opinion of the Standing Committee on Medicinal Products for Human Use.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 214(2) and (3).

3. Where a Member State raises important new questions of a scientific or technical nature that have not been addressed in the opinion delivered by the Agency ***or by the coordination group***, the Commission may refer the application back to the Agency ***or to the coordination group, as applicable,*** for further consideration. In that case, the procedures set out in paragraphs 1 and 2 shall start again upon reception of the reply of the Agency ***or of the coordination group***.

4. The decision referred to in paragraph 2 shall be addressed to all Member States and forwarded for information to the applicant or the marketing authorisation holder. The Member States concerned and the reference Member State shall adopt a decision to either grant***, suspend, refuse*** or revoke the marketing authorisation, or vary its terms as necessary to comply with the decision referred to in paragraph 2 within 30 days following its notification. In the decision to grant, suspend, ***refuse,*** revoke or vary the marketing authorisation, the Member States shall refer to the decision adopted pursuant to paragraph 2. They shall inform the Agency ***or the coordination group*** accordingly***, as applicable***.

PUBLIC

5. Where the scope of the procedure initiated under Article 95 includes medicinal products covered by centralised marketing authorisation pursuant to Article 95(2), third subparagraph, the Commission shall, where necessary, adopt decisions to vary, suspend or revoke the marketing authorisations or to refuse the renewal of the marketing authorisations concerned in accordance with this Article.

SECTION 6

RESULTS OF EXAMINATION OF A NATIONAL MARKETING AUTHORISATION APPLICATION

Article 43

Granting of the national marketing authorisation

1. When a competent authority of the Member State grants a national marketing authorisation, it shall inform the applicant of the marketing authorisation of the summary of product characteristics, the package leaflet, the labelling as well as any conditions established in accordance with Articles 44 and 45 together with any deadlines for the fulfilment of those conditions.

2. The competent authorities of the Member States shall take all necessary measures to ensure that the information given in the summary of product characteristics is in conformity with that accepted when the national marketing authorisation is granted or subsequently.

~~3. The competent authorities of the Member States shall, without undue delay, make publicly available the national marketing authorisation together with the summary of product characteristics, the package leaflet as well as any conditions established in accordance with Articles 44, 45 and any obligations imposed subsequently in accordance with Article 87, together with any deadlines for the fulfilment of those conditions and obligations for each medicinal product that they have authorised.~~

~~4. The competent authority of the Member State may consider and decide upon additional evidence available, independently from the data submitted by the marketing authorisation holder. On that basis, the summary of product characteristics shall be updated if the additional evidence has an impact on the benefit-risk balance of a medicinal product.~~

5. The competent authorities of the Member States shall draw up an assessment report and make comments on the file as regards the results of the pharmaceutical and non-clinical tests, the clinical studies, the risk management system, the environmental risk assessment and the pharmacovigilance system of the medicinal product concerned.

6. The competent authorities of the Member States shall make the assessment report publicly available without undue delay, together with the reasons for their opinion, after deletion of any information of a commercially confidential nature. The justification shall be provided separately for each therapeutic indication applied for.

7. The public assessment report referred to in paragraph 5 shall include a summary written in a manner that is understandable to the public. The summary shall contain, in particular, a section relating to the conditions of use of the medicinal product.

PUBLIC

7a. ***The competent authorities of the Member States shall, without undue delay, make publicly available the national marketing authorisation together with the summary of product characteristics, the package leaflet, the antimicrobial stewardship plan and special information requirements referred to in Article 17(1), points (a) and (b), as well as any conditions established in accordance with Articles 44, 45 and any obligations imposed subsequently in accordance with Article 87, together with any deadlines for the fulfilment of those conditions and obligations for each medicinal product that they have authorised.***

Article 44

National marketing authorisation subject to conditions

1. A marketing authorisation for a medicinal product may be granted subject to one or more of the following conditions:

   (a) to take certain measures for ensuring the safe use of the medicinal product to be included in the risk management system;

   (b) to conduct post-authorisation safety studies;

   (c) to comply with obligations on the recording or reporting of suspected adverse reactions that are stricter than those referred to in Chapter IX;

   (d) any other conditions or restrictions with regard to the safe and effective use of the medicinal product;

(e) the existence of an adequate pharmacovigilance system;

(f) to conduct post-authorisation efficacy studies where concerns relating to some aspects of the efficacy of the medicinal product are identified and can be resolved only after the medicinal product has been marketed;

(g) in case of medicinal products for which there is substantial uncertainty as to the surrogate endpoint ***in*** relation to the expected health outcome***, to conduct***, where appropriate and relevant for the benefit-risk balance, a post-authorisation obligation to substantiate the clinical benefit;

(h) to conduct post-authorisation environmental risk assessment studies, collection of monitoring data or information on use***, or to implement appropriate risk mitigation measures***, where identified or potential concerns about risks to the environment or public health, including antimicrobial resistance need to be further investigated ***or mitigated*** after the medicinal product has been marketed;

(i) to conduct post-authorisation studies to improve the safe and effective use of the medicinal product;

(j) where appropriate, to carry out medicinal product-specific validation studies to replace animal-based control methods with non-animal-based control methods.

PUBLIC

An obligation to conduct post authorisation efficacy studies referred to in the first subparagraph, point (f), shall be based on the delegated acts adopted pursuant to Article 88.

2. The marketing authorisation shall lay down deadlines for the fulfilment of the conditions referred to in paragraph 1, first subparagraph, where necessary.

Article 45

National marketing authorisation under exceptional circumstances

1. In exceptional circumstances where, in an application under Article 6 for a marketing authorisation of a medical product, or in an application under Article 92 for a new therapeutic indication of an existing marketing authorisation, an applicant is unable to provide comprehensive data on the efficacy and safety of the medicinal product under normal conditions of use, the competent authority of the Member State may, by derogation to Article 6, grant an authorisation under Article 43, subject to specific conditions, where the following requirements are met:

   (a) the applicant has demonstrated, in the application file, that there are objective and verifiable reasons not to be able to submit comprehensive data on the efficacy and safety of the medicinal product under normal conditions of use based on one of the grounds set out in Annex II;

   (b) except for the data referred to in point (a), the application file is complete and satisfies all the requirements of this Directive;

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(c) specific conditions are included in the decision of the competent authorities of the Member States, in particular to ensure the safety of the medicinal product as well to ensure that the marketing authorisation holder notifies to the competent authorities of the Member States any incident relating to its use and takes appropriate action where necessary.

2. The maintenance of the authorised new therapeutic indication and the validity of the national marketing authorisation shall be linked to the reassessment of the conditions set out in paragraph 1 after two years ***or within a shorter deadline specified by the competent authority*** from the date when the new therapeutic indication was authorised or the marketing authorisation was granted, and thereafter at a risk-based frequency to be determined by the competent authorities of the Member State and specified in the marketing authorisation.

This reassessment shall be conducted on the basis of an application by the marketing authorisation holder to maintain the authorised new therapeutic indication or renew the marketing authorisation under exceptional circumstances.

PUBLIC

Article 46

Validity and renewal of marketing authorisation

1. Without prejudice to paragraph 4, a marketing authorisation for a medicinal product shall be valid for an unlimited period.

   By way of derogation from the first subparagraph, a national marketing authorisation granted in accordance with Article 45(1) shall be valid for five years and be subject to renewal in accordance with paragraph 2.

   By way of derogation from the first subparagraph, a competent authority of the Member State may decide at the time of granting the national marketing authorisation, on objectively and duly justified grounds relating to safety of the medicinal product, to limit the validity of the national marketing authorisation to five years.

2. The marketing authorisation holder may submit an application for a renewal of a national marketing authorisation granted under paragraph 1, second or third subparagraph. Such application shall be submitted at least nine months before the national marketing authorisation ceases to be valid.

3. Once the application for a renewal has been submitted within the time limit provided for in paragraph 2, the national marketing authorisation shall remain valid until the competent authority of the Member State adopts a decision.

PUBLIC

4. The competent authority of the Member State may renew the national marketing authorisation on the basis of a re-evaluation of the benefit-risk balance. Once renewed, the marketing authorisation shall be valid for an unlimited period.

Article 47

Refusal of a national marketing authorisation

1. The national marketing authorisation shall be refused if, after verification of the particulars and documentations referred to in Article 6 and subject to the specific requirements laid down in Articles 9 to 14, the view is taken that:

(a) the benefit-risk balance is not considered to be favourable;

(b) that the applicant has not properly or sufficiently demonstrated the quality, safety or efficacy of the medicinal product;

(c) its qualitative and quantitative composition is not as declared;

(d) the environmental risk assessment is incomplete or insufficiently substantiated ~~by the applicant~~, or if the risks identified in the environmental risk assessment have not been sufficiently addressed by the applicant~~;~~ ***including through risk mitigation measures, unless the applicant has duly justified and substantiated the reasons for the incomplete or insufficiently substantiated environmental risk assessment, and the competent authorities consider that the marketing authorisation can be granted subject to the conditions referred to in Article 44 (1) (h) to conduct post-authorisation environmental risk assessment studies or to implement risk mitigation measures.***

PUBLIC

(e) the labelling and package leaflet proposed by the applicant ***do not comply with Chapter VI or they*** are not in accordance with ~~Chapter VI~~***the particulars listed in the summary of product characteristics***.

2. The national marketing authorisation shall also be refused if any particulars or documentations submitted in support of the application do not comply with Article 6, paragraphs 1 to 6, and Articles 9 to 14.

3. The applicant or the marketing authorisation holder shall be responsible for the accuracy of the particulars and documentations submitted.

SECTION 7

SPECIFIC REQUIREMENTS FOR PAEDIATRIC MEDICINAL PRODUCTS

Article 48

Compliance with the paediatric investigation plan

1. The competent authority of the Member State for which an application for marketing authorisation or variation of a marketing authorisation is submitted under the provisions of this Chapter or of the Chapter VIII, shall verify whether it complies with the requirements laid down in Article 6(5).

PUBLIC

2. Where the application is submitted in accordance with the procedure set out in this Chapter, Sections 3 and 4, the verification of compliance, including, as appropriate, requesting an opinion of the Agency in accordance with paragraph 3, point (b), shall be conducted by the reference Member State.

3. The Committee for Medicinal Products for Human Use, as referred to in Article 148 of [revised Regulation (EC) No 726/2004] may, in the following cases, be requested to give its opinion as to whether studies conducted by the applicant are in compliance with the agreed paediatric investigation plan as defined in Article 74 of [revised Regulation (EC) No 726/2004]:

   (a) by the applicant, prior to submitting an application for a marketing authorisation or for a variation of a marketing authorisation;

   (b) by the competent authority of the Member State, when validating an application for a marketing authorisation or for a variation of a marketing authorisation that does not already include such an opinion.

4. In the case of a request in accordance with paragraph 3, point (a), the applicant shall not submit its application until the Committee for Medicinal Products for Human Use has provided its opinion, and a copy thereof shall be annexed to the application.

PUBLIC

5. Member States shall take due account of an opinion drawn up in accordance with paragraph 3.

6. When the competent authority of the Member State, during the scientific assessment of a valid application for a marketing authorisation or a variation of a marketing authorisation, concludes that the studies are not in conformity with the agreed paediatric investigation plan, the medicinal product shall not be eligible for the rewards and incentives provided for in Article 86.

Article 49

Data deriving from a paediatric investigation plan

1. Where a marketing authorisation or a variation of a marketing authorisation, is granted in accordance with the provisions under this Chapter or of the provisions under Chapter VIII:

   (a) the results of all ~~clinical~~ studies, conducted in compliance with an agreed paediatric investigation plan as referred to in Article 6(5), point (a), shall be included in the summary of product characteristics and, if appropriate, in the package leaflet, or

   (b) any agreed waiver as referred to in Article 6(5), points (b) and (c), shall be recorded in the summary of product characteristics and, if appropriate, in the package leaflet of the medicinal product concerned.

PUBLIC

2. If the application complies with all the measures contained in the agreed completed paediatric investigation plan and if the summary of product characteristics reflects the results of studies conducted in compliance with that agreed paediatric investigation plan, the competent authority of the Member State shall include within the marketing authorisation a statement indicating compliance of the application with the agreed completed paediatric investigation plan. ***The competent authority shall make the conclusions of the assessment regarding compliance with the agreed completed paediatric investigation plan publicly available.***

3. An application for new therapeutic indications, including paediatric indications, new pharmaceutical forms, new strengths and new routes of administration of medicinal products authorised in accordance with the provisions under this Chapter or of the provisions under Chapter VIII and which are protected either by a supplementary protection certificate under [Regulation (EC) No 469/2009 - OP please replace reference by new instrument when adopted], or by a patent which qualifies for the granting of the supplementary protection certificate, may be submitted under the procedure laid down in Articles 41 and 42.

4. The procedure referred to in paragraph 3 shall be limited to the assessment of the specific section of the summary of product characteristics to be varied.

PUBLIC

Chapter IV

Prescription status

Article 50

Prescription status of medicinal products

1. When a marketing authorisation is granted, the competent authorities shall, by applying the criteria laid down in Article 51, specify the prescription status of the medicinal product as:

   (a) a medicinal product subject to medical prescription; or

   (b) a medicinal product not subject to medical prescription.

2. The competent authorities may fix sub-categories for medicinal products that are subject to medical prescription. In that case, they shall specify the following prescription status:

   (a) medicinal products subject to medical prescription for renewable or non-renewable delivery;

   (b) medicinal products subject to special medical prescription;

   (c) medicinal products on ‘restricted’ medical prescription, reserved for use in certain specialised areas.

PUBLIC

Article 51

Medicinal products subject to medical prescription

1. A medicinal product shall be subject to medical prescription where it:

(a) is likely to present a danger either directly or indirectly, even when used correctly, if used without medical supervision;

(b) is frequently and to a very wide extent used incorrectly, and as a result is likely to present a direct or indirect danger to human health;

(c) contains substances or preparations thereof, the activity or adverse reactions of which require further investigation;

(d) is normally prescribed by a doctor to be administered parenterally;

(e) is an antimicrobial; or

(f) contains an active substance which ~~are persistent, bioaccumulative and toxic, or very persistent and very bioaccumulative, or persistent, mobile and toxic, or very persistent and very mobile for which medical prescription is required as risk minimisation measure with regard to the environment, unless the use of the medicinal product and the patient safety require otherwise.~~***is:***

(i) persistent, bioaccumulative and toxic, or

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(ii) very persistent and very bioaccumulative, or

(iii) persistent, mobile and toxic, or

(iv) very persistent and very mobile,

and for which medical prescription as risk minimisation measure with regard to the environment is required, unless other circumstances of use justify otherwise.

2. Member States may set ***the following*** additional conditions on the prescription of antimicrobials~~, restrict the validity of medical prescription and limit the quantities prescribed to the amount required for the treatment or therapy concerned or submitting certain antimicrobial medicinal products to special medical prescription or restricted prescription.~~ ***or active substances referred to in paragraph 1, point f:***

(a) limiting the quantities prescribed to the amount required for the treatment or therapy concerned, or

(b) restricting the validity of medical prescription, or

(c) submitting certain antimicrobial medicinal products to special medical prescription or restricted prescription.

3. Where Member States provide for the sub-category of medicinal products subject to special medical prescription, they shall take account of the following factors:

(a) the medicinal product contains, in a non-exempt quantity, a substance classified as a narcotic or a psychotropic substance within the meaning of the international conventions;

(b) the medicinal product is likely, if incorrectly used, to present a substantial risk of medicinal abuse, to lead to addiction or be misused for illegal purposes; or

(c) the medicinal product contains a substance that, by reason of its novelty or properties, could be considered as belonging to the group set out in point ~~(a)~~***(b)*** as a precautionary measure.

4. Where Member States provide for the sub-category of medicinal products subject to restricted prescription, they shall take account of the following factors:

(a) the medicinal product, because of its pharmaceutical characteristics or novelty or in the interests of public health, is reserved for treatments that can only be followed in a hospital environment;

PUBLIC

(b) the medicinal product is used in the treatment of conditions that must be diagnosed in a hospital environment or in institutions with adequate diagnostic facilities, although administration and follow-up may be carried out elsewhere;

(c) the medicinal product is intended for outpatients but its use may produce very serious adverse reactions requiring a prescription drawn up as required by a specialist and special supervision throughout the treatment.

5. A competent authority may waive application of ~~the~~ paragraphs 1, 3 and 4, having regard to:

(a) the maximum single dose, the maximum daily dose, the strength, the pharmaceutical form, certain types of packaging; or

(b) ***except for medicinal products referred to in paragraph 1, letter (e),*** other circumstances of use that it has specified.

5a. A competent authority may waive application of paragraphs 1, 3 and 4 for medicinal products referred to in paragraph 1, letter (e), only for topical use.

PUBLIC

6. If a competent authority does not designate medicinal products into sub-categories referred to in Article 50(2), it shall nevertheless take into account the criteria laid down in paragraphs 3 and 4 in determining whether any medicinal product shall be classified as a medicinal product subject to medical prescription.

Article 52

Medicinal products not subject to medical prescription

A medicinal ~~products not~~***product shall not be*** subject to medical prescription ~~shall be those that do~~ ***if the medicinal product does*** not meet the criteria laid down in Article 51***, paragraphs 1, 3 and 4 or if Article 51, paragraph 5 or 5a, is applicable***.

~~*Article 53*~~

~~**List of medicinal products subject to medical prescription**~~

~~The competent authorities shall draw up a list of the medicinal products subject, on their territory, to medical prescription, specifying, if necessary, the category of prescription status. They shall update this list annually.~~

PUBLIC

Article 54

Amendment of prescription status

When new facts are brought to their attention, the competent authorities shall examine and, as appropriate, amend the prescription status of a medicinal product by applying the criteria listed in Article 51.

In case of a potential or actual shortage of a medicinal product that puts patients' needs or public health at risk, a competent authority may temporarily amend the prescription status of a medicinal product from not subject to prescription to subject to prescription or from general prescription to restricted prescription. The amendment shall be withdrawn as soon as the shortage or risk of shortage ceases.

Article 55

Data protection of evidence for the change of prescription status

Where a change of prescription status of a medicinal product has been authorised on the basis of significant non-clinical tests or clinical studies, the competent authority shall not refer to the results of those tests or studies when examining an application by another applicant for or marketing authorisation holder for a change of prescription status of the same substance for one year after the initial change was authorised.

PUBLIC

Chapter V

Obligations and liability of the marketing authorisation holder

Article 56

General obligations

1. The marketing authorisation holder shall be responsible for the making available on the market of the medicinal product covered by the marketing authorisation it has been granted. The designation of a marketing authorisation holder representative shall not relieve the marketing authorisation holder of its legal responsibility.

2. The marketing authorisation holder of a medicinal product placed on the market in a Member State shall notify the competent authority of the Member State concerned of the date of actual placing on the market of the medicinal product in that Member State, taking into account the various presentations authorised.

2a. Where a marketing authorisation is withdrawn, for the medicinal products that were previously placed on the market under that marketing authorisation all relevant obligations and post-marketing provisions of this Directive and of [revised Regulation 726/2004/EC] shall continue to apply for an appropriate period. The period shall be approved by the competent authority prior to withdrawal of the marketing authorisation.

PUBLIC

3. The marketing authorisation holder of a medicinal product placed on the market in a Member State shall, within the limits of its responsibility, ensure appropriate and continued supplies of that medicinal product to wholesale distributors, pharmacies or persons authorised to supply medicinal products so that the needs of patients in the Member State in question are covered.

The arrangements for implementing the first subparagraph should, moreover, be justified on grounds of public health protection and be proportionate in relation to the objective of such protection, in compliance with the Treaty rules, particularly those concerning the free movement of goods and competition.

4. The marketing authorisation holder shall, at all stages of manufacturing and distribution ensure that the starting materials and ingredients of the medicinal products and the medicinal products themselves comply with the requirements of this Directive and, where relevant, the [revised Regulation (EC) No 726/2004] and other Union law and shall verify that such requirements are met.

5. For integral combination of a medicinal product with a medical device and for combinations of a medicinal product with a product other than a medical device, the marketing authorisation holder shall be responsible for the whole product in terms of compliance of the medicinal product with the requirements of this Directive and the [revised Regulation (EC) No 726/2004].

PUBLIC

6. The marketing authorisation holder shall be established in the Union.

7. Where the marketing authorisation holder considers or has reason to believe that the medicinal product it has made available on the market is not in conformity with the marketing authorisation or this Directive and the [revised Regulation (EC) No 726/2004] it shall immediately take the necessary corrective actions to bring that medicinal product into conformity, to withdraw it or recall it, as appropriate. The marketing authorisation holder shall immediately inform the competent authorities and the distributors concerned to that effect.

8. Upon request, the marketing authorisation holder shall provide the competent authorities with free samples in sufficient quantities to enable controls to be made on the medicinal products that it has placed on the market.

9. Upon request the marketing authorisation holder shall provide the competent authority with all data relating to the volume of sales of the medicinal product, and any data in its possession relating to the volume of prescriptions.

PUBLIC

Article 56a

Specific requirements on making available and supplying of a medicinal product in a Member State

1. With a view to facilitating access to a medicinal product covered by a valid marketing authorisation within the territory of a Member State subject to regulatory protection pursuant to Article 80, or, if applicable, the market exclusivity in accordance with Article 72 of [revised Regulation 726/2004], a Member State may request the marketing authorisation holder of that medicinal product to place it on the market of that Member State and supply it so that the needs of patients in the Member State in question are covered as specified by that Member State.

2. For the purposes of paragraph 1, a Member State may require the marketing authorisation holder to carry out, one or more of the following:

(a) submit a valid pricing and reimbursement application, in accordance with national law;

(b) fulfil specific requirements for marketing authorisation holders in procurement procedures, in accordance with national and Union law;

(c) establish a roll-out plan, as referred to in paragraph 3.

The arrangements to implement the requirements referred to in this paragraph shall be proportionate to the objective pursued and in compliance with Union law.

PUBLIC

3. The roll-out plan shall include information about the supply of the medicinal product by the marketing authorisation holder over a given period in the Member State concerned. The roll-out plan shall be prepared by the marketing authorisation holder and be agreed by the Member State concerned. The Member State may when justified require the marketing authorisation holder to update the roll-out plan.

4. When a Member State applies paragraph 1, it shall communicate it to the marketing authorisation holder, together with the modalities referred to in paragraph 2, within one year from the marketing authorisation for that medicinal product. The communication under this paragraph shall contain explicit reference to this Article.
When applying this Article, the Member State and the marketing authorisation holder shall cooperate in good faith and undertake best efforts to ensure, within the limits of their responsibility, the availability and supply of the medicinal product concerned.

5. Where within 3 years after a Member State submitted its request pursuant to paragraph 2 the marketing authorisation holder has not, within the limits of its responsibilities, made the medicinal product available and has not supplied it continuously within that period so that the needs of patients in the requesting Member State in question are covered, the market protection for that medicinal product in accordance with Article 80(2), and, if applicable, the prolongation of the market exclusivity in accordance with Article 72(2) of [revised Regulation 726/2004] shall not apply within that Member State. In those cases, Article 166(5) shall apply.

PUBLIC

5a. The Member State shall make the information referred to in paragraph 5 publicly available without undue delay. For medicinal products authorised in accordance with [revised Regulation (EC) No 726/2004] the Member State shall also notify the Agency.

6. By way of derogation from Article 80(1), a marketing authorisation application may be validated and assessed by the national competent authorities or the Agency six years after the start of the data protection period of the reference medicinal product, where the medicinal product is a generic or biosimilar medicinal product to a reference medicinal product and where a Member State has made publicly available information with regard to that reference medicinal product in accordance with paragraph 5a. The marketing authorisation validated and assessed in accordance with this paragraph shall not be granted prior to the expiry of the regulatory data protection period.

7. This Article shall not affect the application of national legislation and procedures, including pricing and reimbursement, public procurement and any other procedures, aiming at making available and supplying the medicinal product concerned within their territory at any time following the marketing authorisation.

This Article shall also not affect the right of marketing authorisation holders to make available and supply the medicinal product concerned in a Member State by carrying out the relevant procedures pursuant to national law, regardless of whether a request in accordance with paragraph 1 has been made by that Member State.

PUBLIC

8. ***Member States representatives may request the Commission to discuss issues related to the practical application of this Article in the Committee established by Council Decision 75/320/EEC[41] ('Pharmaceutical Committee'). The Commission may invite bodies responsible for health technology assessment as referred to in Regulation (EU) 2021/2282 or national bodies responsible for pricing and reimbursement, as required, to participate in the deliberations of the Pharmaceutical Committee.***

The Pharmaceutical Committee may exchange views on national measures envisaged in the event when the obligations under this Article are not met.

Marketing authorisation holders shall comply with the obligations set out in this Article, except for exceptional and unforeseeable circumstances, including those related to disruptions of supply, or duly justified circumstances fully outside the marketing authorisation holder's control, the consequences of which could not have been avoided even if all best and reasonable measures had been taken. In such a case the marketing authorisation holder shall provide an explanation of the case and circumstances and justify the reasons for non-compliance.

PUBLIC

[41] ***[1] Council Decision of 20 May 1975 setting up a pharmaceutical committee (OJ L 147, 9.6.1975, p. 23).***

Article 57

Responsibility to report on public financial support

1. The marketing authorisation holder shall declare to the public any direct financial support received from any public authority ~~or~~**,** publicly funded body**,** ***philanthropic organisation, or not-for-profit organisation or fund***, in relation to any activities for the research and development of the medicinal product covered by a national or a centralised marketing authorisation, irrespective of the legal entity that received that support.

2. Within 30 days after the marketing authorisation is granted the marketing authorisation holder shall:

   (a) draw up an electronic report listing:

      (i) the amount of financial support received and the date thereof;

      (ii) the ~~public authority or publicly funded body~~***entity*** that provided the financial support referred to in point (i);

      (iii) the legal entity that received the support referred to in point (i).

   (b) ensure that the electronic report is accurate and that it has been audited by an independent external auditor;

PUBLIC

(c) make the electronic report accessible to the public via a dedicated webpage;

(d) communicate the electronic link to such webpage to the competent authority of the Member State or, where appropriate, to the Agency.

3. For the medicinal products authorised under this Directive, the competent authority of the Member State shall communicate in a timely manner the electronic link to the Agency.

4. The marketing authorisation holder shall keep the electronic link up to date and, as necessary, update the report annually.

5. The Member States shall take appropriate measures to ensure that paragraphs 1, 2 and 4 are complied with by the marketing authorisation holder established in their country.

6. The Commission ~~may~~***shall*** adopt implementing acts to lay down the principles and format for the information to be reported pursuant to paragraph 2***, by [18 months from the date of entry into force of this Directive]***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 214(2).

PUBLIC

Article 58

Traceability of substances used in the manufacture of medicinal products

1. The marketing authorisation holder shall, when necessary, ensure the traceability of an active substance, starting material, excipient or any other substance intended or expected to be present in a medicinal product at all stages of manufacturing and distribution.

2. The marketing authorisation holder shall be able to identify any natural or legal person from whom they have been supplied with an active substance, starting material, excipient or any other substance intended or expected to be present in a medicinal product.

3. The marketing authorisation holder and its suppliers of an active substance, starting material, excipient or any other substance used in the manufacturing of a medicinal product shall have in place systems and procedures that allow for the information referred to in paragraph 2 to be made available, upon request, to the competent authorities.

4. The marketing authorisation holder and its suppliers shall have in place systems and procedures to identify the other natural or legal persons to whom products referred to in paragraph 2 have been supplied. This information shall, upon request, be made available to the competent authorities.

PUBLIC

Article 59

Placing on the market of products with paediatric indications

Where medicinal products are authorised for a paediatric indication following completion of an agreed paediatric investigation plan and those medicinal products have already been marketed with other therapeutic indications, the marketing authorisation holder shall, within two years of the date on which the paediatric indication is authorised, place the medicinal product on the market taking into account the paediatric indication in all Member States where the medicinal product is already placed on the market.

A register, coordinated by the Agency, and made publicly available, shall mention these deadlines.

PUBLIC

Article 60

Discontinuation of the placing on the market of paediatric products

If a medicinal product is authorised for a paediatric indication and the marketing authorisation holder has benefited from rewards or incentives under Article 86 of this Directive or Article 93 of [revised Regulation (EC) No 726/2004], and these periods of protection have expired, and if the marketing authorisation holder intends to discontinue placing the medicinal product on the market, the marketing authorisation holder shall transfer the marketing authorisation to a third party or allow a third party, which has declared its intention to continue to place the medicinal product in question on the market, to use the pharmaceutical, non-clinical and clinical documentation contained in the file of the medicinal product on the basis of Article 14.

The marketing authorisation holder shall inform the competent authorities of its intention to discontinue the placing on the market of the medicinal product no less than twelve months before the discontinuation. The competent authorities shall make this fact publicly available.

Article 61

Liability of the marketing authorisation holder

The marketing authorisation shall not affect the civil and criminal liability of the marketing authorisation holder.

PUBLIC

Chapter VI

Product information and labelling

Article 62

Summary of product characteristics

1. The summary of product characteristics shall contain the particulars listed in Annex V.

2. For marketing authorisations under Articles 9 ~~and 11~~ ***to 12*** and subsequent variations to such marketing authorisations, if one or more of the therapeutic indications, posologies, pharmaceutical forms, methods or routes of administration or any other way in which the medicinal product may be used are still covered by patent law or a supplementary protection certificate for medicinal products at the time when the generic ~~or~~**,** biosimilar**,** ***hybrid or biohybrid*** medicinal product was marketed, the applicant for ~~an~~***a marketing authorisation or a variation of a marketing*** authorisation for a generic ~~or~~**,** biosimilar**,** ***hybrid or biohybrid*** medicinal product may request not to include this information in their marketing authorisation***, however all relevant safety information related to the safe use of the medicinal product shall be included***.

~~3. For all medicinal products, a standard text shall be included in the summary of product characteristics expressly asking healthcare professionals to report any suspected adverse reaction in accordance with the national reporting system referred to in Article 106(1). Different ways of reporting, including electronic reporting, shall be available in compliance with Article 106(1), second subparagraph.~~

PUBLIC

Article 63

General principles on package leaflet

1. A package leaflet shall be mandatory for medicinal products. ***The package leaflet shall be made available by the marketing authorisation holder in the packaging in paper format and electronically in accordance with the specifications, standards and format specified by the implementing act pursuant to paragraph 6.***

2. The package leaflet shall be written and designed in a clear and understandable way, enabling users to act appropriately, when necessary with the help of healthcare professionals.

PUBLIC

3. ***By derogation from paragraph 1,*** Member States may decide that the package leaflet shall ***only*** be made available ~~in paper format or e~~lectronically~~, or both. In the absence of such~~ ***by the marketing authorisation holder for*** specific ~~rules in a Member State, a package leaflet in paper format shall be included in the packaging of a~~ ***categories of medicinal products or for all*** medicinal ~~product. If~~ ***products, following a consultation of patients, healthcare professionals and other relevant stakeholders. It shall be ensured that the information in digital format is easily accessible to all patients. Where*** the package leaflet is only made available electronically, the patient's right to a printed copy of the package leaflet ~~should~~***shall*** be guaranteed upon request and free of charge***. The marketing authorisation holder shall be responsible for preparing the electronic leaflet and ensuring*** ~~and it should be ensured~~ that the ~~information in digital~~***electronic and printed versions of the package leaflet are readily available to the patient. If a Member State decides that the package leaflet shall be only made available electronically, it shall not preclude the marketing authorisation holder from providing the package leaflet in paper*** format ~~is easily accessible to all patients~~***in addition to the electronic version on a voluntary basis***.

PUBLIC

3b. ***The obligation to make available the package leaflet in paper format in the packaging in a Member State shall not constitute a reason for the marketing authorisation holder to refuse to supply the medicinal product on the market in that Member State.***

4. By derogation from paragraphs 1 and 2, where the information required under Articles 64 and 73 is directly conveyed on the outer packaging or on the immediate packaging, a package leaflet shall not be required.

~~5. The Commission is empowered to adopt delegated acts in accordance with Article 215 to amend paragraph 3 by making mandatory the electronic version of the package leaflet. That delegated act shall also establish the patient's right to a printed copy of the package leaflet upon request and free of charge. The delegation of powers shall apply as of [OP please insert the date = five years following 18 months after the date of entering into force of this Directive].~~

6. The Commission shall ***[by 18 months after the entry into force of the Directive]*** adopt implementing acts in accordance with the examination procedure referred to in Article 214(2) to ~~establish common standards for the electronic version of the package leaflet, the summary of product characteristics and the labelling, taking into account available technologies.~~***:***

(a) establish common standards and formats for the electronic version of the package leaflet, the summary of product characteristics and the labelling, taking into account available technologies;

PUBLIC

(b) establish criteria for the provision of information referred to in point (a) by the marketing authorisation holder through secure digital platforms and digital services and for the provision, establishment, management and accessibility of such digital platforms and services.

(c) set the necessary processes to validate the electronic version of the package leaflet and make it available to patients;

(d) specify information on the packaging on how to access the electronic version of the package leaflet;

(e) specify the details of implementing commonly recognised global antimicrobial resistance symbol as referred to in Article 69 (2), in the section of the package leaflet that contains specific information about the medicinal product concerned, information on antimicrobial resistance and the importance of appropriate use and disposal of antimicrobials.

6a. The Agency shall make available a system to accommodate the electronic product information after consultation with Member States and the relevant stakeholders. The system shall be available at the latest by [6 months before transposition of this Directive].

PUBLIC

7. ~~Where~~***When accessing*** the package leaflet ~~is made available~~ electronically, ~~the individual right to privacy~~***personal data protection*** shall be ensured. Any technology giving access to the information shall ***ensure the protection of personal data in accordance with Regulation (EU) 2016/679 and Directive 2002/58/EC and shall*** not allow the identification***, profiling*** or tracking of individuals, nor shall it be used for commercial purposes ***including for advertising or marketing activities***.

Article 64

Content of package leaflet

1. The package leaflet shall be drawn up in accordance with the summary of product characteristics, referred to in Article 62(1) and shall include the particulars listed in Annex VI.

~~2. For all medicinal products, a standardised text shall be included, expressly asking patients to communicate any suspected adverse reaction to their doctor, pharmacist, healthcare professional or directly to the national reporting system referred to in Article 106(1), and specifying the different ways of reporting available (electronic reporting, postal address or others) in compliance with Article 106(1), second subparagraph.~~

3. The package leaflet shall reflect the results of consultations with target patient groups to ensure that it is legible, clear and easy to use.

PUBLIC

Article 65

~~Content of~~ Labelling ~~particulars~~*of the outer or immediate packaging*

1. The outer packaging of medicinal products or, where there is no outer packaging, the immediate packaging, with the exception of the packaging referred to in Article 66, paragraphs 2 and 3, shall include the labelling particulars listed in Annex IV.

2. The Commission is empowered to adopt delegated acts in accordance with Article 215 to:

   (a) amend the list of labelling particulars set out in Annex IV in order to take account of scientific progress or patient needs;

   (b) supplement Annex IV by setting out a reduced list of mandatory labelling particulars that shall appear on the outer packaging of ~~multi-language~~ ***multi-country*** packages ***that are also multi-lingual***.

Article 66

Labelling of blister packs or small immediate packaging

1. The particulars laid down in Annex IV shall appear on immediate packagings other than those referred to in the paragraphs 2 and 3.

PUBLIC

2. The following particulars at least shall appear on immediate packagings that take the form of blister packs and are placed in an outer packaging that complies with the requirements laid down in Articles 65 and 73.

(a) the name of the medicinal product;

(b) the name of the marketing authorisation holder placing the product on the market;

(c) the expiry date;

(d) the batch number.

3. The following particulars at least shall appear on small immediate packaging units on which the particulars laid down in Articles 65 and 73 cannot be displayed, ~~shall include at least the following labelling particulars~~:

(a) the name of the medicinal product and, if necessary, the route of administration;

(b) the method of administration***, if not already evident from the name or from the route of administration of the medicinal product, as referred to in point (a)***;

(c) the expiry date;

(d) the batch number;

(e) the contents by weight, by volume or by unit.

PUBLIC

Article 67

Safety features

1. Medicinal products subject to prescription shall bear the safety features referred to in Annex IV, unless they have been listed in accordance with the procedure referred to in paragraph 2, second subparagraph, point (b).

   Medicinal products not subject to prescription shall not bear the safety features referred to in Annex IV, unless, by way of exception, they have been listed in accordance with the procedure referred to in paragraph 2, second subparagraph, point (b)***, or where the marketing authorisation holder chooses to do so voluntarily***.

2. The Commission shall adopt delegated acts in accordance with Article 215 to supplement Annex IV by laying down detailed rules for the safety features.

   Those delegated acts shall set out:

   (a) the characteristics and technical specifications of the unique identifier of the safety features referred to in Annex IV ***point (o)*** that enables the authenticity of medicinal products to be verified and individual packs to be identified;

   (b) the lists containing the medicinal products or product categories that, in the case of medicinal products subject to prescription shall not bear the safety features, and in the case of medicinal products not subject to prescription shall bear the safety features referred to in Annex IV ***point (o)***;

PUBLIC

(c) the procedures for the notification to the Commission provided for in paragraph 4 and a rapid system for evaluating and deciding on such notification for the purpose of applying point (b);

(d) the modalities for the verification of the safety features referred to in Annex IV ***point (o)*** by the manufacturers, wholesale distributors, pharmacists and natural or legal persons authorised or entitled to supply medicinal products to the public and by the competent authorities;

(e) provisions on the establishment, management and accessibility of the repositories system in which information on the safety features, enabling the verification of the authenticity and identification of medicinal products, as provided for in Annex IV ***point (o)***, shall be contained.

The lists referred to in the second subparagraph, point (b), shall be established considering the risk of falsification relating to the medicinal products or categories of medicinal products concerned. To this end, at least the following criteria shall be applied:

(a) the price and sales volume of the medicinal product;

(b) the number and frequency of previous cases of falsified medicinal products being reported within the Union and in third countries and the evolution of the number and frequency of such cases to date;

PUBLIC

(c) the specific characteristics of the medicinal products concerned;

(d) the severity of the conditions intended to be treated;

(e) other potential risks to public health.

The modalities referred to in the second subparagraph, point (d), shall allow the verification of the authenticity of each supplied pack of the medicinal products bearing the safety features referred to in Annex IV ***point (o)*** and determine the extent of such verification. When establishing those modalities, the particular characteristics of the supply chains in Member States, and the need to ensure that the impact of verification measures on particular actors in the supply chains is proportionate, shall be taken into account.

For the purposes of the second subparagraph, point (e), the costs of the repositories system shall be borne by the ***marketing authorisation holder or*** manufacturing authorisation ~~holders of~~***holder of the*** medicinal ~~products~~***product*** bearing the safety features***, as relevant***.

3. When adopting delegated acts referred to in paragraph 2, the Commission shall take due account of at least the following:

(a) the protection of personal data as provided for in Union law;

(b) the legitimate interests to protect information of a commercially confidential nature;

PUBLIC

(c) the ownership and confidentiality of the data generated by the use of the safety features; and

(d) the cost-effectiveness of the measures.

4. The competent authorities of the Member States shall notify the Commission of non-prescription medicinal products that they judge to be at risk of falsification and may inform the Commission of medicinal products that they deem not to be at risk of falsification in accordance with the criteria set out in paragraph 2, second subparagraph, point (b).

5. Member States may, for the purposes of reimbursement or pharmacovigilance, extend the scope of application of the unique identifier referred to in Annex IV ***point (o)*** to any medicinal product subject to prescription or subject to reimbursement.

6. ~~Member States~~ ***The competent authorities*** may, for the purposes of reimbursement, pharmacovigilance, pharmacoepidemiology or ~~for data protection prolongation for market launch~~***to monitor any expected potential or actual shortage of a medicinal product, as well as to assess the general supply situation to avoid shortages,*** use the information contained in the repositories system referred to paragraph 2, second subparagraph, point (e).

7. Member States may, for the purposes of patient safety, extend the scope of application of the anti-tampering device referred to in Annex IV to any medicinal product.

PUBLIC

Article 68

Labelling and instruction leaflet of radionuclides and radiopharmaceuticals

1. In addition to the rules laid down in this Chapter, the outer carton and the container of medicinal products containing radionuclides shall be labelled in accordance with the regulations for the safe transport of radioactive materials laid down by the International Atomic Energy Agency. Moreover, the labelling shall comply with the provisions set out in paragraphs 2 and 3.

2. The label on the shielding shall include the particulars laid down in Article 65. In addition, the label on the shielding shall explain in full, the codings used on the vial and shall indicate, where necessary, for a given time and date, the amount of radioactivity per dose or per vial and the number of capsules, or, for liquids, the number of millilitres in the container.

3. ***In addition to the requirements of Article 66,*** the vial shall be labelled with the following information:

   (a) the name or code of the medicinal product, including the name or chemical symbol of the radionuclide;

   (b) the batch identification and expiry date;

PUBLIC

(c) the international symbol for radioactivity;

(d) the name and address of the manufacturer;

(e) the amount of radioactivity as specified in paragraph 2.

4. The ~~competent authority~~ ***marketing authorisation holder*** shall ensure that a detailed instruction leaflet is enclosed with the packaging of radiopharmaceuticals, radionuclide generators, radionuclide kits or radionuclide precursors. The text of this leaflet shall be established in accordance with Article 64(1). In addition, the leaflet shall include any precautions to be taken by the user and the patient during the preparation and administration of the medicinal product and special precautions for the disposal of the packaging and its unused contents.

Article 69

Special information requirements for antimicrobials

1. The marketing authorisation holder shall ensure availability of educational material to healthcare professionals, including through medical sales representatives as referred to in Article 175(1), point (c), regarding the appropriate use of diagnostic tools, testing or other diagnostic approaches related to antimicrobial-resistant pathogens, that may inform on the use of the antimicrobial. ***Any educational material shall be compatible and in accordance with the summary of product characteristics.***

PUBLIC

2. The marketing authorisation holder shall include in the ~~packaging~~***beginning of the package leaflet*** of antimicrobials a ~~document~~ ***section*** that contains ***the global antimicrobial resistance symbol,*** specific information about the medicinal product concerned ~~and that is made available to the patient in addition to the product leaflet ("awareness card") with~~ ***and*** information on antimicrobial resistance and ***the importance of*** the appropriate use and disposal of antimicrobials.

Where Member States ~~may~~ decide that ***the package leaflet is made available in the electronic format only in accordance with article 63 (3), the information referred to in the previous subparagraph shall also be made available to patients in paper format ("awareness card").*** The awareness card shall be ~~made~~***presented in a distinct and immediately visible way.***

In duly justified cases referred to in Article 75 Member States may decide to waive the obligation to make available ~~in paper format or electronically, or both. In the absence of such specific rules in a Member State, an~~***the*** awareness card in paper format ~~shall be included~~ in the packaging ~~of an antimicrobial~~.

3. The text of the ~~awareness card~~***information in paragraph 2*** shall be aligned with Annex VI.

PUBLIC

Article 70

Legibility

The package leaflet and labelling particulars referred to in this Chapter shall be easily legible, clearly comprehensible and indelible.

Article 71

Accessibility for persons with disabilities

The name of the medicinal product***, followed by its strength, if appropriate, and pharmaceutical form, if appropriate,*** shall also be expressed in Braille format on the packaging. The marketing authorisation holder shall ensure that the package leaflet referred to in Article 63 is made available ***free of charge*** upon request from patients' organisations in formats appropriate for persons with disabilities, including blind and partially-sighted persons.

Article 72

Member States labelling requirements

1. Notwithstanding Article ~~77~~***78*** Member States may require the use of certain forms of labelling of the medicinal product making it possible to ascertain:

   (a) the price of the medicinal product;

   (b) the reimbursement conditions~~ of social security organisations~~;

PUBLIC

(c) the legal status for supply to the patient, in accordance with Chapter IV;

(d) authenticity and identification in accordance with Article 67(5).

(e) the identity of the medicinal product in accordance with national requirements, including for statistical reasons.

2. For medicinal products for which a centralised marketing authorisation as referred to in Article 5 has been granted, Member States shall, when applying this Article, ~~observe~~***consider*** the detailed guidance referred to in Article 77.

Article 73

Symbols and pictogram

The outer packaging ***or, where there is no outer packaging, the immediate packaging,*** and the package leaflet may include symbols or pictograms designed to clarify certain information set out in Articles 64(1)***, 65 and 69*** ~~and 65~~ and other information compatible with the summary of product characteristics that is useful for the patient, to the exclusion of any element of a promotional nature.

PUBLIC

Article 74

Requirements on languages

1. The particulars ~~for labelling~~ listed in Articles 64 and 65, shall appear in an official language or official languages of the Member State where the medicinal product is placed on the market, as specified, for the purposes of this Directive, by that Member State***, as well as in the English language in the electronic version of the package leaflet***.

2. Paragraph 1 shall not prevent those particulars from ~~being indicated~~ ***appearing*** in several languages, provided that the same particulars appear in all the languages used.

3. The package leaflet must be clearly legible in an official language or official languages of the Member State where the medicinal product is placed on the market, as specified, for the purposes of this Directive, by that Member State.

3a. The awareness card must be clearly legible in an official language or official languages of the Member State where the medicinal product is placed on the market, as specified, for the purposes for this Directive by that Member State.

PUBLIC

4. ~~The competent authorities of the~~ Member State may ~~also~~ grant a full or partial exemption to the obligation that the labelling ~~and~~**,** the package leaflet ***and awareness card*** must be in an official language or official languages of the Member State where the medicinal product is placed on the market, as specified, for the purposes of this Directive, by that Member State. For the purpose of multi-language ***or multi-country*** packages ***that are also multilingual***, Member States may allow the use on the labelling and package leaflet of an official language of the Union that is commonly understood in the Member States where the multi-language ***or multi-country*** package ***that is also multilingual*** is marketed.

Article 75

Member States exemptions from requirements for labelling and package leaflet

The competent authorities of the Member States may, subject to measures they consider necessary to safeguard public health, grant an exemption to the obligation that the particulars required in Articles 64***, 65 and 66*** ~~and 65~~ should appear on the labelling and in the package leaflet in the following cases:

(a) where the medicinal product is not intended to be delivered directly to the patient;

(b) where there are problems in respect of the availability of the medicinal product;

(c) where there are space constraints due to the size of the packaging or of the package leaflet or in case of ~~multilingual~~***multi-language or multi-country*** packages or package leaflets;

(d) in the context of a public health emergency;

(e) to facilitate access to medicines in Member States.

Article 76

Approval of the labelling and package leaflet information

1. One or more mock-ups of the outer packaging and the immediate packaging of a medicinal product, together with the package leaflet, shall be submitted to the competent authorities for authorising marketing when the marketing authorisation is requested. The results of assessments carried out in cooperation with target patient groups shall also be provided to the competent authority.

2. The competent authority shall refuse the marketing authorisation if the labelling or the package leaflet do not comply with the provisions of this Chapter or if they are not in accordance with the particulars listed in the summary of product characteristics.

3. All proposed changes to an aspect of the labelling or the package leaflet covered by this Chapter and not connected with the summary of product characteristics shall be submitted to the competent authorities. If the competent authorities have not opposed a proposed change within 90 days following the ~~introduction~~ ***submission*** of the request, the applicant may put the change into effect.

PUBLIC

4. The fact that the competent authority does not refuse a marketing authorisation pursuant to paragraph 2 or a change to the labelling or the package leaflet pursuant to paragraph 3 does not alter the general legal liability of the manufacturer and the marketing authorisation holder.

Article 77

Guidance on labelling particulars

In consultation with the Member States and the parties concerned, the Commission shall draw up and publish detailed guidance concerning in particular:

(a) the wording of certain special warnings for certain categories of medicinal products;

(aa) the wording on prudent use of antimicrobials;

(b) the particular information needs relating to non-prescription medicinal products;

(c) the legibility of particulars on the labelling and package leaflet;

(d) the methods for the identification and authentication of medicinal products;

(e) the ~~list of~~***information for specific*** excipients that ~~must~~ feature on the labelling of medicinal products ~~and the way in which these excipients must be indicated~~;

PUBLIC

(f) harmonised provisions for the implementation of Article 72.

(g) use of symbols, pictograms and abbreviations.

Article 78

Placing on the market of labelled medicinal products

Member States may not prohibit or impede the placing on the market of medicinal products within their territory on grounds connected with labelling or the package leaflet where these comply with the requirements of this Chapter.

Article 79

Non-compliance with the requirements for labelling and package leaflet

Where the provisions of this Chapter are not complied with, and a notice served on the marketing authorisation holder concerned has remained without effect, the competent authorities of the Member States may suspend the marketing authorisation, until the labelling and the package leaflet of the medicinal product in question have been made to comply with the requirements of this Chapter.

PUBLIC

Chapter VII

Regulatory protection, unmet medical needs and rewards for paediatric medicinal products

Article 80

Regulatory data and market protection

1. The data referred to in Annex I, originally submitted with the view to obtaining a marketing authorisation shall not be referred to by another applicant for a subsequent marketing authorisation during ***eight years from the date when the marketing authorisation for that medicinal product was granted*** ~~the period determined~~ in accordance with Article ~~8~~1***6(2), except when one additional year of data protection is granted in accordance with Article 41 (1) of [revised Regulation (EC) No 726/2004]*** ('regulatory data protection period'). ***For marketing authorisations that belong to the same global marketing authorisation in accordance with Article 5(2) the period of data protection shall start from the date when the initial marketing authorisation was granted in the Union.***

PUBLIC

2. A medicinal product concerned by a subsequent marketing authorisation referred to in paragraph 1 shall not be placed on the market for a period of ~~two years~~***one year*** after the expiry of ~~the relevant~~ regulatory data protection ~~periods referred to in~~***('regulatory market protection period'). This period may be prolonged in accordance with*** Article 81.

3. By way of derogation from paragraph 1, the marketing authorisation holder concerned may grant the marketing authorisation applicant for another marketing authorisation a letter of access to its data submitted under Annex I, as referred to in Article 14.

4. By way of derogation from the paragraphs 1 and 2, when a compulsory licence has been granted by a relevant authority in the Union ~~to a party to address a public health emergency, the~~***pursuant to Regulation (EU) 2025/2645 on compulsory licensing for crisis management, or to national compulsory licensing frameworks, the relevant*** data and market protection shall be suspended with regard to that ~~party~~***licensee*** insofar as the compulsory licence requires, ~~and during~~***for*** the duration ~~period of~~***and the territory of the Member States for which*** the compulsory licence~~.~~ ***has been granted***

5. The data protection period set out to in paragraph 1 shall also apply in Member States where the medicinal product is not authorised or is no longer authorised.

PUBLIC

5a. ***National competent authorities shall make on their website available the list of medicinal products they have granted a national marketing authorisation and are protected by regulatory protection, indicating the applicable prolongation in accordance with Article 81. The Agency shall compile and publish a list of hyperlinks to the websites referred to in this paragraph.***

Article 81

Additional **regulatory ~~data protection~~*market protection*** **periods**

~~1. The regulatory data protection period shall be six years from the date when the marketing authorisation for that medicinal product was granted in accordance with Article 6(2). For marketing authorisations that belong to the same global marketing authorisation the period of data protection shall start from the date when the initial marketing authorisation was granted in the Union.~~

2. ~~Subject to a scientific evaluation by the relevant competent authority, the data~~***The regulatory market*** protection period referred to in ***Article 80*** paragraph ~~1~~***2*** shall be prolonged by ***12 months***:

(a) ~~24 months,~~ where the marketing authorisation ~~holder~~***applicant*** demonstrates ~~that the conditions referred to in Article 82(1) are fulfilled within two years, from the date when the~~***at the time of the initial*** marketing authorisation ~~was granted or, within three years from that date for any of the following entities:~~***application that the medicinal product addresses an unmet medical need as referred to in Article 83; or***

(b) for medicinal products containing a new active substance, where the marketing authorisation applicant demonstrates that:

(i) ~~SMEs within the meaning of Commission Recommendation 2003/361/EC~~***the clinical trials supporting the initial marketing authorisation application use a relevant and evidence-based comparator in accordance with the scientific advice provided by the Agency***; ***and***

(ii) ~~entities not engaged in an economic activity ('not-for-profit entity'); and~~***the marketing authorisation application has been first submitted to the competent authority in the Union or has been submitted no later than 90 days after the submission of the application for the first marketing authorisation outside the Union; or***

~~(iii) undertakings that, by the time of granting of a marketing authorisation, have received not more than five centralised marketing authorisations for the undertaking concerned or, in the case of an undertaking belonging to a group, for the group of which it is part, since the establishment of the undertaking or the group, whichever is earliest.~~

~~(b) six months, where the marketing authorisation applicant demonstrates at the time of the initial marketing authorisation application that the medicinal product addresses an unmet medical need as referred to in Article 83;~~

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~~(c) six months, for medicinal products containing a new active substance, where the clinical trials supporting the initial marketing authorisation application use a relevant and evidence-based comparator in accordance with scientific advice provided by the Agency;~~

~~(d) 12 months, where the marketing authorisation holder obtains, during the data protection period, an authorisation for an additional therapeutic indication for which the marketing authorisation holder has demonstrated, with supporting data, a significant clinical benefit in comparison with existing therapies~~.

(c) for medicinal products containing a new active substance, where the marketing authorisation applicant demonstrates that:

(i) the clinical trials supporting the initial marketing authorisation application use a relevant and evidence-based comparator in accordance with the scientific advice provided by the Agency; and

(ii) clinical trials evaluating the efficacy of the medicinal product and used for the marketing authorisation were conducted in more than one Member State; or

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(d) for medicinal products containing a new active substance, where the marketing authorisation applicant justifies that a clinical trial referred to in (b)(i) and (c)(i) is not possible or appropriate and demonstrates that:

(i) clinical trials evaluating the efficacy of the medicinal product and used for the marketing authorisation were conducted in more than one Member State; and

(ii) the marketing authorisation application has been first submitted to the competent authority in the Union or has been submitted no later than 90 days after the submission of the application for the first marketing authorisation outside the Union.

In the case of a conditional marketing authorisation granted in accordance with Article 19 of [revised Regulation (EC) No 726/2004] the prolongation referred to in the first subparagraph, point ~~(b)~~***(a)***, shall only apply if~~, within four years of the granting of the conditional marketing authorisation, the medicinal product has been granted a marketing authorisation in accordance with Article 19(7) of [revised Regulation (EC) No 726/2004.~~***:***

– ***within four years of the granting of the conditional marketing authorisation, the medicinal product has been granted a marketing authorisation in accordance with Article 19(7) of [revised Regulation (EC) No 726/2004, and;***

– ***in the case of medicinal products referred to in Article 83, paragraph 1(b), the studies referred to in Article 19(4) of [revised Regulation (EC) No 726/2004] include clinical trials that use, where possible and appropriate, a relevant and evidence-based comparator.***

~~The prolongation referred to in the first subparagraph, point (d), may only be granted once~~.

2a. ***The regulatory market protection period shall be extended by an additional year if, during the regulatory data protection period referred to in Article 80 paragraph 1, the marketing authorisation holder obtains an authorisation for one or more new therapeutic indications which, during the scientific evaluation prior to their authorisation and based on supporting data submitted by the marketing authorisation holder, are held to bring a significant clinical benefit in comparison with existing therapies. This extension may only be granted once.***

2b. ***The cumulative duration of the regulatory market protection for a medicinal product shall not exceed two years from the date when the regulatory data protection expires, except when one additional year of the regulatory market protection is granted in accordance with paragraph 2a.***

3. The Agency shall set the scientific guidelines referred to in paragraph 2~~, point (c)~~, on criteria for proposing a comparator for a clinical trial, taking into account the results of the consultation of the Commission and the authorities or bodies involved in the mechanism of consultation referred to in Article 162 of [revised Regulation (EC) No 726/2004].

PUBLIC

~~Article 82~~

~~Prolongation of the data protection period for medicinal products supplied in Member States~~

~~1. The prolongation of the data protection period referred to in Article 81(2), first subparagraph, point (a), shall only be granted to medicinal products if they are released and continuously supplied into the supply chain in a sufficient quantity and in the presentations necessary to cover the needs of the patients in the Member States in which the marketing authorisation is valid.~~

~~The prolongation referred to in the first subparagraph shall apply to medicinal products that have been granted a centralised marketing authorisation, as referred to in Article 5 or that have been granted a national marketing authorisation through the decentralised procedure, as referred to in Chapter III, Section 3.~~

~~2. To receive a prolongation referred to in Article 81(2), first subparagraph, point (a), the marketing authorisation holder shall apply for a variation of the relevant marketing authorisation.~~

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Article 83

Medicinal products addressing an unmet medical need

1. A medicinal product shall be considered as addressing an unmet medical need if at least one of its therapeutic indications relates to a life threatening or severely debilitating disease and ***either of*** the following conditions are met:

   (a) there is no medicinal product authorised in the Union for such disease~~, or, where despite medicinal products being authorised for such disease in the Union, the disease is associated with a remaining high morbidity or mortality~~;

   (b) the use of the medicinal product ***for such a disease*** results in ~~a meaningful reduction in disease morbidity or mortality for the~~***clinically*** relevant ~~patient population.~~***improvement in efficacy, or in safety with at least comparable efficacy, in comparison with existing medicinal products or other methods of diagnosis, prevention or treatment authorised in the Union***

2. Designated orphan medicinal products referred to in Article 67 of [revised Regulation (EC) No 726/2004] shall be considered as addressing an unmet medical need.

3. Where~~-~~The Agency ~~adopts~~***shall adopt*** scientific guidelines ~~for~~***to support*** the application of this Article***. To this end,*** it shall consult the Commission and the authorities or bodies ***and the stakeholders*** referred to in Article 162 of [revised Regulation (EC) No 726/2004].

Article 84

Data protection for repurposed medicinal products

1. A regulatory data protection period of four years shall be granted for a medicinal product with respect to a new therapeutic indication not previously authorised in the Union ***for the active substance(s)***, provided that:

   (a) adequate ~~non-clinical or~~ clinical studies ***and, where relevant, non-clinical studies/tests*** were carried out in relation to the therapeutic indication demonstrating that it is of significant clinical benefit, and

   (b) the medicinal product is authorised in accordance with Articles 9 to 12 and has not previously benefitted from data protection, or 25 years have passed since the granting of the initial marketing authorisation of the medicinal product concerned.

2. The data protection period referred to in paragraph 1 may only be granted once for any given medicinal product.

3. During the data protection period referred to in paragraph 1, the marketing authorisation shall indicate that the medicinal product is an existing medicinal product authorised in the Union that has been authorised with an additional therapeutic indication.

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Article 85

Exemption to the protection of intellectual property rights

The protection provided by patent rights, or supplementary protection certificates ~~under the [Regulation (EC) No 469/2009 - OP please replace reference by new instrument when adopted]~~ ***of medicinal products*** shall not be regarded as infringed when ~~a reference medicinal product is used~~ ***the necessary studies, trials and other activities are conducted*** for the purposes of:

(a) ~~studies, trials and other activities conducted to generate data for an application for:~~

~~(i)~~ ***obtaining*** a marketing authorisation ***of medicinal products, in particular*** of generic, biosimilar, hybrid or bio-hybrid medicinal products and for subsequent variations;

(***aa***~~ii~~) ***conducting*** health technology assessment as defined in Regulation (EU) 2021/2282;

(***ab***~~iii~~) ***obtaining*** pricing and reimbursement~~.~~ ***approval;***

(ac) complying with subsequent practical requirements associated with activities referred to in points (a)-(ab).

(ad) submitting an application on procurement tenders, in compliance with Union and national law, to the extent that it does not entail the sale or offering for sale or marketing of the medicinal product concerned during the protection period provided by patent rights or supplementary protection certificate.

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~~(b)~~ The activities conducted exclusively for the purposes set out in ~~point (a)~~***the first subparagraph***, may cover***, where relevant,*** the submission of the application for a marketing authorisation and the offer, manufacture, sale, supply, storage, import, use and purchase of ~~patented~~ medicinal products or processes, including by third party suppliers and service providers.

2. Decisions adopted concerning the activities referred to in paragraph 1 shall not be considered as infringing intellectual property rights, within the meaning of that paragraph. The intellectual property rights of the reference medicinal product shall not represent a valid ground to refuse, revoke or suspend decisions adopted pursuant to paragraph 1.

3. ~~This~~ ***The*** exception ***provided for in this Article*** shall not cover the placing on the market of the medicinal products resulting from such activities.

PUBLIC

Article 86

Rewards for paediatric medicinal products

1. Where an application for marketing authorisation, includes the results of all studies conducted in compliance with an agreed paediatric investigation plan, the holder of the patent or supplementary protection certificate shall be entitled to a six-month extension of the period referred to in Article 13, paragraphs 1 and 2 of [Regulation (EC) No 469/2009 - OP please replace reference by new instrument when adopted].

   The first subparagraph shall also apply where completion of the agreed paediatric investigation plan fails to lead to the authorisation of a paediatric indication, but the results of the studies conducted are reflected in the summary of product characteristics and, if appropriate, in the package leaflet of the medicinal product concerned.

2. The inclusion in a marketing authorisation of the statement referred to in Article 49(2) of this Directive or in Article 90(2) of [revised Regulation (EC) No 726/2004] shall be used for the purposes of applying paragraph 1.

3. Where the procedures laid down in Chapter III, Sections 3 and 4, have been used, the six-month extension of the period referred to in paragraph 1 shall be granted only if the product is authorised in all Member States.

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4. In the case of an application for new therapeutic indications, ~~including~~***which leads to the authorisation of a new*** paediatric ~~indications, new pharmaceutical forms, new strengths and new routes of administration of authorised~~***indication for a*** medicinal ~~products~~***product*** which ~~are~~***is*** protected either by a supplementary protection certificate under [Regulation (EC) No 469/2009 - OP please replace reference by new instrument when adopted], or by a patent which qualifies for the granting of the supplementary protection certificate ~~which leads to the authorisation of a new paediatric indication~~, paragraphs 1, 2 and 3 shall not apply if the applicant applies for, and obtains, a one-year extension of the period of ~~marketing~~ ***market*** protection for the medicinal product concerned, on the grounds that this new paediatric indication brings a significant clinical benefit in comparison with existing therapies, in accordance with Article ~~81(2), first subparagraph, point (d)~~***81(2a)***.

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Chapter VIII

Post-marketing authorisation measures

Article 87

Imposed post-authorisation studies

1. After the granting of a marketing authorisation, the competent authority of the Member State may impose an obligation on the marketing authorisation holder:

   (a) to conduct a post-authorisation safety study if there are concerns about the risks of an authorised medicinal product. If the same concerns apply to more than one medicinal product, the competent authority of the Member State shall, following consultation with the Pharmacovigilance Risk Assessment Committee, encourage the marketing authorisation holders concerned to conduct a joint post-authorisation safety study;

   (b) to conduct a post-authorisation efficacy study when the understanding of the disease or the clinical methodology indicate that previous efficacy evaluations might have to be revised significantly. The obligation to conduct the post-authorisation efficacy study shall be based on the delegated acts adopted pursuant to Article 88 while taking into account the scientific guidance referred to in Article 123.

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(ba) to conduct any other post-authorisation studies to improve the safe and effective use of the medicinal product, including treatment optimisation based on clinical experience;

(c) to conduct a post-authorisation environmental risk assessment study, collection of monitoring data or information on use, if there are concerns about the risks to the environment or public health, including antimicrobial resistance, due to an authorised medicinal product, or ~~related~~***other medicinal products containing the same*** active substance***;***

If the same concerns apply to more than one medicinal product***, and post-authorisation studies are considered necessary***, the competent authority of Member State shall, following consultation with the Agency, encourage the marketing authorisation holders concerned to conduct a joint post-authorisation environmental risk assessment study.

The imposition of such an obligation shall be duly justified, notified in writing, and shall include the objectives and timeframe for submission and conduct of the study.

2. The competent authority of the Member State shall provide the marketing authorisation holder with an opportunity to present written observations in response to the imposition of the obligation within a time limit which it shall specify, if the marketing authorisation holder so requests within 30 days of receipt of the written notification of the obligation.

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3. On the basis of the written observations submitted by the marketing authorisation holder, the competent authority of the Member State shall withdraw or confirm the obligation. Where the competent authority of the Member State confirms the obligation, the marketing authorisation shall be varied to include the obligation as a condition of the marketing authorisation and, where appropriate, the risk management system shall be updated accordingly.

Article 88

Delegated acts on post-authorisation efficacy studies

1. In order to determine the situations in which post-authorisation efficacy studies may be required under Articles 44 and 87, the Commission may adopt, by means of delegated acts in accordance with Article 215, measures supplementing the provisions in Articles 44 and 87.

2. When adopting such delegated acts, the Commission shall act in accordance with the provisions of this Directive.

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Article 89

Recording of conditions related to marketing authorisations

1. The marketing authorisation holder shall incorporate any safety or efficacy conditions referred to in Articles 44 ***paragraph 1***, ***points (a) to (g) and point (i), Article*** 45 and ***Article 87 paragraph 1, points (a), (b) and (ba)***~~87~~ in the risk management system.

~~2. The Member States shall inform the Agency of the marketing authorisations that they have granted subject to conditions pursuant to Articles 44, 45 and of any obligations imposed in accordance with Article 87.~~

Article 90

Update of marketing authorisation related to scientific and technological ~~progress~~ *developments*

1. After a marketing authorisation has been granted in accordance with Chapter III, the marketing authorisation holder shall, in respect of the methods of manufacture and control stated in the application for that marketing authorisation, take account of scientific and technical progress and introduce any changes that may be required to enable the medicinal product to be manufactured and controlled by means of generally accepted scientific methods.

   Those changes shall be subject to the approval of the competent authority of the Member State concerned.

2. The marketing authorisation holder shall without undue delay provide the competent authority of the Member State with any new information that might entail the amendment of the particulars or documentations referred to in Articles 6, 9 to 13, 62, 41(5), Annex I or Annex II.

In particular, the marketing authorisation holder shall without undue delay inform the competent authority of the Member State of any prohibition or restriction imposed on the marketing authorisation holder or any entity in contractual relationship with the marketing authorisation holder by the competent authorities of any country in which the medicinal product is marketed and of any other new information that might influence the evaluation of the benefits and risks of the medicinal product concerned. The information shall include both positive and negative results of clinical trials or other studies in all therapeutic indications and populations, whether or not included in the marketing authorisation, as well as data on the use of the medicinal product where such use is outside the terms of the marketing authorisation.

3. The marketing authorisation holder shall ensure that the terms of the marketing authorisation including the summary of product characteristics, the labelling and package leaflet are kept up to date with current scientific knowledge, including the conclusions of the assessment and recommendations made publicly available by means of the European medicines web-portal set up in accordance with Article 104 of [revised Regulation (EC) No 726/2004].

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4. The competent authority of the Member State may at any time request the marketing authorisation holder to submit data demonstrating that the benefit-risk balance remains favourable. The marketing authorisation holder shall answer fully and within the time limit set, any such request. The marketing authorisation holder shall also respond fully and within the time limit set to any request of a competent authority regarding the implementation of any measures previously imposed, including risk minimisation measures.

5. The competent authority of the Member State may at any time ask the marketing authorisation holder to submit a copy of the pharmacovigilance system master file. The marketing authorisation holder shall submit that copy at the latest seven days after receipt of the request.

6. The marketing authorisation holder shall also respond fully and within the time limit set to any request of a competent authority regarding the implementation of any measures previously imposed with regard to risks to the environment or public health, including antimicrobial resistance.

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Article 91

Update of risk management plans

1. The marketing authorisation holder of a medicinal product referred to in Articles 9 and 11**,** ***who did not submit a risk management plan in accordance with Article 21*** shall submit to the competent authorities of the Member States concerned a risk management plan and a summary thereof, where the marketing authorisation for the reference medicinal product is withdrawn but the marketing authorisation for the medicinal product referred to in Articles 9 and 11 is maintained.

   The risk management plan and the summary thereof shall be submitted to the competent authorities of the Member States concerned within 60 days of the withdrawal of the marketing authorisation for the reference medicinal product by means of a variation.

2. The competent authority of the Member State may impose an obligation on a marketing authorisation holder for a medicinal product referred to Articles 9 and 11 to submit a risk management plan and summary thereof where:

   (a) additional risk minimisation measures have been imposed concerning the reference medicinal product; or

   (b) it is justified on pharmacovigilance grounds.

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3. In the case referred to in ~~paragraph~~***paragraphs 1 and*** 2, point (a), the risk management plan shall be aligned with the risk management plan for the reference medicinal product.

4. The imposition of the obligation referred to in paragraph ~~3~~***2*** shall be duly justified in writing, notified to the marketing authorisation holder and shall include the deadline for submission of the risk management plan and the summary by means of a variation.

Article 92

Variation of marketing authorisation

1. An application for variation of a marketing authorisation by the marketing authorisation holder shall be made electronically in the formats made available by the Agency, unless the variation is an update by the marketing authorisation holder of their information held in a database.

2. Variations shall be classified in different categories depending on the level of risk to public health and the potential impact on the quality, safety and efficacy of the medicinal product concerned. Those categories shall range from changes to terms of the marketing authorisation that have the highest potential impact on the quality, safety or efficacy of the medicinal product, to changes that have no or minimal impact thereon and to administrative changes.

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3. The procedures for examination of applications for variations shall be proportionate to the risk and impact involved. Those procedures shall range from procedures that allow implementation only after approval based on a complete scientific assessment to procedures that allow immediate implementation and subsequent notification by the marketing authorisation holder to the competent authority. Such procedures may also include updates by the marketing authorisation holder of their information held in a database.

4. The Commission is empowered to adopt delegated acts in accordance with Article 215 to supplement this Directive by establishing the following:

(a) the categories referred to in paragraph 2 in which variations shall be classified;

(b) rules for the examination of applications for variations to the terms of marketing authorisations, including procedures for updates through a database;

(c) the conditions for submission of a single application for more than one change to the terms of the same marketing authorisation and for the same change to the terms of several marketing authorisations;

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(d) specifying exemptions to the variation procedures where the update of information in the marketing authorisation referred to in Annex I may be directly implemented;

(e) the conditions and procedures for cooperation with competent authorities of third countries or international organisations on examination of applications for variations to the terms of marketing authorisation.

Article 93

Variation of marketing authorisation
under the decentralised or mutual recognition procedure

1. Any application by the marketing authorisation holder to vary a marketing authorisation that has been granted in accordance with the provisions of Chapter III, Sections 3 and 4, shall be submitted to all the Member States that have previously authorised the medicinal product concerned ***under the procedure set out in Article 34 or 36***. The same shall apply where the initial marketing authorisations were granted through separate procedures.

2. In case of arbitration submitted to the Commission, the procedure laid down in Articles 41 and 42 shall apply by analogy to variations made to marketing authorisations.

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Article 93a

Variation based on additional evidence

1. The competent authority of the Member State may consider and after having informed the marketing authorisation holder decide upon additional evidence available, independently from the data submitted by the marketing authorisation holder. On that basis, if the additional evidence has an impact on the benefit-risk balance of a medicinal product, the competent authorities may recommend that the summary of product characteristics is updated. In this case the marketing authorisation holder shall submit to the competent authority an appropriate application for a variation, including an updated summary of product characteristics. For medicinal products authorised in accordance with Articles 34 or 36, the reference Member State and all concerned member States shall be involved.

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Article 94

Variation of marketing authorisations on the basis of paediatric studies

1. On the basis of relevant paediatric ~~clinical~~ studies received in accordance with Article 45(1) of Regulation (EC) No 1901/2006 of the European Parliament and of the Council[42], the competent authorities of the Member States may***, following a consultation of the marketing authorisation holder,*** vary the marketing authorisation of the medicinal product concerned accordingly and ***consequently the marketing authorisation holder shall*** update the summary of product characteristics and package leaflet of the medicinal product concerned. The competent authorities shall exchange information regarding the studies submitted and, as appropriate, their implications for any marketing authorisations concerned.

2. The activities pursuant to paragraph 1 shall be concluded within five years from [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive].

3. When a medicinal product has been authorised under the provisions of Chapter III, on the basis of the information received in accordance with Article 91 of [revised Regulation (EC) No 726/2004], the competent authorities of the Member States may vary the marketing authorisation of the medicinal product concerned accordingly and update the summary of product characteristics and package leaflet.

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[42] ***[1]*** Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No 726/2004 (OJ L 378, 27.12.2006, p. 1).

4. The Member States shall exchange information regarding the ***paediatric*** studies submitted and, as appropriate, their implications for any marketing authorisations concerned.

5. The Agency shall coordinate the exchange of information.

Article 95

Union interest referral procedure

1. The Member States or the Commission shall, in specific cases where the interests of the Union are involved, refer the matter to the Committee for Medicinal Products for Human Use for the application of the procedure laid down in Articles 41 and 42 before any decision is reached on an application for a marketing authorisation or on the suspension or revocation of a marketing authorisation, or on any other variation of the marketing authorisation that appears necessary. The Member States and the Commission shall ~~take due account of~~***consider*** any requests by the applicant or the marketing authorisation holder ***to initiate such a referral***.

   Where the referral results from the evaluation of data relating to pharmacovigilance of an authorised medicinal product, the matter shall be referred to the Pharmacovigilance Risk Assessment Committee and Article 115(2) may be applied. The Pharmacovigilance Risk Assessment Committee shall issue a recommendation according to the procedure laid down in Article 41. The final recommendation shall be forwarded to the Committee for Medicinal Products for Human Use or to the coordination group, as appropriate, and the procedure laid down in Article 115 shall apply.

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However, where one of the criteria listed in Article 114(1) is met, the procedure laid down in Articles 114, 115 and 116 shall apply.

The Member State concerned or the Commission shall clearly identify the question that is referred to the Committee for consideration and shall inform the applicant or the marketing authorisation holder.

The Member States and the applicant or the marketing authorisation holder shall supply the Committee with all available information relating to the matter in question.

2. Where the referral to the Committee concerns a range of medicinal products or a therapeutic class, the Agency may limit the procedure to certain specific parts of the authorisation.

In that event, Article 93 shall apply to those medicinal products only if they were covered by the authorisation procedures referred to in Chapter III, Sections 3 and 4.

Where the scope of the procedure initiated under this Article concerns a range of medicinal products or a therapeutic class, medicinal products covered by a centralised marketing authorisation that belong to that range or class shall also be included in the procedure.

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3. Without prejudice to paragraph 1, a Member State may, where urgent action is necessary to protect public health at any stage of the procedure, suspend the marketing authorisation and prohibit the use of the medicinal product concerned on its territory until a definitive decision is adopted. It shall inform the Commission, the Agency and the other Member States, no later than the following working day, of the reasons for its action.

4. Where the scope of the procedure initiated under this Article, as determined in accordance with paragraph 2, includes medicinal products covered by a centralised marketing authorisation, the Commission may, where urgent action is necessary to protect public health, at any stage of the procedure suspend the marketing authorisations and prohibit the use of the medicinal products concerned ***or take risk minimisation measures*** until a definitive decision is adopted. The Commission shall inform the Agency and the Member States no later than the following working day of the reasons for its action.

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Chapter IX

Pharmacovigilance

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SECTION 1

GENERAL PROVISIONS

Article 96

Member State pharmacovigilance system

1. Member States shall operate a pharmacovigilance system for the fulfilment of their pharmacovigilance tasks and their participation in the Union pharmacovigilance activities.

   The pharmacovigilance system shall be used to collect information on the risks of medicinal products as regards health of the patients or the public. That information shall in particular refer to adverse reactions in human beings, arising from use of the medicinal product within the terms of the marketing authorisation as well as from use outside the terms of the marketing authorisation, and to adverse reactions associated with occupational exposure.

2. Member States shall, by means of the pharmacovigilance system referred to in paragraph 1, evaluate all information scientifically, consider options for risk minimisation and prevention and take regulatory action concerning the marketing authorisation as necessary. They shall perform a regular audit of their pharmacovigilance system and take corrective actions if necessary.

3. Each Member State shall designate a competent authority for the performance of pharmacovigilance tasks.

4. The Commission may request the Member States to participate, under the coordination of the Agency, in international harmonisation and standardisation of technical measures in relation to pharmacovigilance.

Article 97

Member State responsibilities for pharmacovigilance activities

1. The Member States shall:

(a) take all appropriate measures to encourage patients, doctors, pharmacists and other healthcare professionals to report suspected adverse reactions to the competent authority of the Member State and may involve organisations representing consumers, patients and healthcare professionals for those tasks where appropriate;

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(b) facilitate patient reporting through the provision of alternative reporting formats in addition to web-based formats;

(c) take all appropriate measures to obtain accurate and verifiable data for the scientific evaluation of suspected adverse reaction reports;

(d) ensure that the public is given important information on pharmacovigilance concerns relating to the use of a medicinal product in a timely manner through publication on the web-portal and through other means of publicly available information as necessary;

(e) ensure, through the methods for collecting information and where necessary through the follow-up of suspected adverse reaction reports, that all appropriate measures are taken to identify clearly any biological medicinal product prescribed, dispensed, or sold in their territory that is the subject of a suspected adverse reaction report, with due regard to the name of the medicinal product, and the batch number.

2. For the purposes of paragraph 1, points (a) and (e), the Member States may impose specific obligations on doctors, pharmacists and other healthcare professionals.

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Article 98

Member State delegation of pharmacovigilance tasks

1. A Member State may delegate any of the tasks entrusted to it under this Chapter to another Member State subject to a written agreement of the latter. Each Member State may represent no more than one other Member State.

2. The delegating Member State shall inform the Commission, the Agency and all other Member States of the delegation in writing. The delegating Member State and the Agency shall make that information publicly available.

Article 99

Marketing authorisation holder pharmacovigilance system

1. Marketing authorisation holders shall operate a pharmacovigilance system for the fulfilment of their pharmacovigilance tasks equivalent to the relevant Member State's pharmacovigilance system referred to in Article 96(1).

2. Marketing authorisation holders shall by means of the pharmacovigilance system referred to in Article 96(1) evaluate all information scientifically, consider options for risk minimisation and prevention and take appropriate measures as necessary.

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3. Marketing authorisation holders shall perform a regular audit of their pharmacovigilance system. They shall place a note concerning the main findings of the audit on the pharmacovigilance system master file and, based on the audit findings, ensure that an appropriate corrective action plan is prepared and implemented. Once the corrective actions have been fully implemented, the note may be removed.

4. As part of the pharmacovigilance system, marketing authorisation holders shall:

(a) have permanently and continuously at their disposal an appropriately qualified person responsible for pharmacovigilance;

(b) maintain and make available on request by a competent authority a pharmacovigilance system master file;

(c) operate a risk management system for each medicinal product;

(d) monitor the outcome of risk minimisation measures that are contained in the risk management plan ~~pursuant to Article 21~~ or that are laid down as conditions of the marketing authorisation pursuant to Articles 44 ***(1) points (a)-(g) and point (i)***, 45 and any obligations imposed in accordance with Article 87 ***(1) points (a), (b) and (ba)***;

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(e) update the risk management system and monitor pharmacovigilance data to determine whether there are new risks or whether risks have changed or whether there are changes to the benefit-risk balance of medicinal products.

5. The qualified person referred to in paragraph 4, point (a), shall reside and operate in the Union and shall be responsible for the establishment and maintenance of the pharmacovigilance system. The marketing authorisation holder shall submit the name and contact details of the qualified person to the competent authority of the Member State and the Agency.

6. The marketing authorisation holder shall, on request from the competent authority of a Member State, nominate a contact person for pharmacovigilance issues in that Member State who shall report to the qualified person referred to in paragraph 4, point (a).

7. To ensure patient's safety, the marketing authorisation holder shall have procedures in place to ensure continued compliance with their pharmacovigilance tasks for an appropriate period after the marketing authorisation has been withdrawn or revoked. The period shall be approved by the competent authority prior to the withdrawal or revocation of the marketing authorisation.

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Article 100

Risk management system

1. ***Without prejudice to paragraph 2, 3 and 4,*** holders of marketing authorisations granted before 21 July 2012 shall, by way of derogation from Article 99(4), point (c), not be required to operate a risk management system for each ***of these*** medicinal ~~product~~***products***.

2. The competent authority of a Member State may impose an obligation on a marketing authorisation holder of a national marketing authorisation to operate a risk management system, as referred to in Article 99(4), point (c), if there are concerns about the risks affecting the benefit-risk balance of an authorised medicinal product. In that context, the competent authority of a Member State shall also oblige the marketing authorisation holder to submit a risk management plan for the risk management system that they intend to introduce for the medicinal product concerned.

3. The obligation referred to in paragraph 2 shall be duly justified, notified in writing, and shall include the timeframe for submission of the risk management plan.

4. The competent authority of a Member State shall provide the marketing authorisation holder with an opportunity to submit written observations in response to the imposition of the obligation within a time limit which it shall specify, if the marketing authorisation holder so requests within 30 days of receipt of the written notification of the obligation.

PUBLIC

5. On the basis of the written observations submitted by the marketing authorisation holder, the competent authority of a Member State shall withdraw or confirm the obligation. Where the competent authority of a Member State confirms the obligation, the marketing authorisation shall be varied accordingly to include ***this and*** the measures to be taken as part of the risk management system as conditions of the marketing authorisation referred to in Article 44 ***(1)***, point (a).

Article 101

Funds for pharmacovigilance activities

1. The management of funds intended for activities connected with pharmacovigilance, the operation of communication networks and market surveillance shall be under the permanent control of the competent authorities of the Member States in order to guarantee their independence in the performance of those pharmacovigilance activities.

2. Paragraph 1 shall not preclude the competent authorities of the Member States from charging fees to marketing authorisation holders for performing pharmacovigilance activities on the condition that the independence in the performance of those pharmacovigilance activities is strictly guaranteed.

PUBLIC

SECTION 2

TRANSPARENCY AND COMMUNICATIONS

Article 102

National *medicines* web-portal

1. Each Member State shall set up and maintain a national medicines web-portal which shall be linked to the European medicines web-portal established in accordance with Article 104 of [revised Regulation (EC) No 726/2004]. By means of the national medicines web-portals, the Member States shall make publicly available at least the following:

   (a) public assessment reports, together with a summary thereof;

   (b) summaries of product characteristics and package leaflets;

   (c) summaries of risk management plans for medicinal products covered by a national marketing authorisation in accordance with Chapter III;

   (d) information on the different ways of reporting suspected adverse reactions to medicinal products to competent authorities of the Member States by healthcare professionals and patients, including the web-based structured forms referred to in Article 102 of [revised Regulation (EC) No 726/2004].

PUBLIC

(e) information on prescription status of medicinal products authorised in their territory.

(ea) information on the shortage status of medicinal products as referred to in Article 121(1) point (b) and Article 121a of [revised Regulation (EC) No 726/2004];

2. The summaries referred to in paragraph ~~2~~*1*, point (c), shall include, where relevant, a description of additional risk minimisation measures.

Article 103

Publication of assessment

The Agency shall make publicly available the final assessment conclusions, recommendations, opinions and decisions referred to in Articles 107 to 116, by means of the European medicines web-portal.

PUBLIC

Article 104

Public announcements

1. As soon as the marketing authorisation holder intends to make a public announcement relating to information on pharmacovigilance concerns in relation to the use of a medicinal product, and in any event at the same time or before the public announcement is made, they shall be required to inform the competent authorities of the Member States, the Agency and the Commission.

2. The marketing authorisation holder shall ensure that information to the public is presented objectively and is not misleading.

3. Unless urgent public announcements are required for the protection of public health, the Member States, the Agency and the Commission shall inform each other not less than 24 hours prior to a public announcement relating to information on pharmacovigilance concerns.

4. For active substances contained in medicinal products authorised in more than one Member State, the Agency shall be responsible for the coordination between competent authorities of the Member States of safety announcements and shall provide timetables for the information being made publicly available.

PUBLIC

5. Under the coordination of the Agency, the Member States shall make all reasonable efforts to agree on a common message in relation to the safety of the medicinal product concerned and the timetables for their distribution. The Pharmacovigilance Risk Assessment Committee shall, at the request of the Agency, provide advice on those safety announcements.

6. When the Agency or competent authorities of the Member States make publicly available information referred to in paragraphs 2 and 3, any personal data or data of a commercially confidential nature shall be deleted unless its public disclosure is necessary for the protection of public health.

PUBLIC

SECTION 3

RECORDING AND REPORTING OF SUSPECTED ADVERSE REACTIONS

Article 105

Recording and reporting of suspected adverse reactions by the marketing authorisation holder

1. Marketing authorisation holders shall record all suspected adverse reactions in the Union or in third countries that are brought to their attention, whether reported spontaneously by patients or healthcare professionals, or occurring in the context of a post-authorisation study including data relating to ~~off-label use of~~ ***suspected adverse reactions occurring where*** the product ***is used outside the terms of the marketing authorisation***.

   Marketing authorisation holders shall ensure that those reports are accessible at a single point within the Union.

   By way of derogation from the first subparagraph, suspected adverse reactions occurring in the context of a clinical trial shall be recorded and reported in accordance with Regulation (EU) No 536/2014.

2. Marketing authorisation holders shall not refuse to consider reports of suspected adverse reactions received electronically or by any other appropriate means from patients ***who may be assisted by other persons,*** or healthcare professionals***, including reports received in accordance with Article 105a***.

PUBLIC

3. Marketing authorisation holders shall submit electronically to the database and data-processing network referred to in Article 101 of [revised Regulation (EC) No 726/2004] ('Eudravigilance database') information on all serious suspected adverse reactions that occur in the Union and in third countries within 15 days following the day on which the marketing authorisation holder concerned gained knowledge of the event.

Marketing authorisation holders shall submit electronically to the Eudravigilance database information on all non-serious suspected adverse reactions that occur in the Union, within 90 days following the day on which the marketing authorisation holder concerned gained knowledge of the event.

For medicinal products containing active substances referred to in the list of publications monitored by the Agency pursuant to Article 105 of [revised Regulation (EC) No 726/2004], marketing authorisation holders shall not be required to report to the Eudravigilance database the suspected adverse reactions recorded in the listed publications, but they shall monitor all other medical literature and report any suspected adverse reactions recorded therein.

4. Marketing authorisation holders shall establish procedures in order to obtain accurate and verifiable data for the scientific evaluation of suspected adverse reaction reports. They shall also collect follow-up information ~~on those reports~~ and submit the updates to the Eudravigilance database. ***Reports obtained from the 'Eudravigilance database' shall not be re-submitted by the marketing authorisation holders to the 'Eudravigilance database', unless they contain additional information.***

PUBLIC

5. Marketing authorisation holders shall collaborate with the Agency and the competent authorities of the Member States in the detection of duplicates of suspected adverse reaction reports.

6. This Article shall apply mutatis mutandis to undertakings supplying medicinal products used in accordance with Article 3, paragraphs 1 or 2.

Article 105a

Recording and reporting of suspected adverse reactions by wholesale distributors

Wholesale distributors that distribute medicinal products in accordance with Article 162(3) to (5) shall record all suspected adverse reactions with regard to those medicinal products which are brought to their attention, whether reported spontaneously by patients or by healthcare professionals, including suspected adverse reactions occuring where the product is used outside the terms of the marketing authorisation. They shall transmit those reports immediately to the marketing authorisation holder holding the marketing authorisation in the source Member State.

PUBLIC

Article 106

Recording and reporting of suspected adverse reactions by Member States

1. Each Member State shall record all suspected adverse reactions that occur in its territory and ~~that~~ ***which*** are brought to its attention from healthcare professionals and patients. This shall include all authorised medicinal products and medicinal products used in accordance with Article 3, paragraphs 1 or 2. Member States shall involve patients and healthcare professionals, as appropriate, in the follow-up of any reports they receive in order to comply with Article 97(1), points (c) and (e).

   Member States shall ensure that reports of such reactions may be submitted by means of the national medicines web-portals or by other means.

2. For reports submitted by a marketing authorisation holder, Member States on whose territory the suspected adverse reaction occurred may involve the marketing authorisation holder in the follow-up of the reports.

3. Member States shall collaborate with the Agency and the marketing authorisation holders in the detection of duplicates of suspected adverse reaction reports.

4. Member States shall, within 15 days following the receipt of the reports of serious suspected adverse reactions referred to in paragraph 1, submit the reports electronically to the Eudravigilance database.

PUBLIC

Member States shall, within 90 days from the receipt of the reports referred to in paragraph 1, submit reports of non-serious suspected adverse reactions electronically to the Eudravigilance database.

Marketing authorisation holders ***and marketing authorisation applicants to the extent necessary*** shall have access to the reports referred to in this paragraph through the Eudravigilance database.

5. Member States shall ensure that reports of suspected adverse reactions arising from an error associated with the use of a medicinal product that are brought to their attention are made available to the Eudravigilance database and to any authorities, bodies, organisations or institutions, responsible for patient safety within that Member State concerned. They shall also ensure that the authorities responsible for medicinal products within that Member State are informed of any suspected adverse reactions brought to the attention of any other authority within that Member State. These reports shall be appropriately identified in the forms referred to in Article 102 of [revised Regulation (EC) No 726/2004].

6. Unless there are justifiable grounds resulting from pharmacovigilance activities, Member States shall not impose any additional obligations on marketing authorisation holders for the reporting of suspected adverse reactions.

PUBLIC

SECTION 4

PERIODIC SAFETY UPDATE REPORTS

Article 107

Periodic safety update reports

1. Marketing authorisation holders shall submit to the Agency periodic safety update reports containing:

   (a) summaries of data relevant to the benefit-risk balance of the medicinal product, including results of all studies with a consideration of their potential impact on the marketing authorisation;

   (b) a scientific evaluation of the benefit-risk balance of the medicinal product;

   (c) all data relating to the volume of sales of the medicinal product and any data in possession of the marketing authorisation holder relating to the volume of prescriptions, including an estimate of the population exposed to the medicinal product.

   The data provided in accordance with the first subparagraph, point (c), shall differentiate between sales and volumes generated within the Union and those generated outside the Union.

PUBLIC

2. The evaluation referred to in paragraph 1, first subparagraph, point (b), shall be based on all available data, including data from clinical trials in unauthorised therapeutic indications and populations.

The periodic safety update reports shall be submitted electronically.

3. The Agency shall make available the reports referred to in paragraph 1 to the competent authorities of the Member States, the members of the Pharmacovigilance Risk Assessment Committee, the Committee for Medicinal Products for Human Use and the coordination group by means of the repository referred to in Article 103 of [revised Regulation (EC) No 726/2004].

4. By way of derogation from paragraph 1, the marketing authorisation holders for medicinal products referred to in Articles 9, or 13, ~~and the registration holders for medicinal products referred to in Articles 126 or 134(1),~~ shall only be required to submit periodic safety update reports for such medicinal products to the competent authority in the following cases:

(a) where such obligation has been laid down as a condition in the marketing authorisation in accordance with Articles 44 or 45; or

PUBLIC

(b) when requested by a competent authority on the basis of concerns relating to pharmacovigilance data or due to the lack of periodic safety update reports relating to an active substance after the marketing authorisation has been granted.

By way of derogation from paragraph 1, the registration holders for medicinal products referred to in Articles 126 or 134(1), shall only be required to submit periodic safety update reports for such medicinal products when requested by a competent authority on the basis of concerns relating to pharmacovigilance data.

The assessment reports of the periodic safety update reports referred to in the first subparagraph shall be communicated by the competent authority to the Pharmacovigilance Risk Assessment Committee, which shall consider whether there is a need for a single assessment report for all marketing authorisations for medicinal products containing the same active substance and which shall inform the coordination group or the Committee for Medicinal Products for Human Use accordingly, in order to apply the procedures laid down in Articles 108(4) and 110.

Article 108

Frequency of periodic safety update reports

1. The frequency with which the periodic safety update reports are to be submitted shall be specified in the marketing authorisation.

PUBLIC

The dates of submission according to the specified frequency shall be calculated from the date when then marketing authorisation was granted.

2. Holders of marketing authorisations which have been granted before 21 July 2012, and for which the frequency and dates of submission of the periodic safety update reports are not laid down as a condition to the marketing authorisation, shall submit the periodic safety update reports in accordance with the second subparagraph until another frequency or other dates of submission of the reports are laid down in the marketing authorisation or determined in accordance with the paragraphs 4, 5 and 6.

Periodic safety update reports shall be submitted to the competent authorities immediately upon request ***or in accordance with the following***:

(a) where a medicinal product has not yet been placed on the market, at least every six months following the marketing authorisation and until the placing on the market;

(b) where a medicinal product has been placed on the market, ~~at least every six months~~ ***once a year*** during the first ~~two~~ ***five*** years following the initial placing on the market, ~~once a year for the following two years and at~~ ***and a*** three-yearly intervals ***for the subsequent six years and with a five years interval*** thereafter.

3. Paragraph 2 shall also apply to medicinal products that are authorised only in one Member State and for which paragraph 4 does not apply.

PUBLIC

4. Where medicinal products that are subject to different marketing authorisations contain the same active substance or the same combination of active substances, the frequency and dates of submission of the periodic safety update reports resulting from the application of the paragraphs 1 and 2 may be amended and harmonised to enable a single assessment to be made in the context of a periodic safety update report work-sharing procedure and to set a Union reference date from which the submission dates to be calculated.

The harmonised frequency for the submission of the reports and the Union reference date may be determined, after consultation of the Pharmacovigilance Risk Assessment Committee, by one of the following:

(a) the Committee for Medicinal Products for Human Use, where at least one of the marketing authorisations for the medicinal products containing the active substance concerned has been granted in accordance with the centralised procedure provided for in Article 3 of [revised Regulation (EC) No 726/2004];

(b) the coordination group, in other cases than those referred to in point (a).

The harmonised frequency for the submission of the reports determined pursuant to the first and second subparagraphs shall be made publicly available by the Agency. Marketing authorisation holders shall submit an application for a variation of the marketing authorisation accordingly.

PUBLIC

5. For the purposes of paragraph 4, the Union reference date for medicinal products containing the same active substance or the same combination of active substances shall be one of the following:

(a) the date when the first marketing authorisation was granted in the Union for a medicinal product containing that active substance or that combination of active substances;

(b) if the date referred to in point (a) cannot be ascertained, the earliest of the known dates of the marketing authorisations for a medicinal product containing that active substance or that combination of active substances.

6. Marketing authorisation holders shall be allowed to submit requests to the Committee for Medicinal Products for Human Use or the coordination group, as appropriate, to determine Union reference dates or to change the frequency of submission of periodic safety update reports on one of the following grounds:

(a) for reasons relating to public health;

(b) in order to avoid a duplication of the assessment;

(c) in order to achieve international harmonisation.

PUBLIC

Such requests shall be submitted in writing and shall be duly justified. The Committee for Medicinal Products for Human Use or the coordination group shall, following the consultation with the Pharmacovigilance Risk Assessment Committee, either approve or deny such requests. Any change in the dates or the frequency of submission of periodic safety update reports shall be made publicly available by the Agency. The marketing authorisation holders shall submit an application for a variation of the marketing authorisation accordingly.

7. The Agency shall make public a list of Union reference dates and frequency of submission of periodic safety update reports by means of the European medicines web-portal.

Any change to the dates of submission and frequency of periodic safety update reports specified in the marketing authorisation as a result of the application of the paragraphs 4, 5 and 6 shall take effect four months after the date of the publication referred to in the first subparagraph.

PUBLIC

Article 109

Assessment of periodic safety update reports

The competent authorities of the Member State shall assess periodic safety update reports to determine whether there are new risks or whether risks have changed or whether there are changes to the benefit-risk balance of medicinal products.

Article 110

Single assessment of periodic safety update reports

1. A single assessment of periodic safety update reports shall be performed for medicinal products authorised in more than one Member State and, in the cases referred to in Article 108, paragraphs 4, 5 and 6, for all medicinal products containing the same active substance or the same combination of active substances and for which a Union reference date and a frequency of periodic safety update reports has been established.

   The single assessment shall be conducted by either of the following:

   (a) a Member State appointed by the coordination group where none of the marketing authorisations concerned has been granted in accordance with the centralised procedure provided for in Article 3 of [revised Regulation (EC) No 726/2004];

   (b) a rapporteur appointed by the Pharmacovigilance Risk Assessment Committee, where at least one of the marketing authorisations concerned has been granted in accordance with the centralised procedure provided for in Article 3 of [revised Regulation (EC) No 726/2004].

PUBLIC

When selecting the Member State in accordance with the second subparagraph, point (a), the coordination group shall take into account whether any Member State is acting as a reference Member State, in accordance with Chapter III, Sections 3 and 4.

2. The Member State or rapporteur, as appropriate, shall prepare an assessment report within 60 days of receipt of the periodic safety update report and send it to the Agency and to the Member States concerned. The Agency shall send the report to the marketing authorisation holder.

Within 30 days of receipt of the assessment report, the Member States and the marketing authorisation holder may submit comments to the Agency and to the rapporteur or Member State. ***Where the report includes questions to the marketing authorisation holder, the holder shall provide answers within those 30 days.***

3. Following the receipt of the comments referred to in paragraph 2, the rapporteur or Member State shall within 15 days update the assessment report taking into account any comments submitted, and forward it to the Pharmacovigilance Risk Assessment Committee. The Pharmacovigilance Risk Assessment Committee shall adopt the assessment report with or without further changes at its next meeting and issue a recommendation. The recommendation shall mention any divergent positions with the grounds on which they are based. The Agency shall include the adopted assessment report and the recommendation in the repository set up under Article 103 of [revised Regulation (EC) No 726/2004] and forward them to the marketing authorisation holder.

PUBLIC

Article 111

Regulatory action on periodic safety update reports

Following the assessment of periodic safety update reports referred to in Article ~~107~~ ***109***, the competent authorities of the Member States shall consider whether any action concerning the marketing authorisation for the medicinal product concerned is necessary and shall maintain, vary, suspend or revoke the marketing authorisation as appropriate.

Article 112

Procedure for regulatory action on periodic safety update reports

1. In the case of a single assessment of periodic safety update reports in accordance with Article 110(1) which recommends action concerning more than one marketing authorisation that does not include any centralised marketing authorisation, the coordination group shall, within 30 days of receipt of the assessment report of the Pharmacovigilance Risk Assessment Committee, consider the assessment report and reach a position on the maintenance, variation, suspension or revocation of the marketing authorisations concerned, including a timetable for the implementation of the agreed position.

PUBLIC

2. If, within the coordination group, the Member States represented reach an agreement on the action to be taken by consensus, the chairperson shall record the agreement and send it to the marketing authorisation holder and the Member States. The Member States shall adopt necessary measures to maintain, vary, suspend or revoke the marketing authorisations concerned in accordance with the timetable for implementation determined in the agreement.

In the event of a variation, the marketing authorisation holder shall submit to the competent authorities of the Member States an appropriate application for a modification, including an updated summary of product characteristics and an updated package leaflet within the determined timetable for implementation.

If an agreement by consensus cannot be reached, the position of the majority of the Member States represented within the coordination group shall be forwarded to the Commission which shall apply the procedure laid down in Article 42.

Where the agreement reached by the Member States represented within the coordination group or the position of the majority of Member States differs from the recommendation of the Pharmacovigilance Risk Assessment Committee, the coordination group shall attach to the agreement or the majority position a detailed explanation of the scientific grounds for the differences together with the recommendation.

PUBLIC

3. In the case of a single assessment of periodic safety update reports in accordance with Article 110(1) that recommends action concerning more than one marketing authorisation that includes at least one centralised marketing authorisation, the Committee for Medicinal Products for Human Use shall, within 30 days of receipt of the report of the Pharmacovigilance Risk Assessment Committee, consider the report and adopt an opinion on the maintenance, variation, suspension or revocation of the marketing authorisations concerned, including a timetable for the implementation of the opinion.

4. Where the opinion of the Committee for Medicinal Products for Human Use referred to in paragraph 3 differs from the recommendation of the Pharmacovigilance Risk Assessment Committee, the Committee for Medicinal Products for Human Use shall attach to its opinion a detailed explanation of the scientific grounds for the differences together with the recommendation.

5. On the basis of the opinion of the Committee for Medicinal Products for Human Use referred to in paragraph 3, the Commission shall, by means of implementing acts:

   (a) adopt a decision addressed to the Member States concerning the measures to be taken in respect of marketing authorisations granted by the Member States and concerned by the procedure provided for in this section; and

PUBLIC

(b) where the opinion states that regulatory action concerning the marketing authorisation is necessary, adopt a decision to vary, suspend or revoke the centralised marketing authorisations ~~and~~ concerned by the procedure provided for in this section.

6. Article 42 shall apply to the adoption of the decision referred to in paragraph 5, point (a), and to its implementation by the Member States.

7. Article 13 of [revised Regulation (EC) No 726/2004] shall apply to the decision referred to in paragraph 5, point (b). Where the Commission adopts such decision, it may also adopt a decision addressed to the Member States pursuant to Article ~~55~~***57*** of [revised Regulation (EC) No 726/2004].

PUBLIC

SECTION 5

SIGNAL DETECTION

Article 113

Signal monitoring and detection

1. Regarding medicinal products authorised in accordance with Chapter III, competent authorities of the Member States shall in collaboration with the Agency, take the following measures:

   (a) monitor the outcome of risk minimisation measures contained in risk management plans and of the conditions referred to in Articles 44 ***(1) points (a)-(g) and point (i)***, 45 and any obligations imposed in accordance with Article 87 ***(1) points (a), (b) and (ba)***;

   (b) assess updates to the risk management system;

   (c) monitor the data in the Eudravigilance database to determine whether there are new risks or whether risks have changed and whether those risks impact on the benefit-risk balance.

PUBLIC

2. The Pharmacovigilance Risk Assessment Committee shall perform the initial analysis and prioritisation of signals of new risks or risks that have changed or changes to the benefit-risk balance. Where it considers that follow-up action may be necessary, the assessment of those signals and agreement on any subsequent action concerning the marketing authorisation shall be conducted in a timescale commensurate with the extent and seriousness of the issue. ***Where appropriate, the assessment of those signals may be included in a pending assessment of a periodic safety update report or a pending procedure in accordance with Articles 92 to 95 and 114-116 of this Directive or Article 55 of [revised Regulation].***

3. The Agency and competent authorities of the Member States and the marketing authorisation holder shall inform each other in the event of new risks or risks that have changed or changes to the benefit-risk balance being detected.

4. Member States shall ensure that marketing authorisation holders inform the Agency and competent authorities of the Member State in the event of new risks or risks that have changed or when changes to the benefit-risk balance have been detected.

PUBLIC

SECTION 6

URGENT UNION PROCEDURE

Article 114

Initiation of an urgent Union procedure

1. A Member State or the Commission, as appropriate, shall, on the basis of concerns resulting from the evaluation of data from pharmacovigilance activities, initiate the procedure provided for in this Section (the 'urgent Union procedure') by informing the other Member States, the Agency and the Commission where:

   (a) it considers suspending or revoking a marketing authorisation;

   (b) it considers prohibiting the supply of a medicinal product;

   (c) it considers refusing the renewal of a marketing authorisation; or

   (d) it is informed by the marketing authorisation holder that, on the basis of safety concerns, the marketing authorisation holder has interrupted the placing on the market of a medicinal product or has taken action to have a marketing authorisation withdrawn, or intends to take such action or has not applied for the renewal of a marketing authorisation.

PUBLIC

2. A Member State or the Commission, as appropriate, shall, on the basis of concerns resulting from the evaluation of data from pharmacovigilance activities, inform the other Member States, the Agency and the Commission where it considers that a new contraindication, a reduction in the recommended dose or a restriction to the therapeutic indications of a medicinal product is necessary. The information shall outline the action considered and the reasons therefore.

Any Member State or the Commission, as appropriate, shall, when urgent action is considered necessary in any of the cases referred to in the first subparagraph, initiate the urgent Union procedure.

Where the urgent Union procedure is not initiated, for medicinal products authorised in accordance with Chapter III, Sections 3 and 4, the case shall be brought to the attention of the coordination group.

Article 95 shall apply where the interests of the Union are involved.

3. Where the urgent Union procedure is initiated, the Agency shall verify whether the safety concern relates to medicinal products other than the one covered by the information, or whether the safety concern is common to all medicinal products belonging to the same range or therapeutic class.

PUBLIC

Where the medicinal product involved is authorised in more than one Member State, the Agency shall without undue delay inform the initiator of the urgent Union procedure of the outcome of the verification, and the procedures laid down in Articles 115 and 116 shall apply. Otherwise, the safety concern shall be addressed by the Member State concerned. The Agency or the Member State, as applicable, shall make the information that the urgent Union procedure has been initiated available to marketing authorisation holders.

4. Without prejudice to paragraphs 1 and 2, and Articles 115 and 116, a Member State may, where urgent action is necessary to protect public health, suspend the marketing authorisation and prohibit the use of the medicinal product concerned on its territory until a definitive decision is adopted in the urgent Union procedure. It shall inform the Commission, the Agency and the other Member States no later than the following working day of the reasons for its action.

5. At any stage of the procedure laid down in Articles 115 and 116, the Commission may request a Member State in which the medicinal product is authorised to take temporary measures immediately.

Where the scope of the procedure, as determined in accordance with paragraphs 1 and 2, includes medicinal products covered by centralised marketing authorisations, the Commission may, at any stage of the urgent Union procedure, take temporary measures immediately in relation to those marketing authorisations.

PUBLIC

6. The information referred to in this Article may relate to individual medicinal products or to a range of medicinal products or a therapeutic class.

If the Agency identifies that the safety concern relates to more medicinal products than those that are covered by the information or that the safety concern is common to all medicinal products belonging to the same range or therapeutic class, it shall extend the scope of the procedure accordingly.

Where the scope of the urgent Union procedure concerns a range of medicinal products or therapeutic class, medicinal products covered by the centralised marketing authorisation, that belong to that range or class shall also be included in the procedure.

7. At the time the information referred to in paragraphs 1 and 2 is provided, the Member State shall make available to the Agency all relevant scientific information that it has at its disposal and any assessment by the Member State.

PUBLIC

Article 115

Urgent Union procedure scientific assessment

1. Following receipt of the information referred to in Article 114, paragraphs 1 and 2, the Agency shall publicly announce the initiation of the urgent Union procedure by means of the European medicines web-portal. In parallel, Member States may publicly announce the initiation of the procedure on their national medicines web-portals.

   The announcement shall specify the matter submitted to the Agency in accordance with Article 114, and the medicinal products and, where applicable, the active substances concerned. It shall contain information on the right of the marketing authorisation holders, healthcare professionals and the public to submit to the Agency information relevant to the procedure and it shall state how such information may be submitted.

2. The Pharmacovigilance Risk Assessment Committee shall assess the matter that has been submitted to the Agency in accordance with Article 114. The rapporteur, as referred to in Article 152 of [revised Regulation (EC) No 726/2004], shall closely collaborate with the rapporteur appointed by the Committee for Medicinal Products for Human Use and with the reference Member State for the medicinal products concerned.

   For the purposes of the assessment referred to in the first subparagraph, the marketing authorisation holder may submit comments in writing.

PUBLIC

Where the urgency of the matter permits, the Pharmacovigilance Risk Assessment Committee may hold public hearings, where it considers that this is appropriate on justified grounds particularly with regard to the extent and seriousness of the safety concern. The hearings shall be held in accordance with the modalities specified by the Agency and shall be announced by means of the European medicines web-portal. ***In the hearing the Pharmacovigilance Risk Assessment Committee shall also give due regard to the therapeutic effect and clinical context of the medicinal product.*** The announcement shall specify the modalities of participation.

The Agency shall, in consultation with the parties concerned, draw up Rules of Procedure on the organisation and conduct of public hearings, in accordance with Article 163 of [revised Regulation (EC) No 726/2004].

Where a marketing authorisation holder or another person intending to submit information, has confidential data relevant to the subject matter of the procedure, they may request permission to present that data to the Pharmacovigilance Risk Assessment Committee in a non-public hearing.

PUBLIC

3. Within 60 days of the submission of the information, the Pharmacovigilance Risk Assessment Committee shall make a recommendation, stating the reasons on which it is based, having due regard to the therapeutic effect of the medicinal product. The recommendation shall mention any divergent positions and the grounds on which they are based. In the case of urgency, and on the basis of a proposal by its chairperson, the Pharmacovigilance Risk Assessment Committee may agree to a shorter deadline. The recommendation shall include any or a combination of the following conclusions:

(a) no further evaluation or action is required at Union level;

(b) the marketing authorisation holder should conduct further evaluation of data and carry out a follow-up of the results of that evaluation;

(c) the marketing authorisation holder should sponsor a post-authorisation safety study and carry out a follow up evaluation of the results of that study;

(d) the Member States or marketing authorisation holder should implement risk minimisation measures;

(e) the marketing authorisation should be suspended, revoked or not renewed;

(f) the marketing authorisation should be varied.

PUBLIC

4. For the purposes of paragraph 3, point (d), the recommendation shall specify the risk minimisation measures recommended and any conditions or restrictions to which the marketing authorisation should be made subject, including the timeline for implementation.

5. For the purposes of paragraph 3, point (f), where it is recommended to change or add information in the summary of product characteristics or the labelling or package leaflet, the recommendation shall suggest the wording of such changed or added information and shall indicate where in the summary of product characteristics, the labelling or package leaflet such wording should be placed.

Article 116

Follow-up of recommendation made in the framework of the urgent Union procedure

1. Where the scope of the urgent Union procedure, as determined in accordance with Article 114(6), does not include any centralised marketing authorisation, the coordination group shall, within 30 days of receipt of the recommendation of the Pharmacovigilance Risk Assessment Committee, consider the recommendation and reach a position on the maintenance, variation, suspension, revocation or refusal of the renewal of the marketing authorisation concerned, including a timetable for the implementation of the agreed position. Where an urgent adoption of the position is necessary, the coordination group may, on the basis of a proposal by its chairperson, agree to a shorter deadline.

PUBLIC

2. If, within the coordination group, the Member States represented reach an agreement on the action to be taken by consensus, the chairperson shall record the agreement and send it to the marketing authorisation holder and the Member States. The Member States shall adopt necessary measures to maintain, vary, suspend, revoke or refuse renewal of the marketing authorisation concerned in accordance with the implementation timetable determined in the agreement.

In the event that a variation is agreed upon, the marketing authorisation holder shall submit to the competent authorities of the Member States an appropriate application for a variation, including an updated summary of product characteristics and an updated package leaflet within the determined timetable for implementation.

If an agreement by consensus cannot be reached, the position of the majority of the Member States represented within the coordination group shall be forwarded to the Commission which shall apply the procedure laid down in Article 42.

Where the agreement reached by the Member States represented within the coordination group or the position of the majority of the Member States represented within the coordination group differs from the recommendation of the Pharmacovigilance Risk Assessment Committee, the coordination group shall attach to the agreement or majority position a detailed explanation of the scientific grounds for the differences together with the recommendation.

PUBLIC

3. Where the scope of the procedure, as determined in accordance with Article 114(6), includes at least one centralised marketing authorisation, the Committee for Medicinal Products for Human Use shall, within 30 days of receipt of the recommendation of the Pharmacovigilance Risk Assessment Committee, consider the recommendation and adopt an opinion on the maintenance, variation, suspension, revocation or refusal of the renewal of the marketing authorisations concerned. Where an urgent adoption of the opinion is necessary, the Committee for Medicinal Products for Human Use may, on the basis of a proposal by its chairperson, agree to a shorter deadline.

Where the opinion of the Committee for Medicinal Products for Human Use differs from the recommendation of the Pharmacovigilance Risk Assessment Committee, the Committee for Medicinal Products for Human Use shall attach to its opinion a detailed explanation of the scientific grounds for the differences together with the recommendation.

4. On the basis of the opinion of the Committee for Medicinal Products for Human Use referred to in paragraph 3, the Commission shall, by means of implementing acts:

(a) adopt a decision addressed to the Member States concerning the measures to be taken in respect of marketing authorisations that are granted by the Member States and that are subject to the urgent Union procedure;

PUBLIC

(b) where the opinion states that regulatory action concerning the marketing authorisation is necessary, adopt a decision to vary, suspend, revoke or refuse the renewal of the centralised marketing authorisations ~~and~~ concerned by the procedure provided for in this section.

5. Article 42 shall apply to the adoption of the decision referred to in paragraph 4, point (a), and to its implementation by the Member States.

6. Article 13 of [revised Regulation (EC) No 726/2004] shall apply to the decision referred to in paragraph 4, point (b). Where the Commission adopts such decision, it may also adopt a decision addressed to the Member States pursuant to Article ~~55~~*57* of [revised Regulation (EC) No 726/2004].

SECTION 7

SUPERVISION OF POST-AUTHORISATION SAFETY STUDIES

Article 117

Non-interventional post-authorisation safety studies

1. This Section applies to non-interventional post-authorisation safety studies that are initiated, managed or financed by the marketing authorisation holder voluntarily or pursuant to obligations imposed in accordance with Articles 44 or 87, and that involve the collection of safety data from patients or healthcare professionals.

PUBLIC

2. This Section is without prejudice to Member States and Union requirements for ensuring the well-being and rights of participants in non-interventional post-authorisation safety studies.

3. The studies shall not be performed where the act of conducting the study promotes the use of a medicinal product.

4. Payments to healthcare professionals for participating in non-interventional post-authorisation safety studies shall be restricted to the compensation for time and expenses incurred.

5. The competent authority of the Member State may require the marketing authorisation holder to submit the protocol and the progress reports to the competent authorities of the Member States in which the study is conducted.

6. The marketing authorisation holder shall send the final report of the study to the competent authorities of the Member States in which the study was conducted within 12 months of the end of data collection.

7. While a study is being conducted, the marketing authorisation holder shall monitor the data generated and consider its implications for the benefit-risk balance of the medicinal product concerned.

PUBLIC

Any new information that might influence the evaluation of the benefit-risk balance of the medicinal product shall be communicated to the competent authorities of the Member State in which the medicinal product has been authorised in accordance with Article 90.

The obligation laid down in the second subparagraph is without prejudice to the information on the results of studies that the marketing authorisation holder shall make available by means of the periodic safety update reports as laid down in Article 107.

8. Articles 118 to 121 shall apply exclusively to studies referred to in paragraph 1 that are conducted pursuant to an obligation imposed in accordance with Articles 44 or 87.

Article 118

Agreement of a protocol for a non-interventional post-authorisation safety study

1. Before a study is conducted, the marketing authorisation holder shall submit a draft protocol to the Pharmacovigilance Risk Assessment Committee, except for studies to be conducted in only one Member State that requests the study in accordance with Article 87. For such studies, the marketing authorisation holder shall submit a draft protocol to the competent authority of the Member State in which the study is conducted.

PUBLIC

2. Within 60 days of the submission of the draft protocol referred to in paragraph 1 the competent authority of the Member State or the Pharmacovigilance Risk Assessment Committee, as appropriate, shall issue:

(a) a letter endorsing the draft protocol;

(b) a letter of objection, which shall set out in detail the grounds for the objection, where:

(i) it considers that the conduct of the study promotes the use of a medicinal product;

(ii) it considers that the design of the study does not fulfil the study objectives; or

(c) a letter notifying the marketing authorisation holder that the study is a clinical trial falling under the scope of Regulation (EU) No 536/2014.

3. The study may commence only when the written endorsement from the competent authority of the Member State or the Pharmacovigilance Risk Assessment Committee, as appropriate, has been issued.

PUBLIC

Where a letter of endorsement of the draft protocol as referred to in paragraph 2, point (a), has been issued, the marketing authorisation holder shall forward the protocol to the competent authorities of the Member States in which the study is to be conducted and may thereafter commence the study according to the endorsed protocol.

Article 119

Update of a protocol for a non-interventional post-authorisation safety study

After a study has been commenced, any substantial amendments to the protocol shall be submitted, before their implementation, to the competent authority of the Member State or to the Pharmacovigilance Risk Assessment Committee, as appropriate. The competent authority of the Member State or the Pharmacovigilance Risk Assessment Committee, as appropriate, shall assess the amendments and inform the marketing authorisation holder of its endorsement or objection. Where applicable, the marketing authorisation holder shall inform the Member States in which the study is conducted.

PUBLIC

Article 120

Final study report on a non-interventional post-authorisation safety study

1. Upon completion of the study, a final study report shall be submitted to the competent authority of the Member State or the Pharmacovigilance Risk Assessment Committee within 12 months of the end of data collection unless a written waiver has been granted by the competent authority of the Member State or the Pharmacovigilance Risk Assessment Committee, as appropriate.

2. The marketing authorisation holder shall evaluate whether the results of the study have an impact on the marketing authorisation and shall, if necessary, submit to the competent authorities of the Member States an application to vary the marketing authorisation.

3. Together with the final study report, the marketing authorisation holder shall electronically submit an abstract of the study results to the competent authority of the Member State or the Pharmacovigilance Risk Assessment Committee.

PUBLIC

Article 121

Recommendations following the submission of a final study report on non-interventional post-authorisation safety studies

1. Based on the results of the study and after consultation of the marketing authorisation holder, the Pharmacovigilance Risk Assessment Committee may make recommendations concerning the marketing authorisation, stating the reasons on which they are based. The recommendations shall mention any divergent positions and the grounds on which they are based.

2. When recommendations for the variation, suspension or revocation of a national marketing authorisation are made, the Member States represented within the coordination group shall agree on a position on the matter taking into account the recommendation referred to in paragraph 1 and shall include a timetable for the implementation of the agreed position.

   If, within the coordination group, the Member States represented reach an agreement on the action to be taken by consensus, the chairperson shall record the agreement and send it to the marketing authorisation holder and the Member States. The Member States shall adopt necessary measures to vary, suspend or revoke the marketing authorisation concerned in accordance with the implementation timetable determined in the agreement.

PUBLIC

In the event that a variation is agreed upon, the marketing authorisation holder shall submit to the competent authorities of the Member State an appropriate application for a variation, including an updated summary of product characteristics and an updated package leaflet within the determined timetable for implementation.

The agreement shall be made publicly available on the European medicines web-portal established in accordance with Article 104 of [revised Regulation (EC) No 726/2004].

3. If an agreement by consensus cannot be reached, the position of the majority of the Member States represented within the coordination group***, together with a detailed description of the matters, on which the Member States have been unable to reach an agreement, all the divergent positions of Member States presented and the scientific grounds on which they are based,*** shall be forwarded to the Commission, which shall apply the procedure laid down in Article 42.

4. Where the agreement reached by the Member States represented within the coordination group or the position of the majority of Member States differs from the recommendation of the Pharmacovigilance Risk Assessment Committee, the coordination group shall attach to the agreement or majority position a detailed explanation of the scientific grounds for the differences together with the recommendation.

PUBLIC

SECTION 8

IMPLEMENTATION, GUIDANCE AND REPORTING

Article 122

Implementing measures related to pharmacovigilance activities

1. In order to harmonise the performance of the pharmacovigilance activities provided for in this Directive, the Commission shall adopt implementing measures in the following areas for which pharmacovigilance activities are provided for in Annex I, Articles 96, 99, 100, 105 to 107, 113, 118 and 120 by setting out:

   (a) the content and the rules on the maintenance of the pharmacovigilance system master file kept by the marketing authorisation holder;

   (b) minimum requirements for the quality system for the performance of pharmacovigilance activities by the competent authorities of the Member States and the marketing authorisation holder;

   (c) rules on the use of internationally agreed terminology, formats and standards for the performance of pharmacovigilance activities;

   (d) minimum requirements for the monitoring of data in the Eudravigilance database to determine whether there are new risks or whether risks have changed;

   (e) the format and content of the electronic transmission of suspected adverse reactions by Member States and the marketing authorisation holder;

PUBLIC

(f) the format and content of electronic periodic safety update reports and risk management plans;

(g) the format of protocols, abstracts and final study reports for the post-authorisation safety studies.

2. Those measures shall take account of the work on international harmonisation carried out in the area of pharmacovigilance ***and shall, where necessary, be revised to take account of technical and scientific progress***. Those measures shall be adopted in accordance with the regulatory procedure referred to in Article 214(2).

Article 123

Guidance to facilitate the performance of pharmacovigilance activities

The Agency shall, in cooperation with competent authorities of the Member States and other interested parties, draw up:

(a) guidance on good pharmacovigilance practices for both competent authorities and marketing authorisation holders;

(b) scientific guidance on post-authorisation efficacy studies.

Article 124

Reporting on pharmacovigilance tasks

The Agency shall make public a report on the performance of pharmacovigilance tasks by the Member States and the Agency every three years. The first report shall be made public by [three years after application date of [revised Regulation (EC) No 726/2004].

PUBLIC

Chapter X

Homeopathic medicinal products and traditional herbal medicinal products

SECTION 1

SPECIFIC PROVISIONS APPLICABLE TO HOMEOPATHIC MEDICINAL PRODUCTS

Article 125

Registration or authorisation of homeopathic medicinal products

1. Member States shall ensure that homeopathic medicinal products manufactured and placed on the market in the Union are registered in accordance with Articles 126 and 127 or authorised in accordance with Article 133(1), except where such homeopathic medicinal products are covered by a registration or authorisation granted in accordance with national legislation on or before 31 December 1993. In case of registrations, Chapter III, Sections 3 and 4, and Article 38, paragraphs 1, 2 and 3 shall apply ***mutatis mutandis***.

2. Member States shall establish a simplified registration procedure referred to in Article 126 for the homeopathic medicinal products.

PUBLIC

Article 126

Simplified registration procedure for homeopathic medicinal products

1. Homeopathic medicinal products that satisfy all of the following conditions may be subject to a simplified registration procedure:

   (a) they are administered orally or externally;

   (b) no specific therapeutic indication appears on the labelling of the ***homeopathic*** medicinal product***, is conveyed in the name of the homeopathic medicinal products,*** or in any information relating thereto;

   (c) there is a sufficient degree of dilution to guarantee the safety of the ***homeopathic*** medicinal product.

1a. For the purposes of ***paragraph 1,*** point (c), the ***homeopathic*** medicinal product may not contain either more than one part per 10000 of the mother tincture or more than 1/100th of the smallest dose used in allopathy with regard to active substances whose presence in an allopathic medicinal product results in the obligation to submit a doctor's prescription.

1b. The Commission is empowered to adopt delegated acts in accordance with Article 215 to amend ~~the first subparagph, point (c)~~ ***paragraph 1a***, in order to take account of scientific progress.

PUBLIC

At the time of registration, Member States shall determine the prescription status for the dispensing of the homeopathic medicinal product.

2. The criteria and rules of procedure provided for in Article 1(10), point ~~(c)~~***(a)***, Article 30, Chapter III, Section 6, Articles 191, 195 and 204 shall apply ~~by analogy~~ ***mutatis mutandis*** to the simplified registration procedure for homeopathic medicinal products, with the exception of the proof of therapeutic efficacy.

Article 127

Application requirements for simplified registration

1. The holder of homeopathic medicinal product simplified registration shall be established in the Union.

2. An application ***for*** a simplified registration may cover a series of homeopathic medicinal products derived from the same homeopathic stock or stocks. The following shall be included with the application in order to demonstrate, in particular, the pharmaceutical quality and the batch-to-batch homogeneity of the homeopathic medicinal products concerned:

(a) the scientific name or other name given in a pharmacopoeia of the homeopathic stock or stocks, together with a statement of the various routes of administration, pharmaceutical forms and degree of dilution to be registered;

PUBLIC

(b) a dossier describing how the homeopathic stock or stocks are obtained and controlled, and justifying their homeopathic use, on the basis of an adequate bibliography;

(c) the manufacturing and control file for each pharmaceutical form and a description of the method of dilution and potentisation;

(ca) if the homeopathic medicinal product contains biological substances, documentation on the measures taken to ensure its absence of pathogens;

(d) the manufacturing authorisation for the homeopathic medicinal product concerned;

(e) the copies ~~of~~ ***or references to identify*** any registrations or authorisations obtained for the same homeopathic medicinal product in other Member States;

(f) one or more mock-ups of the outer packaging and the immediate packaging of the homeopathic medicinal products to be registered;

(g) the data concerning the stability of the homeopathic medicinal product~~.~~ ***and shelf life of the homeopathic medicinal product;***

(h) name or corporate name and permanent address of the applicant and, where applicable, of the manufacturer.

PUBLIC

Article 128

Application of decentralised and mutual recognition procedures to homeopathic medicinal products

1. Article 38, paragraphs 4 and ~~6~~***5***, Articles 39 to 42 and 95 shall not apply to the homeopathic medicinal products referred to in Article 126.

2. Chapter III, Sections 3 to 5, shall not apply to the homeopathic medicinal products referred to in Article 133(2).

Article 129

Labelling of homeopathic medicinal products

Homeopathic medicinal products, with the exception ***of*** those referred to in Article 126(1), shall be labelled in accordance with the provisions of Chapter VI and shall be identified by a reference on their labels, in clear and legible form, to their homeopathic nature.

Article 130

Specific requirements for labelling of certain homeopathic medicinal products

1. The labelling and, where appropriate, the package insert for homeopathic medicinal products referred to in Article 126(1) in addition to the clear mention of the words 'homeopathic medicinal product', shall bear the following, and no other, information:

   (a) the scientific name of the stock or stocks followed by the degree of dilution, making use of the symbols of the pharmacopoeia used in accordance with Article 4(62);

PUBLIC

(b) name and address of the registration holder and, where appropriate, of the manufacturer;

(c) method of administration and, if necessary, route of administration;

(d) pharmaceutical form ***and the content by weight, volume or number of doses of the product***;

(e) expiry date, in clear terms (month, year);

~~(f) contents of the sales presentation;~~

(g) special storage precautions, if any;

(h) a special warning if necessary for the ~~medicinal~~ product;

(i) manufacturer's batch number;

(j) registration number;

(k) 'homeopathic medicinal product without approved therapeutic indications';

(l) a warning advising the ~~user to consult a doctor if the symptoms persist~~***patients not to interrupt any ongoing medical treatment prescribed or instructed by healthcare professionals, when taking the product***.

PUBLIC

(m) for the package insert: the date on which the package leaflet was last revised;

(n) the list of those excipients known to have a recognised action or effect and included in the detailed guidance published pursuant to Article 77.

As regards the first subparagraph, point (a), if the homeopathic medicinal product is composed of two or more stocks, the scientific names of the stocks on the labelling may be supplemented by an invented name.

2. Notwithstanding paragraph 1, Member States may require the use of certain types of labelling in order to show:

(a) the price of the homeopathic medicinal product;

(b) the ***reimbursement*** conditions ~~for refunds by social security bodies~~.

Article 131

Advertising of homeopathic medicinal products

1. Chapter XIII shall apply to homeopathic medicinal products.

2. By derogation from paragraph 1, Article 176(1) shall not apply to ***homeopathic*** medicinal products referred to in Article 126(1).

PUBLIC

However, only the information specified in Article 130(1) may be used in the advertising of such homeopathic medicinal products.

Article 132

Exchange of information on homeopathic medicinal products

Member States shall communicate to each other all the information necessary to guarantee the quality and safety of homeopathic medicinal products manufactured and marketed within the Union, and in particular the information referred to in Articles 202 and 203.

Article 133

Other requirements for homeopathic medicinal products

1. Homeopathic medicinal products other than those referred to in Article 126(1) shall be granted a marketing authorisation in accordance with Articles 6 and 9 to 14 and labelled in accordance with Chapter VI.

2. A Member State may introduce or retain in its territory specific rules for the non-clinical tests and clinical studies of homeopathic medicinal products other than those referred to in Article 126(1), in accordance with the principles and characteristics of homeopathy as practised in that Member State.

PUBLIC

In this case, the Member State concerned shall notify the Commission of the specific rules in force.

3. Chapter IX shall apply to homeopathic medicinal products, with the exception of those referred to in Article 126(1). Chapter XI, Chapter XII, Section 1, and Chapter XIV shall apply to homeopathic medicinal products.

SECTION 2

SPECIFIC PROVISIONS APPLICABLE TO TRADITIONAL HERBAL MEDICINAL PRODUCTS

Article 134

Simplified registration procedure for traditional herbal medicinal products

1. Herbal medicinal products that satisfy all of the following conditions may be subject to a simplified registration procedure ('traditional-use registration'):

(a) they have therapeutic indications exclusively appropriate to traditional herbal medicinal products that, by virtue of their composition and purpose, are intended and designed for use without the supervision of a medical practitioner for diagnostic purposes or for prescription or monitoring of treatment;

(b) they are exclusively for administration in accordance with a specified strength and posology;

(c) they are an oral, external or inhalation preparation;

PUBLIC

(d) the period of traditional use as laid down in Article 136(1), point (c), has elapsed;

(e) the data on the traditional use of the herbal medicinal product referred to in Article 136(1), point (c), are sufficient.

The data on the use of a medicinal product referred to in the first subparagraph, point (e), shall be considered sufficient where the herbal medicinal product proves not to be harmful in the specified conditions of use and the pharmacological effects or efficacy of the herbal medicinal product are plausible on the basis of long-standing use and experience.

2. Notwithstanding Article 4(1), point (64), the presence in the herbal medicinal product of vitamins or minerals for the safety of which there is well-documented evidence shall not prevent the herbal medicinal product from being eligible for registration in accordance with paragraph 1, provided that the action of the vitamins or minerals is ancillary to that of the herbal active substances regarding the specified claimed therapeutic indication(s).

3. However, in cases where the competent authorities judge that a herbal medicinal product that fulfils the conditions laid down in paragraph 1 (‘traditional herbal medicinal product’) fulfils the criteria for a national marketing authorisation in accordance with Article 5 or for a simplified registration in accordance with Article 126, the provisions of this Section shall not apply.

PUBLIC

Article 135

Submission of dossier for traditional herbal medicinal product

1. The applicant and the ~~traditional-use~~***holder of the traditional herbal medicinal product simplified*** registration ~~holder~~ shall be established in the Union.

2. In order to obtain a traditional-use registration, the applicant shall submit an application to the competent authority of the Member State concerned.

Article 136

Application requirements for traditional-use registration

1. An application for traditional-use registration shall be accompanied by:

   (a) the particulars and documentation:

      (i) referred to in points (1), (2), (3), (5) to ~~(9)~~***(11)***, (16) and (17) ***and (18)*** of Annex I;

      (ii) the results of the pharmaceutical tests referred to in ***point 12(a) of*** Annex I;

      (iii) the summary of product characteristics, without the ~~clinical particulars~~ ***pharmacological properties*** as specified in Annex V***, unless necessary for the safe use of the product***;

(iv) in case of combinations, as referred to in Article 4(1), point (64), or in Article 134(2), the information referred to in Article 134(1), first subparagraph, point (e), relating to the combination as such; if the individual active substances are not sufficiently known, the data shall also relate to the individual active substances;

(b) any national marketing authorisation or registration obtained by the applicant in another Member State, or in a third country, to place the herbal medicinal product on the market, and details of any decision to refuse to grant a national marketing authorisation or registration, whether in the Union or a third country, and the reasons for any such decision;

(c) bibliographical or expert evidence to the effect that the herbal medicinal product in question, or a corresponding ~~medicinal~~ product has been in medicinal use throughout a period of at least 30 years preceding the date of the application, including at least 15 years within the Union;

(d) a bibliographic review of safety data together with an expert report, and where required by the competent authority of the Member State, upon additional request, data necessary for assessing the safety of the herbal medicinal product.

PUBLIC

For the purposes of the first subparagraph, point (c), at the request of the ***competent authority of a*** Member State where the application for traditional-use registration has been submitted, the herbal medicinal products working group shall draw up an opinion on the adequacy of the evidence of the long-standing use referred to in the first subparagraph, point (c), of the herbal medicinal product, or of the corresponding ~~herbal medicinal~~ product. The ***competent authority of a*** Member State shall submit relevant documentation supporting the referral.

For the purposes of the first subparagraph, point (d)***, in case of combinations***, if the individual active substances are not sufficiently known, the ***safety data*** ~~data referred to in the first subparagraph, point (a)(iv),~~ shall also relate to the individual active substances.

Annex II shall apply ~~by analogy~~ ***mutatis mutandis*** to the particulars and documentations specified in the first subparagraph, point (a).

2. The requirement to show medicinal use throughout the period of at least 30 years, set out in paragraph 1, first subparagraph, point (c), is satisfied even where the marketing of the ~~herbal medicinal~~***corresponding*** product has not been based on a specific ~~marketing~~ authorisation. It is likewise satisfied where the number or quantity of ingredients of the ~~herbal medicinal~~***corresponding*** product has been reduced during that period.

PUBLIC

3. Where the ~~herbal medicinal~~***corresponding*** product has been used in the Union for less than 15 years but is otherwise eligible for a traditional-use registration in accordance with paragraph 1, the competent authority of the Member State where the application for traditional-use registration has been submitted shall refer the application for the traditional herbal medicinal product to the herbal medicinal products working group and submit relevant documentation supporting this referral.

The herbal medicinal products working group shall consider whether the criteria other than the period of ~~transitional~~ ***traditional*** use for a traditional-use registration as referred to in Article 134 are complied with. If the herbal medicinal products working group considers it possible, it shall establish a Union herbal monograph as referred to in Article 141(3) which shall be taken into account by the competent authority of Member State when taking its final decision on the application for the traditional use registration.

PUBLIC

Article 137

Application of *decentralised or* mutual recognition to traditional herbal medicinal products

1. Chapter III, Sections 3 to 5, shall apply ~~by analogy~~ ***mutatis mutandis*** to traditional-use registrations granted in accordance with Article 134~~, provided that~~:

   ~~(a) a Union herbal monograph has been established in accordance with Article 141(3); or~~

   ~~(b) the traditional herbal medicinal product consists of herbal substances, herbal preparations or combinations thereof contained in the list referred to in Article 139.~~

2. For traditional herbal medicinal products not covered by paragraph 1, the competent authority of each Member State shall, when evaluating an application for traditional-use registration, take due account of registrations granted by the competent authority of another Member State in accordance with this Section.

Article 138

Refusal of registration of traditional herbal medicinal products

1. Traditional-use registration shall be refused if the application does not comply with Articles 134, 135 or 136 or if at least one of the following conditions is fulfilled:

   (a) the qualitative or quantitative composition is not as declared;

   (b) the therapeutic indications do not comply with the conditions laid down in Article 134;

PUBLIC

(c) the traditional herbal medicinal product could be harmful under normal conditions of use;

(d) the data on traditional use are insufficient, especially if pharmacological effects or efficacy are not plausible on the basis of long-standing use and experience;

(e) the pharmaceutical quality is not satisfactorily demonstrated ***or inadequate***.

2. The competent authorities of the Member States shall notify the applicant, the Commission and any competent authority of the Member State that requests it, of any decision they take to refuse traditional-use registration and the reasons for the refusal.

Article 139

List of herbal substances, herbal preparations and combinations thereof

1. The Commission shall adopt implementing acts to establish a list of herbal substances, preparations and combinations thereof for use in traditional herbal medicinal products, taking into account the draft list prepared by the herbal medicinal products working group. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 214(2). The list shall contain, with regard to each herbal substance, the therapeutic indication, the specified strength and the posology, the route of administration and any other information necessary for the safe use of the herbal substance as a traditional herbal medicinal product.

PUBLIC

2. If an application for traditional-use registration relates to a herbal substance, preparation or a combination thereof contained in the list referred to in paragraph 1, the data specified in Article 136(1), points (b), (c) and (d), shall not be required and Article 138(1), points (c) and (d), shall not apply.

3. If a herbal substance, preparation or a combination is no longer included in the list referred to in paragraph 1, registrations pursuant to paragraph 2 for herbal medicinal products containing this substance shall be revoked unless the particulars and documentations referred to in Article 136(1) are submitted within three months.

Article 140

Other requirements for traditional herbal medicinal products

1. Article 1(5), points (a) and (b) and Article 1(10), point ~~(c)~~***(a)***, Articles ~~6~~***5*** to 8, 29, 30, 44, 46, ***56, 61, 89, 90, 92***~~90, 155, Article 188, paragraphs 1 and 11,~~ ***188*** Articles 191~~, 195, 196, 198, 199(2)~~, 202, 203 and 204 and ***206 and*** Chapters ***IV, IX, XI and XII and XV***~~IX and XI~~ of this Directive as well as Commission Directive ~~2003/94/EC~~[43]***(EU) 2017/1572***[44]shall apply, ~~mutadis mutandis~~***mutadis mutandis***, to traditional-use registrations granted under this Section.

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[43] Commission Directive ~~2003/94/EC of 8 October 2003 laying down~~***(EU) 2017/1572 of 15 September 2017 supplementing Directive 2001/83/EC of the European Parliament and of the Council as regards*** the principles and guidelines of good manufacturing practice ~~in respect of medicinal products for human use and investigational~~***for*** medicinal products for human use (OJ L ~~262, 14.10.2003, p. 22~~***238, 16.9.2017, p. 44***).

[44] ***[2] Commission Directive 2003/94/EC of 8 October 2003 laying down the principles and guidelines of good manufacturing practice in respect of medicinal products for human use and investigational medicinal products for human use (OJ L 262, 14.10.2003, p. 22).***

2. In addition to the requirements set out in Articles 63 to 66, 70 to 79 and Annex IV, any labelling and package leaflet of a traditional herbal medicinal product shall contain a statement to the effect that:

(a) the product is a traditional herbal medicinal product for use in specified therapeutic indication(s) exclusively based upon long-standing use; and

(b) the user should consult a doctor or a qualified healthcare practitioner if the symptoms persist during the use of the traditional herbal medicinal product or if adverse effects not mentioned in the package leaflet occur.

A Member State may require that the labelling and the package leaflet shall also state the nature of the tradition in question.

3. In addition to the requirements set out in Chapter XIII, any advertisement for a traditional herbal medicinal product registered under this Section shall contain the following statement: Traditional herbal medicinal product for use in specified therapeutic indication(s) exclusively based upon long-standing use.

PUBLIC

Article 141

Herbal medicinal products working group

1. A herbal medicinal products working group is established as referred to in Article 142 of [revised Regulation (EC) No 726/2004]. That working group shall be part of the Agency and shall have the following competence:

(a) as regards traditional-use registrations, to:

(i) perform the tasks arising from Article 136, paragraphs 1 and 3;

~~(ii) perform the tasks arising from Article 137;~~

(iii) prepare a draft list of herbal substances, preparations and combinations thereof, as referred to in Article 139(1);

(iv) establish Union monographs for traditional herbal medicinal products, as referred to in paragraph 3;

(b) as regards marketing authorisations of herbal medicinal products, to establish Union herbal monographs for herbal medicinal products, as referred to in paragraph 3;

(c) as regards referrals to the Agency under Chapter III, Section 5, or Article 95, in relation to traditional herbal medicinal products as referred to in Article 134, to perform the tasks set out in Article 41;

PUBLIC

(d) where a matter concerning ~~medicinal products, other than the traditional-use medicinal products, other~~ medicinal products containing herbal substances ***or herbal preparations, other than traditional-use medicinal products,*** is referred to the Agency under Chapter III, Section 5, or Article 95, to give an opinion on the herbal substance, where appropriate.

Appropriate coordination with the Committee for Human Medicinal Products for Human Use shall be ensured by a procedure to be determined by the Executive Director of the Agency in accordance with Article 145(10) of [revised Regulation (EC) No 726/2004].

2. Each Member State shall appoint, for a three-year term which may be renewed, one member and one alternate to the herbal medicinal working group.

The alternates shall represent and vote for the members in their absence. Members and alternates shall be chosen for their role and experience in the evaluation of herbal medicinal products and shall represent the competent authorities of the Member States.

The members of the herbal medicinal products working group may be accompanied by experts in specific scientific or technical fields.

PUBLIC

3. The herbal medicinal products working group shall establish Union herbal monographs for herbal medicinal products with regard to the application submitted in accordance with of Article 13 as well as traditional herbal medicinal products.

Where the Union herbal monographs have been established, they shall be taken into account by the competent authorities of Member States when examining an application. Where no such Union herbal monograph has yet been established, other appropriate monographs, publications or data may be referred to.

When new Union herbal monographs are established, the traditional-use registration holder shall consider whether it is necessary to modify the registration dossier accordingly. The traditional-use registration holder shall notify any such modification to the competent authority of the Member State concerned.

The herbal monographs shall be published.

4. Provisions of Article 146, paragraphs 3 to 5 of the [revised Regulation (EC) No 726/2004] applying to the working party shall apply ~~by analogy~~ ***mutatis mutandis*** to herbal medicinal products working group.

5. The herbal medicinal products working group shall draft its rules of procedure.

PUBLIC

Chapter XI

Manufacturing and import

SECTION 1

MANUFACTURING AND IMPORT OF MEDICINAL PRODUCTS

Article 142

Manufacturing authorisation

1. Member States shall take all appropriate measures to ensure that the manufacture of the medicinal products within their territory is subject to authorisation (the "manufacturing authorisation"). The manufacturing authorisation shall be required also if the medicinal products manufactured are intended for export.

2. The manufacturing authorisation referred to in paragraph 1 shall be required for both total and partial manufacture, and for the various processes of dividing up, packaging or presentation. ***The manufacturing authorisation shall apply only to the categories of medicinal products, pharmaceutical forms, the manufacturing operations and the premises specified in the application.***

PUBLIC

3. By derogation from paragraph 2, the manufacturing authorisation shall not be required for the following:

(a) preparation, dividing up, changes in packaging or presentation where these processes are carried out, solely for retail supply, by pharmacists in dispensing pharmacies or by persons legally authorised in the Member States to carry out such processes; or

(b) decentralised sites carrying out manufacturing or testing steps***, in accordance with Article 26b and Article 148,*** under the responsibility of the qualified person of a central site referred to in Article 151(3).

4. A manufacturing authorisation shall also be required for imports of medicinal products coming from third countries into a Member State.

This Chapter and Articles 195(5) and 198 shall apply to imports of medicinal products from third countries.

5. Member States shall enter the information relating to the manufacturing authorisation referred to in paragraph 1 in the Union database referred to in Article 188(15).

PUBLIC

Article 143

Requirements for a manufacturing authorisation

1. In order to obtain the manufacturing authorisation, the applicant shall submit an application by electronic means to the competent authority of the Member State concerned. ***Member States may, until [OJ please insert 5 years after the date of application] provide for the possibility of a paper form submission.***

That application shall include the following particulars:

(-a) name or corporate name and permanent address;

(a) the medicinal products, the pharmaceutical forms and the manufacturing operations that are to be manufactured, imported or carried out and the place where the activity will take place;

(b) proof that the applicants have at their disposal, for the manufacture or import of the above, suitable and sufficient premises, technical equipment and control facilities complying with the legal requirements that the Member State concerned lays down as regards both manufacture and control and the storage of medicinal products, in accordance with Article 8;

PUBLIC

(c) proof that the applicants have at their disposal the services of at least one qualified person within the meaning of Article 151;

~~(d) explanation on whether the site is the central site responsible for the oversight of decentralised sites.~~

1a. In the case of an application for a central site responsible for decentralised manufacturing, the particulars referred to in paragraph 1 shall also include:

(b) description of the medicinal product(s) that are subject to manufacturing steps in the decentralised sites, including the manufacturing or testing activities to be performed for those medicinal products at the decentralised sites;

(c) proof that the applicants have at their disposal appropriate procedures and resources for the oversight of decentralised sites in accordance with Article 147(1), first subparagraph, point (f);

(d) for each decentralised site at the time of the application, a written confirmation by the qualified person referred to in Article 151(3) that the applicant has verified its compliance with principles and guidelines of good manufacturing practice referred to in Article 160 by conducting an audit.

PUBLIC

2. The applicant shall provide, by electronic means, particulars in support of the above in their application. ***Member States may [OJ please insert 5 years after the date of application] provide for the possibility of a submission in paper format.***

Article 144

Granting of a manufacturing authorisation

1. The ~~official representatives of the~~ competent authority of the Member State concerned shall carry out an inspection to ensure the accuracy of the particulars included in the application submitted in accordance with Article 143.

Where the accuracy of the particulars is confirmed in accordance with the first subparagraph***, or in any event,*** ~~and~~ no later than 90 days after the receipt of the application submitted in accordance with Article 143, the competent authority of the Member State shall grant or refuse a manufacturing authorisation.

By way of derogation from the second subparagraph, in justified cases, the inspection may be carried out after the manufacturing authorisation has been granted.

2. To ensure that the particulars referred to in Article 143 are duly submitted, the competent authority of the Member State may grant a manufacturing authorisation subject to conditions.

PUBLIC

~~For central sites, a manufacturing authorisation shall include for each decentralised site a written confirmation that the manufacturer of the medicinal product has verified compliance of the decentralised site with principles of good manufacturing practice referred to in Article 160 by conducting regular audits in accordance with Article 147(1), first subparagraph, point (f).~~

~~3. The manufacturing authorisation shall apply only to the medicinal products, pharmaceutical forms, the manufacturing operations and the premises specified in the application and to the premises of the corresponding central site where decentralised manufacturing or testing activities are carried out in decentralised sites, which are registered in accordance with Article 148.~~

Article 145

Changes in a manufacturing authorisation

If the manufacturing authorisation holder requests a change in any of the particulars referred to in Article 143(1)~~,~~ second subparagraph ***and Article 143 (1a) points (b) and (c)***, the competent authority of the Member State shall ~~amend~~***take a decision on the requested amendment of*** the manufacturing authorisation no later than 30 days from such request. In exceptional cases this period of time may be extended to 90 days.

Article 146

Request for additional information

The competent authority of the Member State may request the applicant to submit additional information on the particulars supplied pursuant to Article ~~143(1)~~***143*** and on the qualified person referred to in Article 151; where the competent authority of the Member State makes such request, the time limits referred to in Articles 144(1), second subparagraph, and 145 shall be suspended until the additional information has been supplied.

Article 147

Obligations of the manufacturing authorisation holder

1. Member States shall ensure that manufacturing authorisation holders shall:

(a) have at their disposal the services of staff who comply with the legal requirements existing in the Member State both as regards manufacture and controls;

(b) dispose of the medicinal products ~~that have been granted a marketing authorisation~~ only in accordance with the legislation of the Member States;

(c) give prior notice to the competent authority of the Member State of any changes they may wish to make to any of the particulars provided in accordance to Article 143;

PUBLIC

(d) allow ~~the official representatives of~~ the competent authority of the Member State access to their premises ~~and, where sites carry out manufacturing or testing activities in connection with a central site in the decentralised site, to the premises of the central or the decentralised sites~~ at any time;

(e) enable the qualified persons referred to in Article 151 to carry out their duties, where ~~appropriate~~ ***applicable*** also in decentralised sites, for example by placing at their disposal all the necessary resources ***and ensuring their access to the premises, including relevant electronic systems and documentation of the decentralised site(s)***;

(f) comply, in any relevant site and at all times with the principles of good manufacturing practice for medicinal products;

(g) use only active substances that have been manufactured in accordance with good manufacturing practice for active substances and distributed in accordance with good distribution practices for active substances;

(h) inform the competent authority of the Member State and the marketing authorisation holder immediately if they obtain information that medicinal products that come under the scope of their manufacturing authorisation are, or are suspected of being, falsified irrespective of the way the medicinal products were distributed;

PUBLIC

(i) verify that the manufacturers, importers or distributors from whom they obtain active substances are registered with the competent authority of the Member State in which they are established; and

(j) verify the authenticity and quality of the active substances and the excipients.

As regards the first subparagraph, point (c), the competent authority of the Member State shall, in any event, be immediately informed if the qualified person referred to in Articles 143(1), point (c), and 151 is replaced unexpectedly.

For the purposes of points (f) and (g), manufacturing authorisation holders shall verify compliance~~, respectively,~~ by the manufacturer or distributors of active substances with good manufacturing practice and good distribution ~~practices~~***practice respectively,*** by conducting ***regular*** audits at the manufacturing and distribution sites of the manufacturer and distributors of active substances. Manufacturing authorisation holders shall verify such compliance either by themselves or through an entity acting on their behalf under a contract.

2. The manufacturing authorisation holder shall ensure that the excipients are suitable for use in medicinal products by ascertaining the appropriate good manufacturing practice on the basis of a formalised risk assessment.

PUBLIC

3. The manufacturing authorisation holder shall ensure that the appropriate good manufacturing practice ascertained in accordance with paragraph 2, is applied. The manufacturing authorisation holder shall document the measures taken in accordance with paragraphs 1 and 2.

Article 148

Registration and ~~listing process~~*supervision* of decentralised sites

1. The manufacturing authorisation holder of the central site shall register all of its decentralised sites in accordance with the provisions of this Article.

1a. The registration of a decentralised manufacturing site shall include, where applicable, the registration of the site as a manufacturing site for the active substance pertaining to the medicinal product it encompasses.

2. The manufacturing authorisation holder of the central site shall request the competent authority of the Member State in which the decentralised site is established, to register the decentralised site.

PUBLIC

3. The marketing authorisation holder ~~may commence the activity in the~~***shall ensure that all the activities at the central and*** decentralised ~~site in connection~~***sites are carried out in compliance*** with the ~~central site only when the decentralised site is registered in the Union database~~***delegated acts referred to in Articles 160 and 161 and the marketing authorisation*** referred to in Article ~~188(15) and the link is made in the database with the authorisation of the corresponding central site by the competent authority of the Member state where the decentralised site is located~~***26b***.

3a. The manufacturing authorisation holder may commence the activity in the decentralised site in connection with the central site only when the use of decentralised manufacturing has been approved pursuant to Article 26b paragraph 1 and the marketing authorisation holder has ensured that:

(a) the central site is authorised by the competent authority of the Member State where it is located;

(b) the decentralised site is registered by the competent authority of the Member State where it is located; and

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(c) the registration of the decentralised site is referenced with the authorisation of the corresponding central site by the competent authority of the Member State where the central site is located in the Union database referred to in Article 188(15).

4. The competent authority of the Member State in which the decentralised site is established, is responsible, in accordance with Article 188, for the supervision of the manufacturing and testing activities carried out in the decentralised site.

5. For the purpose of paragraph 2 the manufacturing authorisation holder of the central site shall submit a registration form that shall include~~, at least,~~ the following information:

(a) name or corporate name and permanent address of the decentralised site ~~and~~***,*** a proof of ***its*** establishment in the Union ***and the name and contact details of a person designated as the local contact for the decentralised site along with a written confirmation of the decentralised site that it supports the application for registration***;

(b) ***the pharmaceutical forms and*** the medicinal products that are subject to manufacturing or testing steps in the decentralised site, including the manufacturing or testing activities to be performed for those medicinal products ***and, as appropriate, the reference to the relevant marketing authorisation or the marketing authorisation application referred to in Article 26b, paragraph 1***;

PUBLIC

(c) particulars regarding the premises of the decentralised site and the technical equipment to carry out the relevant activities;

(d) the reference to the manufacturing authorisation of the central site;

(e) the written confirmation ***by the qualified person*** referred to in Article ~~144(2), second subparagraph,~~ ***151(3)***that the ~~manufacturer~~ ***manufacturing authorisation holder*** of the medicinal product has verified compliance of the decentralised site with principles of good manufacturing practice referred to in Article 160 by conducting audits~~.~~***, and when requested by the competent authority of the Member State in which the decentralised site is established, the latest audit report for the concerned decentralised site;***

(f) proof that the appropriate resources are available at the central site for the qualified person referred to in Article 151 to carry out the tasks referred to in Article 153(4) regarding the supervision of the decentralised site.

5a. When manufacturing activities at a decentralised site involve steps pertained to the manufacture of the active substance of the medicinal product subject to decentralised manufacturing, those steps shall be included in the information submitted under points b, c, e and f of paragraph 5.

PUBLIC

6. The competent authority of the Member State supervising the decentralised site pursuant to paragraph 4 may decide to carry out an inspection as referred to in Article 188(1), first subparagraph, point (a). In such cases, that competent authority shall cooperate with the competent authority of the Member State responsible for the supervision of the central site. ***If the outcome of the inspection shows that the applicant does not comply with the principles of good manufacturing practices as referred to in Article 160, the competent authority shall not register that entity in the Union database referred to in Article 188(15) or if that entity is already registered in the Union database referred to in Article 188(15), it shall remove the entity from this database.***

7. ~~Following the registration of the decentralised site pursuant to paragraph 2, the manufacturing authorisation holder of the central site shall list the registered decentralised site in the manufacturing~~

8. The competent authority of the Member State supervising the decentralised site pursuant to paragraph 4 shall cooperate with the relevant authorities responsible for the supervision of the manufacturing or testing activities under other Union acts as regards the following:

   (a) the medicinal products that were manufactured in a decentralised site, the testing or manufacturing of which involves using raw material, medicinal products regulated under other relevant Union law, or medicinal products that are intended to be combined with medical devices;

PUBLIC

(b) where specific manufacturing or testing activities are applied to the medicinal products containing, consisting or derived from SoHO for which specific manufacturing or testing activities are applied within a decentralised site that is also authorised under ~~[SoHO~~ Regulation~~]~~ ***(EU) 2024/1938***. ***Such co-operation shall include sharing information about any actions in relation to the decentralised site resulting from their respective responsibilities.***

(ba) The respective competent authorities of the Member States supervising the central and decentralised sites shall cooperate and exchange information as regards the authorisation of the central site, the registration of the decentralised site(s) and their supervision.

9. Where ~~relevant~~ ***appropriate***, competent authorities of the Member ~~State~~***States*** supervising the central and decentralised sites ~~may liaise with~~***and the Agency or*** the competent authority of the Member State responsible for the supervision of the marketing authorisation ***shall cooperate and exchange information***. ***Where the supervisory authorities detect any deficiency in the central site or the decentralised sites that may impact the quality or safety of the medicinal product concerned, they shall inform the relevant national competent authorities or the Agency without undue delay.***

PUBLIC

10. In case of any situation having an impact on the quality or safety of the medicinal products that are manufactured or tested at the decentralised site, the marketing authorisation holder and the qualified person of the central site shall inform the competent authorities supervising the central and decentralised sites, and the competent authorities supervising the marketing authorisation respectively without undue delay, in order to take the appropriate actions.

9b. The competent authority of the Member State where the decentralised site is located may suspend or revoke the registration of the decentralised site, fully or partially, as appropriate, if the conditions set out in paragraph 2 to 5 cease to be met. In such an event the competent authority of the Member State shall without undue delay inform the competent authorities referred to in paragraph 9.

Article 149

Conditions related to the safety ~~feature~~*features*

1. The safety features referred to in Annex IV shall not be removed or covered, either fully or partially, unless the following conditions are fulfilled:

   (a) the manufacturing authorisation holder verifies, prior to partly or fully removing or covering those safety features, that the medicinal product concerned is authentic and that it has not been tampered with;

PUBLIC

(b) the manufacturing authorisation holder complies with Annex IV by replacing those safety features with safety features that are equivalent as regards the possibility to verify the authenticity, identification and to provide evidence of tampering of the medicinal product. Such replacement shall be conducted without opening the immediate packaging.

Safety features shall be considered equivalent if they:

(i) comply with the requirements set out in the delegated acts adopted pursuant to Article 67(2); and

(ii) are equally effective in enabling the verification of authenticity and identification of medicinal products and in providing evidence of tampering with medicinal products;

(c) the replacement of the safety features is conducted in accordance with applicable good manufacturing practice for medicinal products; and

(d) the replacement of the safety features is subject to supervision by the competent authority of the Member State.

PUBLIC

2. Manufacturing authorisation holders, including those performing the activities referred to in paragraph 1, shall be regarded as producers and therefore held liable for damages in the cases and under the conditions set forth in Directive 85/374/EEC.

Article 150

Potentially falsified medicinal products

1. By derogation from Article 1(2), and without prejudice to Chapter XII, Section 1, Member States shall take the necessary measures in order to prevent medicinal products that are introduced into the Union, but are not intended to be placed on the market in the Union, from entering into circulation if there are sufficient grounds to suspect that those products are falsified.

2. Member States shall ~~organise meetings involving patients' and consumers' organisations and, as necessary, Member States' enforcement officers, in order to~~ communicate public information about the actions undertaken in the area of prevention and enforcement to combat the falsification of medicinal products ***involving patients' and consumers' organisations and, as necessary, Member States' enforcement officers***.

3. In order to establish what the necessary measures referred to in paragraph 1 are the Commission is empowered to adopt delegated acts in accordance with Article 215, to supplement paragraph 1 by specifying the criteria to be considered and the verifications to be made when assessing the potential falsified character of medicinal products introduced into the Union but not intended to be placed on the market.

Article 151

Availability of qualified person

1. Member States shall take all appropriate measures to ensure that the manufacturing authorisation holder has permanently and continuously at their disposal the services of at least one qualified person residing and operating in the Union, in accordance with the conditions laid down in Article 152, responsible in particular for carrying out the duties specified in Article 153.

2. A manufacturing authorisation holder who is a natural person and personally fulfils the conditions laid down in Annex III may assume the responsibility referred to in paragraph 1.

3. Where the manufacturing authorisation is granted to a central site specified in the application pursuant to Article ~~144(3)~~***144***, the qualified person referred to in paragraph 1 shall also be responsible for carrying out the duties specified in Article 153(4) regarding the decentralised sites. ***For this purpose, the available resources for the services referred to in paragraph 1 at a central site shall be commensurate with the number of decentralised sites and their activity.***

PUBLIC

Article 152

Qualification of qualified person

1. Member States shall ensure that the qualified person referred to in Article 151 fulfils the conditions of qualification set out in Annex III.

2. The manufacturing authorisation holder and the qualified person shall ensure that the practical experience acquired is appropriate to the types of products to be certified.

3. The competent authority of the Member State may lay down appropriate administrative procedures to verify that a qualified person referred to in the paragraph 1 fulfils the conditions set out in Annex III.

Article 153

Responsibilities of the qualified person

1. Member States shall take all appropriate measures to ensure that the qualified person referred to in Article 151, without prejudice to their relationship with the manufacturing authorisation holder, are responsible, subject to the procedures referred to in Article 154, for securing:

   (a) in the case of medicinal products manufactured within the Member States concerned, that each production batch of medicinal products has been manufactured and checked in compliance with the laws in force in that Member State and in accordance with the requirements of the marketing authorisation;

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(b) in the case of medicinal products imported from third countries, irrespective of whether they have been manufactured in the Union that each production batch has undergone in a Member State a full qualitative analysis, a quantitative analysis of at least all the active substances and all the other tests or checks necessary to ensure the quality of the medicinal products in accordance with the requirements of the marketing authorisation.

The qualified person referred to in Article 151 shall in the case of medicinal products intended to be placed on the Union market, ensure that the safety features referred to in Annex IV have been affixed on the packaging.

The batches of medicinal products that have undergone the controls referred to in the first subparagraph, point (b), in a Member State shall be exempt from those controls if they are marketed in another Member State, accompanied by the control reports signed by the qualified person.

2. In the case of medicinal products imported from a third country, where appropriate arrangements have been made by the Union with the exporting country to ensure that the manufacturer applies standards of good manufacturing practice at least equivalent to those laid down by the Union, and to ensure that the controls referred to in paragraph 1, first subparagraph, point (b), have been carried out in the exporting country, the qualified person may be relieved of responsibility for carrying out those controls.

PUBLIC

3. In all cases and particularly where the medicinal products are released for sale, the qualified person shall certify in a register or equivalent format provided for that purpose, that each production batch satisfies the provisions of this Article; that register or equivalent format shall be kept up to date during the time when operations are carried out and shall remain at the disposal of ~~the official representatives~~ of the competent authority of the Member State for the period specified in the provisions of the Member State concerned and in any event for at least five years.

4. For the purposes of Article 151(3), the qualified person shall, in addition:

(a) supervise that the manufacturing or testing activities carried out at the decentralised sites comply with principles of ~~relevant~~ good manufacturing practices referred to in Article 160 and conform to the marketing authorisation;

(b) ***conduct regular audits, including periodic on-site visits, at the decentralised sites and*** provide a written confirmation ~~as~~ ***that the holder of the manufacturing authorisation for the central site has verified compliance of the decentralised site with principles of good manufacturing practice*** referred to in Article ~~144(2), second subparagraph~~***160***;

PUBLIC

(c) notify ***annually*** to the competent authority of the Member State where the decentralised site is established, an inventory of the changes that have taken place as regards the information provided in the registration form submitted pursuant to Article 148(5).

Any changes that may have an impact on the quality or safety of the medicinal products that are manufactured or tested at the decentralised site must be notified immediately.

The Commission is empowered to adopt a delegated act in accordance with Article 215 to supplement the first subparagraph, point (c), specifying the notification made by the qualified person.

Article 154

Professional code of conduct

1. Member States shall ensure that the duties of qualified persons referred to in Article 151 are fulfilled, either by means of appropriate administrative measures or by making such persons subject to a professional code of conduct.

PUBLIC

2. Member States may provide for the temporary suspension of a qualified person referred to in Article 151 upon the commencement of administrative or disciplinary procedures against that qualified person for failure to fulfil its duties set out in Article 153. ***The suspension of a qualified person applies to all manufacturing authorisations concerned.***

3. In the case of decentralised manufacturing, the supervisory authorities of the central site and of the decentralised sites, if different, shall cooperate to implement for the measures referred to paragraphs 1 and 2.

Article 155

~~Certificate for export of~~ ***Certificates for*** **a medicinal product** ***intended for export***

1. At the request of the manufacturer, the exporter or the competent authorities of an importing third country, ***the competent authority of the*** Member ~~States~~***State*** shall ***issue a certificate for export to*** certify that a manufacturer of medicinal products is in possession of a manufacturing authorisation***, or refer to the manufacturing authorisation and the GMP certificate available in the database referred to in Article 188(15)***. ~~When issuing such certificates Member States shall:~~

1a. ***At the request of a marketing authorisation holder or an applicant for a marketing authorisation, the competent authority of the Member State or the Agency shall issue a certificate for the medicinal product in compliance with the prevailing administrative arrangements of the World Health Organization.***

~~(a) comply with the prevailing administrative arrangements of the World Health Organization;~~

~~(b)~~***1b.*** ***For the purposes of paragraph 2, the competent authority of the Member State or the Agency shall,*** for medicinal products intended for export that are already authorised in their territory, supply the summary of product characteristics as approved by them in accordance with Article 43 ***or, as appropriate, refer to the summary of product characteristics they made publicly available***.

2. ***For the purpose of paragraph 1,*** when the manufacturer is not in possession of a marketing authorisation it shall provide the competent authorities responsible for issuing the certificate referred to in paragraph 1, with a declaration explaining why a marketing authorisation is not available.

PUBLIC

SECTION 2

MANUFACTURING, IMPORT AND DISTRIBUTION OF ACTIVE SUBSTANCES

~~*Article 156*~~

~~*Manufacture of active substances*~~

~~For the purposes of this Directive, manufacture of active substances used in the manufacturing process of a medicinal product shall include both total and partial manufacture or import of an active substance and the various processes of dividing up, packaging or presentation prior to its incorporation into a medicinal product, including repackaging or re-labelling, such as are carried out by a distributor of active substances.~~

Article 157

Registration of importers, manufacturers and distributors of active substances

1. Importers, manufacturers and distributors of active substances who are established in the Union shall register their activity with the competent authority of the Member State in which they are established.

2. The ***registration*** form, to be submitted by electronic means, shall include, at least, the following information:

   (a) name or corporate name and permanent address;

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(b) the active substances that are to be imported, manufactured or distributed;

(c) particulars regarding the premises and the technical equipment for their activity.

Member States may, until [OJ please insert 5 years after the date of application] provide for the possibility of a paper form submission.

3. The persons referred to in paragraph 1 shall submit, by electronic means, the registration form to the competent authority of the Member State at least 60 days prior to the intended commencement of their activity. ***Member States may, until [OJ please insert 5 years after the date of application] provide for the possibility of a paper form submission.***

4. The competent authority of the Member State may, based on a risk assessment, decide to carry out an inspection. If the competent authority of the Member State notifies the ***applicant*** within 60 days of the receipt of the registration form that an inspection will be carried out, the activity shall not begin before the competent authority of the Member State has notified the applicant that they may commence the activity. If within 60 days of the receipt of the registration form the competent authority of the Member State has not notified the applicant that an inspection will be carried out, the applicant may commence the activity.

PUBLIC

4a. ***If the outcome of the inspection carried out in accordance with paragraph 4 shows that the applicant does not comply with the principles of good manufacturing practice or good distribution practices for active substances as referred to in Article 160, the competent authority shall not register that entity in the Union database referred to in Article 188(15).***

5. Annually, the persons referred to in paragraph 1 shall communicate, by electronic means, to the competent authority of the Member State an inventory of the changes that have taken place as ***regards*** the information provided in the registration form. Any changes that may have an impact on the quality or safety of the active substances that are manufactured, imported or distributed must be notified immediately.

6. The ~~comptetent~~***competent*** authority of the Member State shall enter the information provided in accordance with paragraph 2 in the Union database referred to in Article 188(15).

7. ***The competent authority of the Member State may suspend or revoke the registration of the site fully or partially, as appropriate, if the conditions set out in paragraph 2 and Article 158(1) cease to be met. In such an event the competent authority of the Member State shall without undue delay inform the competent authorities of other Member States and the Agency.***

PUBLIC

Article 158

Conditions for importing active substances

1. Member States shall take appropriate measures to ensure that the manufacture, import and ***distribution*** on their territory of active substances, including active substances that are intended for export, comply with the principles of good manufacturing practice and good distribution practices for active substances specified in the delegated acts adopted in accordance with Article 160.

2. ***Active*** substances shall only be imported if the following conditions are fulfilled:

   (a) the active substances have been manufactured in accordance with the principles of good manufacturing practices at least equivalent to those laid down by the Union pursuant to Article160; and

   (b) the active substances are accompanied by a written confirmation issued by the competent authority of the exporting third country stating that:

      (i) the principles of good manufacturing practices applicable to the manufacturing site manufacturing the exported active substance are at least equivalent to those laid down by the Union pursuant Article 160;

PUBLIC

(ii) the manufacturing site concerned is subject to regular, strict and transparent controls and to the effective enforcement of good manufacturing practice, including repeated and unannounced inspections, so as to ensure a protection of public health at least equivalent to that in the Union; and

(iii) in the event of findings relating to non-compliance, information on such findings is supplied by the exporting third country to the Union without undue delay.

3. The conditions set out in paragraph 2, point (b), shall not apply if the exporting country is ***included*** in the list referred to in Article 159(2).

4. The conditions set out in paragraph 2, point (b), may be waived by any competent authority of a Member State for a period not exceeding the validity of the certificate of good manufacturing practice issued in accordance with Article 188(13) where a site manufacturing an active substance for export has been inspected by the competent authority of a Member State ***or the Agency*** and was found to comply with the principles of good manufacturing practice laid down pursuant to Article160.

PUBLIC

Article 159

Active substances imported from third countries

1. At the request of a third country, the Commission shall assess whether that country's regulatory framework applicable to active substances exported to the Union and the respective control and enforcement activities ensure a level of protection of public health equivalent to that of the Union.

   The assessment shall take the form of a review of relevant documentation submitted by electronic means and, unless arrangements as referred to in Article 153(2) are in place that cover this area of activity, that assessment shall include an on-site review of the third country's regulatory system and, if necessary, an observed inspection of one or more of the third country's manufacturing sites for active substances.

2. Based on the assessment referred to in paragraph 1, the Commission may adopt implementing acts to include the third country in a list and to apply the requirements set out in the second subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 214(2).

PUBLIC

When assessing the third country pursuant to paragraph 1, the Commission shall take account of the following:

(a) the country's rules for good manufacturing practice;

(b) the regularity of inspections to verify compliance with good manufacturing practice;

(c) the effectiveness of enforcement of good manufacturing practice;

(d) the regularity and rapidity of information provided by the third country relating to non-compliant manufacturers of active substances.

3. The Commission shall verify regularly whether the conditions laid down in paragraph 1 are fulfilled. The first verification shall take place no later than 3 years after the third country has been included in the list referred to in paragraph 2.

4. The Commission shall perform the assessment referred to in ~~pargarph~~***paragraph*** 1 and verification referred to in paragraph 3 in cooperation with the Agency and the competent authorities of the Member States.

PUBLIC

SECTION 3

PRINCIPLES OF GOOD MANUFACTURING AND GOOD DISTRIBUTION PRACTICES

Article 160

Rules applicable to medicinal products and active substances

The Commission ~~may~~***shall*** adopt ~~implementing~~***delegated*** acts in accordance with Article ~~214(2)~~***215*** to supplement this Directive by specifying:

(a) the principles of good manufacturing and good distribution practices for medicinal products complemented, where relevant, by specific measures applicable notably to pharmaceutical forms, medicinal products or manufacturing activities in line with good manufacturing principles;

(b) the principles of good manufacturing and good distribution practices for active substances.

The Agency, in particular through its inspection working group referred to in Article 142(k) of [the revised Regulation (EU) 726/2004], in agreement with the Commission, shall draw up guidelines on good manufacturing and distribution practices, including guidelines specific to advanced therapy medicinal products.

PUBLIC

Where relevant, these principles shall be specified in coherence with any principles of good practices established under any other Union legal framework.

Article 161

Rules applicable to excipients

The Commission is empowered to adopt delegated acts in accordance with Article 215 to supplement this Directive on the formalised risk assessment for ascertaining the appropriate good manufacturing practice for excipients referred to in Article 147(2). Such risk assessment shall take into account requirements under other appropriate quality systems as well as the source and intended use of the excipients and previous instances of quality defects.

PUBLIC

Chapter XII

Wholesale distribution and sale at a distance

SECTION 1

WHOLESALE DISTRIBUTION AND BROKERING OF MEDICINAL PRODUCTS

Article 162

Wholesale distribution of medicinal products

1. Without prejudice to Article 5, Member States shall take all appropriate action to ensure that only medicinal products in respect of which a marketing authorisation has been granted in accordance with Union law are distributed on their territory.

2. In the case of wholesale distribution including storage, medicinal products shall be covered by either a centralised marketing authorisation or by a national marketing authorisation.

3. ***Wholesale*** distributors who intend to ~~import~~ ***obtain*** a medicinal product from ***a source*** ~~another~~ Member State shall notify the marketing authorisation holder and the competent authority of ~~the~~ ***destination*** Member State ~~to which the medicinal product is to be imported~~ of their intention to ~~import~~ ***distribute*** that medicinal product ***in the destination Member State***.

PUBLIC

3a. ***Member States shall ensure that the wholesale distributor demonstrates that the medicinal product obtained from a Member State ('source Member State') and distributed in another Member State ('destination Member State') is already covered by a marketing authorisation in the destination Member State, including demonstrating that the medicinal products share a common origin. A Member State may set additional requirements whose fulfilment it considers necessary to demonstrate that the medicinal product authorised in the source Member State and the medicinal product authorised in the destination Member State may be reasonably considered the same product.***

The destination Member State shall refuse to permit the parallel trade of a medicinal product by a wholesale distributor from the source Member State in case they consider that permitting such parallel trade would circumvent the mutual recognition procedure as referred to in Chapter III.

4. In the case of medicinal products covered by a national marketing authorisation, the notification referred to in paragraph 3 to the competent authority of the Member State shall be without prejudice to additional procedures provided for in the legislation of that Member State and to fees payable to the competent authority of the Member State for examining the notification. ***A Member State may require that the imported medicinal product is labelled in accordance with Article 74. The Member State may also require that the electronic product information is provided in accordance with Article 63(3).***

PUBLIC

5. In the case of medicinal products covered by a centralised marketing authorisation, the ***wholesale*** distributor shall submit the same notification referred to in paragraph 3 to the Agency which will be in charge of checking that the conditions laid down in Union law on medicinal products and in the marketing authorisations are observed. For this check, a fee shall be payable to the Agency.

Article 163

Authorisation for wholesale distribution of medicinal products

1. The competent authority of the Member State concerned shall take all appropriate measures to ensure that the wholesale distribution of medicinal products is subject to an authorisation to engage in activity as a wholesaler in medicinal products ("wholesale distribution authorisation"). The wholesale distribution authorisation shall indicate the premises, the ***categories of*** medicinal products and the wholesale distribution operations for which it is valid.

2. Where persons authorised or entitled to supply medicinal products to the public may also, under national law, engage in wholesale business, such persons shall be subject to the authorisation provided for in paragraph 1.

PUBLIC

3. A manufacturing authorisation required under Article 142 shall include an authorisation to distribute by wholesale the medicinal products that it covers. A wholesale distribution authorisation shall not give dispensation from the obligation set out in Article 142 to hold a manufacturing authorisation and to comply with the conditions set out in that respect, even where the manufacturing or import business is secondary.

4. The competent authority of the Member State concerned shall enter the information relating to the wholesale distribution authorisations in the Union database referred to in Article 188(15).

5. The competent authority of the Member State that granted the wholesale distribution authorisation for premises located in its territory shall ensure that controls of the persons authorised to engage in activity as a wholesaler in medicinal products, and inspections of their premises, are carried out at an appropriate frequency.

The competent authority of the Member State that granted the wholesale distribution authorisation ~~shall~~ ***may*** suspend or revoke it if the conditions for granting it set out in Article 162 ***and 164*** cease to be met ***or if the obligations set out in Article 166 are no longer fulfilled***. In such event the Member State shall**,** without undue delay**,** inform the other Member States and the Commission thereof.

PUBLIC

6. Where a competent authority of a Member State considers that the conditions for granting a wholesale distribution authorisation set out in Article 162***, 164 and 166*** are not met with respect to a wholesale distribution authorisation granted by the competent authority of another Member State, it shall without undue delay inform the Commission and the competent authority of the other Member State thereof. The competent authority of the other Member State shall take the measures it considers necessary and shall inform the Commission and the competent authority of the first Member State of those measures and the reasons for them.

Article 164

Requirements for a wholesale distribution authorisation

1. In order to obtain a wholesale distribution authorisation, applicants shall submit an application by electronic means to the competent authority of the Member State***. Member States may, until [OJ please insert 5 years after the date of application] provide for the possibility of a paper form submission*** ~~concerned~~.

2. The application referred to in paragraph 1 shall include the following particulars:

   (a) a confirmation and proof that the applicants ***have a permanent address in the Member State and*** have at their disposal suitable and adequate premises, installations and equipment, to ensure proper conservation and distribution of the medicinal products;

PUBLIC

(b) a confirmation and proof that the applicants have at their disposal appropriately trained staff, and in particular~~, a qualified person designated as~~ ***a*** responsible ***person***, meeting the ***qualifications and*** conditions provided for by the legislation of the Member State ~~concerned~~;

(c) an undertaking to fulfil the obligations incumbent on them under the terms of Article 166.

Article 165

Granting of a wholesale distribution authorisation

1. ~~The official representatives of~~ The competent authority of the Member State concerned shall carry out an inspection to confirm the accuracy of the particulars provided in accordance with Article 164.

Where the accuracy of the particulars is confirmed in accordance with the first subparagraph and***, or in any event,*** no later than 90 days after the receipt of the application submitted in accordance with ~~Article164~~***Article 164***, the competent authority of the Member State shall grant or refuse a wholesale distribution authorisation.

By way of derogation from the second subparagraph, in justified cases, the inspection may be carried out after the wholesale distribution authorisation has been granted.

PUBLIC

2. The competent authority of the Member State concerned may require the applicant to supply, by electronic means, all necessary information concerning the particulars for granting the wholesale distribution authorisation. In such case, the period laid down in paragraph 1 shall be suspended until the requisite additional information is supplied.

2a. Member States may, until [OJ please insert 5 years after the date of application] provide for the possibility of submission of the information referred to in the first subparagraph in paper format.

3. The competent authority of the Member State may grant a wholesale distribution authorisation subject to conditions.

4. The wholesale distribution authorisation shall apply only to the ***wholesale distribution activities, categories of medicinal products and the*** premises specified in the authorisation.

Article 166

Obligations of the wholesale distribution authorisation holder

1. Member States shall ensure that wholesale distribution authorisation holders shall:

(a) have at their disposal the services of staff who comply with the legal requirements existing in the Member State as regards wholesale distribution;

PUBLIC

(b) allow ~~the official representatives of~~ the competent authority of the Member State access to their premises, installations and equipment referred to in Article 164(2), point (a), at all times;

(c) ~~obtain~~***procure***, including by financial transactions, their supplies of medicinal products only from persons who are themselves in possession of a wholesale distribution authorisation in the Union or a manufacturing authorisation referred to in Article 163(3);

(d) supply, including by financial transaction, medicinal products only to persons who are themselves wholesale distribution authorisation holders or who are authorised or entitled to supply medicinal products to the public;

(e) verify that the medicinal products received are not falsified by checking the safety features on the outer packaging, in accordance with the requirements laid down in the delegated acts adopted pursuant to Article 67(2), second subparagraph;

(f) have an emergency plan that ensures effective implementation of any recall from the market ordered by the competent authorities or carried out in cooperation with the manufacturer or marketing authorisation holder for the medicinal product concerned;

PUBLIC

(g) keep records giving, for any medicinal products received, dispatched or brokered, at least the following information:

(i) the date of receipt, dispatch or brokering of the medicinal product,

(ii) the name of the medicinal product,

(iii) the quantity of the medicinal product received, supplied or brokered,

(iv) the name and address of the supplier of the medicinal product or the consignee, as appropriate,

(v) the batch number of the medicinal products, at least for medicinal products bearing the safety features referred to in Article 67;

(h) keep the records referred to in point (g) available to the competent authorities of the Member States, for ~~inspection~~***supervision*** purposes, for a period of five years;

(i) comply with the principles of good distribution practices for medicinal products laid down in Article 160;

PUBLIC

(j) maintain a quality system setting out responsibilities, processes and risk management measures in relation to their activities;

(k) immediately inform the competent authority of the Member State and, where applicable, the marketing authorisation holder, of medicinal products they receive or are offered that they identify as falsified or suspect to be falsified;

(l) continuously guarantee***, within the limits of their responsibility,*** the appropriate and continued supply of an ~~adequate~~***suitable*** range of medicinal products to meet the requirements of a specific geographical area, and deliver the supplies requested over the whole of the area in question, within a reasonable timeframe~~, which shall be defined~~ in ***accordance with the requirements of*** the national legislation;

(m) cooperate with marketing authorisation holders ~~and~~***,*** competent authorities of the Member States ***and the Agency*** on the security of supply~~.~~ ***measures referred to in Chapter X of [revised Regulation];***

(ma) cooperate with marketing authorisation holders and competent authorities of the Member States on monitoring and management of shortages and critical shortages referred to in Chapter X of [revised Regulation].

PUBLIC

2. Where the medicinal product is obtained from another wholesale distributor, the wholesale distribution authorisation holders obtaining the product shall verify compliance with the principles of good distribution practices by the supplying wholesale distributor. This includes verifying whether the supplying wholesale distributor holds a wholesale distribution authorisation, or a manufacturing authorisation referred to in Article 163(3).

3. Where the medicinal product is obtained from a manufacturer or importer, wholesale distribution authorisation holders shall verify that the manufacturer or importer holds a manufacturing authorisation.

4. Where the medicinal product is obtained through brokering of medicinal products, wholesale distribution authorisation holders shall verify that the person brokering the medicinal product fulfils the requirements set out in Article 171.

PUBLIC

5. In respect of a medicinal product where the protection referred to in Article 80, paragraph (2) or the prolongation referred to in Article 72(2) of [revised Regulation 726/2004] does not apply in a Member State pursuant to Article 56a(5), the wholesale distribution holder or any person or entity engaged in sale at a distance of medicinal products shall not make the generic, biosimilar, hybrid or biohybrid medicinal product available on the market of another Member State where the protection referred to in Article 80 paragraph (2) and, if applicable, Article 72(2) of [revised Regulation 726/2004] applies, during the period of the protection.

Where such a generic, biosimilar, hybrid or biohybrid medicinal product is intended for export to another Member State in which protection periods do not apply pursuant to Article 56a(5), the wholesale distribution authorisation holder shall keep specific records available to the competent authorities of the Member States for a period of three years.

PUBLIC

Article 167

Obligation of supply of medicinal products

1. With regard to the supply of medicinal products to pharmacists and persons authorised or entitled to supply medicinal products to the public, Member States shall not impose upon the wholesale distribution authorisation holder that has been granted by another Member State any obligation, in particular public service obligations, more stringent than those they impose on persons whom they have themselves authorised to engage in equivalent activities.

2. The wholesale distributors of a medicinal product placed on the market in a Member State shall, within the limits of their responsibilities, ensure appropriate and continued supplies of that medicinal product to pharmacies and persons authorised to supply medicinal products so that the needs of patients in the Member State in question are covered.

3. The arrangements for implementing this Article should, moreover, be justified on grounds of public health protection and be proportionate in relation to the objective of such protection, in compliance with the Treaty rules, particularly those concerning the free movement of goods and competition.

PUBLIC

Article 168

Documentation accompanying supplied medicinal products

1. For all supplies of medicinal products to a person authorised or entitled to supply medicinal products to the public in the Member State concerned, the authorised wholesaler ~~must enclose~~***shall provide*** a document***, which may be submitted in electronic format,*** that makes it possible to ascertain the following:

   (a) the date of the supply;

   (b) the name and pharmaceutical form of the medicinal product;

   (c) the quantity of the medicinal product supplied;

   (d) the name and address of the supplier of the medicinal product and consignee;

   (e) the batch number of the medicinal products at least for products bearing the safety features referred to in Article 67.

2. Member States shall take all appropriate measures to ensure that persons authorised or entitled to supply medicinal products to the public are able to provide information that makes it possible to trace the distribution path of every medicinal product.

PUBLIC

Article 169

National requirements on wholesale distribution

The provisions of this Chapter shall not prevent the application of more stringent requirements laid down by Member States in respect of the wholesale distribution of:

(a) narcotic or psychotropic substances;

(b) medicinal products derived from blood;

(c) immunological medicinal products; and

(d) radiopharmaceuticals.

Article 170

Wholesale distribution to third countries

In the case of wholesale distribution of medicinal products to third countries, Articles 162 and 166(1), point ~~(c)~~***(d)***, shall not apply.

Where wholesale distributors supply medicinal products to persons in third countries, they shall ensure that such supplies are only made to persons who are authorised or entitled to receive medicinal products for wholesale distribution or supply to the public in accordance with the applicable legal and administrative provisions of the third country concerned.

PUBLIC

Article 168 shall apply to the supply of medicinal products to persons in third countries authorised or entitled to supply medicinal products to the public.

Article 171

Brokering medicinal products

1. Persons brokering medicinal products shall ensure that the brokered medicinal products are covered by a valid marketing authorisation ***granted in accordance with Union law***.

   Persons brokering medicinal products shall have a permanent address and contact details in the Union, so as to ensure accurate identification, location, communication and supervision of their activities by competent authorities of the Member States.

   The requirements set out in Article 166(1), points ~~(e) to (j)~~***(f) to (k)***, shall apply mutatis mutandis to the brokering of medicinal products.

2. Persons may only broker medicinal products if they are registered with the competent authority of the Member State where they have their permanent address referred to in paragraph 1, second subparagraph. Those persons shall submit, by electronic means, at least, their name, corporate name and permanent address to the competent authority in order to register. They shall notify, by electronic means, the competent authority of the Member State of any changes thereof without ***undue*** delay.

PUBLIC

Member States may, until [OJ please insert 5 years after the date of application] provide for the possibility of submission of the information referred to in the first subparagraph in paper format.

The competent authority of the Member State shall enter the information referred to in the first subparagraph in a register that shall be publicly available.

3. The principles referred to in Article 160 shall include specific provisions for brokering.

4. Inspections referred to in Article 188 shall be carried out under the responsibility of the Member State where the person brokering medicinal products is registered.

If a person brokering medicinal products does not comply with the requirements set out in this Article, the competent authority of the Member State may decide to remove that person from the register referred to in paragraph 2. In such event, the competent authority of the Member State shall notify that person thereof.

PUBLIC

SECTION 2

SALE AT A DISTANCE TO THE PUBLIC

Article 172

General requirements for sale at distance

1. Without prejudice to national legislation prohibiting the offer for sale at a distance of prescription medicinal products to the public by means of information society services, Member States shall ensure that medicinal products are offered for sale at a distance to the public by means of services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council[45] laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services under the following conditions:

   (a) the natural or legal person offering the medicinal products is authorised or entitled to supply medicinal products to the public, also at a distance, in accordance with national legislation of the Member State in which that person is established;

[45] Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

(b) the person referred to in point (a) has notified the Member State in which that person is established of at least the following information:

(i) name or corporate name and permanent address of the place of activity from where those medicinal products are supplied;

(ii) the starting date of the activity of offering medicinal products for sale at a distance to the public by means of information society services;

(iii) the address of the website used for that purpose and all relevant information necessary to identify that website;

(iv) if applicable, the prescription status in accordance with Chapter IV of the medicinal products offered for sale at a distance to the public by means of information society services.

Where appropriate, that information shall be updated;

(c) the medicinal products comply with the national legislation of the Member State of destination in accordance with Article 5(1);

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(d) without prejudice to the information requirements set out in Directive 2000/31/EC of the European Parliament and of the Council[46], the website offering the medicinal products contains at least:

(i) the contact details of the competent authority of the Member State or the authority notified pursuant to point (b);

(ii) a hyperlink to the website referred to in Article 174 of the Member State of establishment;

(iii) the common logo referred to in Article 173 clearly displayed on every page of the website that relates to the offer for sale at a distance to the public of medicinal products. The common logo shall contain a hyperlink to the entry of the person in the list referred to in Article 174(1), point (c).

2. Member States may impose conditions, justified on grounds of public health protection, for the retail supply on their territory of medicinal products for sale at a distance to the public by means of information society services.

[46] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce (OJ L 178, 17.7.2000, p. 1).

3. Without prejudice to Directive 2000/31/EC and the requirements set out in this Section, Member States shall take the necessary measures to ensure that other persons than those referred to in paragraph 1 that offer medicinal products for sale at a distance to the public by means of information society services and that operate on their territory are subject to effective, proportionate and dissuasive penalties.

Article 173

Requirements for common logo

1. A common logo shall be established that is recognisable throughout the Union, while enabling the identification of the Member State where the person offering medicinal products for sale at a distance to the public is established. That logo shall be clearly displayed on websites offering medicinal products for sale at a distance to the public in accordance with Article 172(1), point (d).

2. In order to harmonise the functioning of the common logo, the Commission shall adopt implementing acts regarding:

   (a) the technical, electronic and cryptographic requirements for verification of the authenticity of the common logo;

PUBLIC

(b) the design of the common logo.

Those implementing acts shall, where necessary, be amended to take account of technical and scientific progress. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 214(2).

Article 174

Information about the supply at distance to the public

1. Each Member State shall set up a website providing at least the following:

(a) information on the national legislation applicable to the offering of medicinal products for sale at a distance to the public by means of information society services, including information on the fact that there may be differences between Member States regarding classification of medicinal products and the conditions for their supply;

(b) information on the purpose of the common logo;

(c) the list of persons offering the medicinal products for sale at a distance to the public by means of information society services in accordance with Article 172 as well as their website addresses;

(d) background information on the risks related to medicinal products supplied illegally to the public by means of information society services.

PUBLIC

This website shall contain a hyperlink to the website referred to in paragraph 2.

2. The Agency shall set up a website providing the information referred to in paragraph 1, first subparagraph, points (b) and (d), information on the Union law applicable to falsified medicinal products as well as hyperlinks to the websites of the Member States referred to in paragraph 1. The Agency's website shall explicitly mention that the Member States' websites contain information on persons authorised or entitled to supply medicinal products by sales at a distance in the Member State concerned.

3. The Commission shall, in cooperation with the competent authorities, conduct or promote information campaigns aimed at the general public on the dangers of falsified medicinal products. Those campaigns shall raise consumer awareness of the risks related to medicinal products supplied illegally by sales at a distance as well as of the functioning of the common logo and the websites referred to in paragraphs 1 and 2.

PUBLIC

Chapter XIII

Advertising

Article 175

Definition of advertising of medicinal products

1. For the purposes of this Chapter, 'advertising of medicinal products' shall include any form of ~~door-to-door~~information~~, canvassing~~ activity or inducement designed to promote the prescription, supply, sale or consumption of medicinal products.

It shall include in particular:

(a) the advertising of medicinal products to the general public;

(b) advertising of medicinal products to persons qualified to prescribe, administer or supply them***, referred to in this Chapter as healthcare professionals***;

(c) visits by medical sales representatives to ~~persons qualified to prescribe medicinal products~~***healthcare professionals***;

(d) the supply of samples of medicinal products ***free of charge***;

(e) the provision of inducements to prescribe or supply medicinal products by the gift, offer or promise of any benefit or bonus, whether in money or in kind~~, except when their intrinsic value is minimal~~;

PUBLIC

(f) sponsorship of promotional meetings attended by ~~persons qualified to prescribe or supply medicinal products~~***healthcare professionals***;

(g) sponsorship ***or any form of financial contribution for*** ~~of~~ scientific ~~congresses~~ ***events,*** attended by ~~persons qualified to prescribe or supply medicinal products and in particular~~ ***healthcare professionals, including payment to the organising entity and*** payment of ~~their~~***participants'*** travelling ~~and~~***,*** accommodation ***and catering*** expenses in connection therewith~~;~~**.**

(h) advertising related to medicinal products, that does not refer to specific medicinal products.

2. The following are not covered by this Chapter:

(a) the labelling and package leaflets, which are subject to the provisions of Chapter VI;

(b) correspondence, possibly accompanied by material of a non-promotional nature, needed to answer a specific question about a particular medicinal product***, provided it does not promote the prescription or consumption of the medicinal product***;

(c) factual, informative announcements and reference material relating, for example, to pack changes, adverse-reaction warnings as part of general drug precautions, trade catalogues and price lists, provided they include no product claims;

(d) information relating to human health or diseases, provided that there is no reference, even indirect, to medicinal products.

PUBLIC

Article 176

General provisions on advertising of medicinal products

1. Member States shall prohibit any advertising of a medicinal product in respect of which a marketing authorisation has not been granted.

2. All parts of the advertising of a medicinal product must comply with the particulars listed in the summary of product characteristics.

3. The advertising of a medicinal product:

   (a) shall encourage the rational use of the medicinal product, by presenting it objectively and without exaggerating its properties;

   (b) shall be accurate, verifiable and not be misleading.

   (ba) shall not induce to an excessive or abusive use of the medicinal product.

4. Any form of advertising that aims to highlight negatively another medicinal product shall be prohibited. Advertising that suggests that a medicinal product is safer or more effective than another medicinal product shall also be prohibited, unless ~~demonstrated and~~***comparison of quality, safety and efficacy is*** supported ***objectively*** by the ~~summary~~***summaries*** of product characteristics.

PUBLIC

Article 177

Restrictions on advertising of medicinal products

1. Member States shall prohibit the advertising to the general public of medicinal products that:

   (a) are available on medical prescription only, in accordance with Chapter IV;

   (b) contain substances classified as psychotropic or narcotic within the meaning of international conventions.

2. Medicinal products may be advertised to the general public where, by virtue of their composition and purpose, they are intended and designed for use without the intervention of a ~~medical practitioner~~***healthcare professional*** for diagnostic purposes or for the prescription or monitoring of treatment, with the advice of the pharmacist, if necessary.

3. Member States shall be entitled to ban, on their territory~~, advertising to the general public of medicinal products the cost of which may be reimbursed.~~***:***

   – ***advertising to the general public of medicinal products the cost of which may be reimbursed;***

   – ***advertising related to medicinal products that does not refer to a specific medicinal product.***

PUBLIC

4. The prohibition contained in paragraph 1 shall not apply to ~~vaccination~~ campaigns ***promoting vaccinations*** carried out ~~by the industry and~~ ***or*** approved by the ~~competent authorities of the~~ Member States.

5. The prohibition referred to in paragraph 1 shall apply without prejudice to Article 21 of Directive 2010/13/EU.

6. Member States shall prohibit the direct distribution of medicinal products to the public by the industry for promotional purposes.

7. Member States may suspend the advertising of a medicinal product in case of shortages or risk of shortage of this medicinal product. The suspension shall be withdrawn as soon as the shortage or risk of shortage ceases.

8. Member States may apply stricter measures with regard to advertisement of medicinal products to healthcare professionals qualified to administer medicinal products.

PUBLIC

Article 178

Advertising to the general public

1. Without prejudice to Article 177, all advertising to the general public of a medicinal product shall:

   (a) be set out in such a way that it is clear that the message is an advertisement and that the product is clearly identified as a medicinal product; ***and***

   (b) include the following minimum information:

      (i) the name of the medicinal product, as well as the common name if the medicinal product contains only one active substance;

      (ii) the information necessary for correct use ***and disposal*** of the medicinal product;

      (iii) an express, legible invitation to read carefully the instructions on the package leaflet or on the outer packaging, as the case may be***, and to consult a medical practitioner or a pharmacist for additional information***.

2. Member States may decide that the advertising of a medicinal product to the general public may, notwithstanding paragraph 1, include only the name of the medicinal product or its active substance, or the trademark if it is intended solely as a reminder.

PUBLIC

Article 179

Restrictions on advertising to the general public

1. The advertising of a medicinal product to the general public shall not contain any material that:

(a) gives the impression that a medical consultation or surgical operation is unnecessary, in particular by offering a diagnosis or by suggesting treatment by ~~mail~~***any means of communication***;

(b) suggests that the effects of taking the medicinal product are guaranteed, are unaccompanied by adverse reactions or are better than, or equivalent to, those of another treatment or medicinal product;

(c) suggests that the health of the subject can be enhanced by taking the medicinal product;

(d) suggests that the health of the subject could be affected by not taking the medicinal product;

(e) is directed exclusively or principally at children;

PUBLIC

(f) refers ***directly or indirectly*** to a recommendation by scientists, healthcare professionals***, healthcare facilities*** or persons who are neither of the foregoing but who, because of their celebrity ***or professional activity***, could encourage the consumption of medicinal products;

(g) suggests that the medicinal product is a food, cosmetic or other consumer product;

(h) suggests that the safety or efficacy of the medicinal product is due to the fact that it is ***of*** natural ***origin***;

(i) could, by a description or detailed representation of a case history, lead to erroneous self-diagnosis;

(j) refers, in improper, alarming or misleading terms, to claims of recovery;

(k) uses, in improper, alarming or misleading terms, pictorial representations of changes in the human body caused by disease or injury, or of the action of a medicinal product on the human body or parts thereof.

2. The prohibition set out in the paragraph 1, point (d), shall not apply to the ***promotion of*** vaccination campaigns referred to in Article 177(4).

PUBLIC

Article 180

Advertising to ~~persons qualified to prescribe, administer or supply medicinal products~~ *healthcare professionals*

1. Any advertising of a medicinal product to ~~persons qualified to prescribe, administer or supply such products~~***healthcare professionals*** shall include ***both of the following***:

   (a) essential information compatible with the summary of product characteristics;

   (b) the ~~supply~~ prescription status of the medicinal product***;***

   Member States may also require such advertising to include the selling price or indicative price of the various presentations and the conditions for reimbursement ~~by social security bodies.~~**.**

2. Member States may decide that the advertising of a medicinal product to ~~persons qualified to prescribe, administer or supply such products~~ ***healthcare professionals*** may, notwithstanding paragraph 1, include only the name of the medicinal product, or its international non-proprietary name, where this exists, or the trademark, if it is intended solely as a reminder.

PUBLIC

Article 181

Supporting documentation for advertising to ~~persons qualified to prescribe, administer or supply medicinal products~~ *healthcare professionals*

1. Any documentation relating to a medicinal product that is transmitted as part of the promotion of that medicinal product to persons qualified to prescribe, administer or supply it shall include, as a minimum, the particulars listed in Article 180(1) and shall state the date on which it was drawn up or last revised.

2. All the information contained in the documentation referred to in paragraph 1 shall be accurate, up-to-date, verifiable and sufficiently complete to enable the recipient to form their own opinion of the therapeutic value of the medicinal product concerned.

3. Quotations as well as tables and other illustrative matter taken from medical journals or other scientific works for use in the documentation referred to in paragraph 1 shall be faithfully reproduced and the precise sources indicated.

PUBLIC

Article 182

Obligations related to medical sales representatives

1. Medical sales representatives shall be given adequate training by ~~the undertaking that employs them~~ ***their employer*** and shall have sufficient scientific knowledge to be able to provide information that is precise and as complete as possible about the medicinal products that they promote. The information provided by medical sales representatives shall be in accordance with Article 176.

2. During each visit, medical sales representatives shall give the persons visited, or have available for them, summaries of the product characteristics of each medicinal product they present together, if the legislation of the Member State so permits, with details of the price and conditions for reimbursement referred to in Article 180(1), second subparagraph.

3. Medical sales representatives shall transmit to the scientific service referred to in Article 187(1) any information about the use of the medicinal products they advertise, with particular reference to any adverse reactions reported to them by the persons they visit.

PUBLIC

Article 183

Promotion of medicinal products

1. Where medicinal products are being promoted to ~~persons qualified to prescribe or supply them~~ ***healthcare professionals***, no gifts, pecuniary advantages or benefits in kind may be supplied, offered or promised to such persons ~~unless they are inexpensive and relevant to the practice of medicine or pharmacy~~.

2. ***Paragraph 1 shall not prevent*** hospitality ***being offered at promotional*** ~~at sales promotion~~ events***.*** ***Such hospitality*** shall always be strictly limited to ~~their~~***the*** main purpose ~~and~~***of the event. The hospitality*** must not be extended to persons other than ~~persons qualified to prescribe or supply medicinal products~~ ***healthcare professionals***.

3. ~~Persons qualified to prescribe or supply medicinal products~~***Healthcare professionals*** shall not solicit or accept any inducement prohibited under paragraph 1 or contrary to paragraph 2.

4. Existing measures or trade practices in Member States relating to prices, margins and discounts shall not be affected by the rules set out in paragraphs 1, 2 and 3.

PUBLIC

Article 184

Hospitality at scientific events

The provisions of Article 183(1) shall not prevent hospitality being offered, directly or indirectly, at events for purely professional and scientific purposes. Such hospitality shall ~~always~~ be strictly limited to the main scientific objective of the event ***and must be inexpensive. The hospitality***~~.~~ It must not be extended to persons other than ~~persons qualified to prescribe or supply medicinal products~~***healthcare professionals***.

Article 185

Provision of samples of medicinal products *free of charge*

1. ~~Free~~ Samples of medicinal products shall be provided ***free of charge*** on an exceptional basis only to persons qualified to prescribe them and on the following conditions:

   (a) the number of samples for each medicinal product each year on prescription shall be limited;

   (b) any supply of samples shall be in response to a written request, signed and dated, from the persons qualified to prescribe or supply medicinal products;

   (c) the persons ~~qualified to~~ ***who*** supply samples shall maintain an adequate system of control and accountability;

PUBLIC

(d) each sample shall be no larger than the smallest presentation on the market;

(e) each sample shall be marked 'free medical sample — not for sale' or shall show some other wording having the same meaning;

(f) each sample shall be accompanied by a copy of the summary of product characteristics;

(g) no samples of medicinal products containing substances classified as psychotropic or narcotic within the meaning of international conventions ***or antibiotic*** may be supplied.

2. ***Member States may decide that*** on an exceptional basis, free samples of medicinal products not subject to medical prescription may also be provided to persons qualified to supply them, subject to the conditions of paragraph 1.

3. Member States may also place further restrictions on the distribution of samples of certain medicinal products ***free of charge***.

PUBLIC

Article 186

Implementation of advertising provisions by the Member States

1. Member States shall ensure that there are adequate and effective methods to monitor the advertising of medicinal products. Such methods, which may be based on a system of prior vetting, shall in any event include legal provisions under which persons or organisations regarded under national law as having a legitimate interest in prohibiting any advertisement inconsistent with this Chapter, may take legal action against such advertisement, or bring such advertisement before the competent authority of the Member State either to decide on complaints or to initiate appropriate legal proceedings.

2. Under the legal provisions referred to in paragraph 1, Member States shall confer upon the courts or competent authorities of the Member States powers enabling them, in cases where they deem such measures to be necessary, taking into account all the interests involved, and in particular the public interest:

   (a) to order the cessation of, or to institute appropriate legal proceedings for an order for the cessation of, misleading advertising; or

   (b) if misleading advertising has not yet been published but publication is imminent, to order the prohibition of, or to institute appropriate legal proceedings for an order for the prohibition of, such publication.

PUBLIC

Member States shall confer upon the courts or competent authorities of the Member States the powers referred to in the first subparagraph, points (a) and (b), even without proof of actual loss or damage or of intention or negligence on the part of the advertiser.

3. Member States shall make provision for the measures referred to in paragraph 2 to be taken under an accelerated procedure, either with interim effect or with definitive effect.

It shall be for each Member State to decide which of the two options set out in the first subparagraph to select.

4. Member States may confer upon the courts or competent authorities of the Member States powers enabling them, with a view to eliminating the continuing effects of misleading advertising the cessation of which has been ordered by a final decision:

(a) to require publication of that decision in full or in part and in such form as they deem adequate;

(b) to require in addition the publication of a corrective statement.

PUBLIC

4a. ***In the absence of national rules governing the disclosure of transfers of value, Member States shall establish and maintain on the national webportal referred to in Article 102 a publicly available list of links to the disclosure platforms operated by trade associations or by marketing authorisation holders for the reporting of transfers of value related to the advertising activities referred to in Articles 182 to 185, as applicable. Marketing authorisation holders shall provide the necessary weblinks and shall remain responsible for ensuring the accuracy and timely publication of the disclosed information.***

5. The paragraphs 1 to 4 shall not exclude the voluntary control of advertising of medicinal products by self-regulatory bodies and recourse to such bodies, if proceedings before such bodies are possible in addition to the judicial or administrative proceedings referred to in paragraph 1.

Article 187

Implementation of advertising provisions by the marketing authorisation holder

1. The marketing authorisation holders shall establish, within their ~~undertaking or not-for-profit entities,~~***organisation*** a scientific service in charge of information about the medicinal products that they place on the market.

2. The marketing authorisation holder shall:

(a) keep available for, or communicate to, the competent authorities of the Member States or bodies responsible for monitoring advertising of medicinal products, a sample of all advertisements emanating from its undertaking or not-for-profit entities together with a statement indicating the persons to whom it is addressed, the method of dissemination and the date of first dissemination;

(b) ensure that advertising of medicinal products by their undertaking or not-for-profit entities conforms to the requirements of this Chapter;

(c) verify that medical sales representatives employed by their undertaking or not-for-profit entities have been adequately trained and fulfil the obligations imposed upon them by Article 182, paragraphs 2 and 3;

(d) supply the competent authorities of the Member States or bodies responsible for monitoring advertising of medicinal products with the information and assistance they require to carry out their responsibilities;

(e) ensure that the decisions taken by the competent authorities of the Member States or bodies responsible for monitoring advertising of medicinal products are immediately and fully complied with.

PUBLIC

3. The Member States shall not prohibit the co-promotion of a medicinal product by the marketing authorisation holders and one or more companies nominated by them.

Chapter XIV
Supervision and controls

SECTION 1
SUPERVISION

Article 188

System of supervision and inspections

1. The competent authority of the Member State concerned shall, in cooperation with the Agency and where relevant, other Member States, ensure compliance with the rules of this Directive, ~~namely~~ ***including*** the principles of good manufacturing practice and good distribution practices referred to in Articles 160 and 161.

   For the purposes of the first subparagraph, the competent authority of the Member State shall have in place a system of supervision that shall include the following measures:

   (a) announced and, where appropriate, unannounced on-site inspections;

   (b) remote inspections, ***conducted*** where justified;

PUBLIC

(c) compliance control measures;

(d) the effective follow-up of the measures referred to in points (a), (b) and (c).

2. The competent authorities of the Member State concerned, and the Agency shall exchange information on the inspections referred to in paragraph 1, second subparagraph, points (a) and (b), that are planned or that have been conducted and shall cooperate in the coordination of such inspections.

3. The competent authority of the Member State shall ensure that the measures referred to in paragraph 1, second subparagraph, are carried out by the official representatives of the competent authority of the Member State ***concerned***:

(a) at an appropriate frequency based on risk, at the premises or on the activities of manufacturers of medicinal products, located in the Union or in third countries, including where appropriate at central or decentralised site(s), and at the premises or on the activities of wholesale distributors of medicinal products located in the Union;

(b) at an appropriate frequency ***determined by a risk*** based ~~on risk~~***approach***, at the premises or on the activities of the manufacturers of active substances located in the Union or in third countries and at the premises or on the activities of importers, or distributors of active substances, located in the Union.

PUBLIC

4. To ~~determine the appropriate frequency based on risk~~***implement a risk assessment*** referred to in paragraph 3~~, point (b)~~, the competent authority of the Member State may:

(a) rely on inspection reports from trusted non-Union regulatory authorities;

(b) take into account whether the manufacturer of active substance is located in a third country included in the list referred to in Article 159(2).

5. Where the competent authority of the Member State considers it necessary, ~~in particular~~ ***including*** where there are grounds for suspecting non-compliance with the rules of this Directive, including with the principles of good manufacturing practice and good distribution practices, referred to in Articles 160 and 161, it may have its official representatives carry out the measures referred to in paragraph 1, second subparagraph at the premises or on the activities of:

(a) ~~manufacturers or importers of medicinal products applying~~***applicants*** for a manufacturing ~~import~~ authorisation or ~~wholesale distributors applying for a~~ wholesale distribution authorisation ***of medicinal products***;

(b) ~~manufacturers of active substance applying~~***applicants*** for a registration ~~or~~***of*** manufacturing ~~sites applying for a registration as decentralised sites~~***, import and distribution of active substances***;

(ba) decentralised sites subject to request for a registration and registered decentralised sites;

(c) marketing authorisation holders;

(d) ***without prejudice to paragraph 3, manufacturers, wholesale*** distributors ***of medicinal products, manufacturers and distributors of active substances located in the Union or in third countries and importers*** of medicinal products or active substances located in ~~third countries~~***the Union***;

(e) manufacturers of excipients, functional excipients, starting materials or intermediate products located in its territory or in a third country;

(f) importers of excipients, functional excipients, starting materials or intermediate products located in its territory;

(g) persons brokering medicinal products located in its territory.

(h) third parties, contracted by the marketing authorisation holder or a marketing authorisation applicant for the performance of certain of its tasks or the preparation of evidence or data submitted in accordance with Annex II.

PUBLIC

6. The measures referred to in paragraph 1, second subparagraph, may also be carried out at the request of a competent authority of a Member State, the Commission or the Agency in the Union or in third countries or, where appropriate, by asking an Official Medicines Control Laboratory or a laboratory that Member State has designated for that purpose to carry out tests on samples.

7. Each Member State shall ensure that official representatives of its competent authorities are empowered and required to carry out one or more of the following activities:

(a) inspect the manufacturing or commercial establishments of manufacturers of medicinal products, of active substances or of excipients, and any laboratories employed by the manufacturing authorisation holder to carry out verifications and controls pursuant to Article 8;

(aa) examine any documents and records to verify compliance with the particulars of this Directive, and obtain evidence, such as copies of documents, photographs or videos.

(b) take samples during an inspection or request samples as part of the measures referred to in paragraph 1, second subparagraph, including any required essential testing material or reagent with a view to independent tests being carried out by an Official Medicines Control Laboratory or a laboratory that a Member States has designated for that purpose;

PUBLIC

(c) inspect the premises, records, documents and pharmacovigilance system master file of the marketing authorisation holder or any undertaking employed by the marketing authorisation holder to perform the activities described in Chapter IX.

8. Inspections referred to in paragraph 1, second subparagraph, points (a) and (b), shall be carried out in accordance with the principles referred to in Article 190.

9. After every inspection carried out in accordance with paragraphs 3 and 5, the competent authority of the Member State concerned shall issue a report on the compliance of the ~~manufacturing~~ activities inspected with the good manufacturing practice and good distribution practices referred to in Articles 160 and 161, as applicable.

10. The competent authority of the Member State that had its official representatives carry out inspections in accordance with paragraphs 3 and 5, shall share its ~~draft~~***preliminary*** report with the inspected entity.

11. Before adopting the report, the competent authority of the Member State shall give the inspected entity the opportunity to submit comments.

12. Without prejudice to any arrangements that may have been concluded between the Union and third countries, a Member State, the Commission or the Agency may require a manufacturer of a medicinal product or of an active substance established in a third country to submit to an inspection as referred to in this Article.

PUBLIC

13. Within 90 days ~~of the conclusion of~~***after conducting*** an inspection carried out in accorda***n***ce with paragraphs 3 and 5 the competent authority of the Member State concerned shall issue to the inspected entity a certificate of compliance of good manufacturing practice ***(GMP)*** or good distribution practices ***(GDP)*** if the outcome of that inspection shows that the inspected entity complies with the principles of good manufacturing practice or good distribution practices referred to in Articles 160 and 161.

14. If the outcome of the inspection carried out in accordance with paragraph 3~~, 4~~ and 5 shows that the inspected entity does not comply with the principles of good manufacturing practice or good distribution practices as referred to in Articles 160 and 161, the competent authority of the Member State concerned shall issue a statement of non-compliance***, as appropriate and shall revoke the certificate of compliance with good manufacturing practice or good distribution practice fully or partially, as appropriate***.

15. The competent authority of the Member State shall enter the certificates of good manufacturing practice or good distribution practices in the relevant Union database managed by the Agency on behalf of the Union. Pursuant to Article 157, ***paragraph 6 and 7*** the competent authority of the Member States shall also enter information in that database regarding the registration of importers, manufacturers and distributors of active substances and decentralised sites performing decentralised manufacturing activities, ~~including their respective database link to the manufacturing authorisation of the central site~~***referred to in Article 148, paragraph 3, point b and paragraph 11***.

PUBLIC

16. If the outcome of the inspection carried out in accordance with paragraph ***3 and*** 5 is that the inspected entity does not comply with the legal requirements or the principles of good manufacturing practice or good distribution practices as referred to in Articles 160 and 161 the information shall be entered in the Union database as referred to in paragraph 15***, as appropriate***.

17. If the outcome of the activity carried out in accordance with paragraph 7, point (c), is that the marketing authorisation holder does not comply with the pharmacovigilance system as described in the pharmacovigilance system master file and with Chapter IX, the competent authority of the Member State concerned shall bring the deficiencies to the attention of the marketing authorisation holder and give the marketing authorisation holder the opportunity to submit comments.

In such case the Member State concerned shall inform the other Member States, the Agency and the Commission accordingly.

Where appropriate, the Member State concerned shall take the necessary measures to ensure that a marketing authorisation holder is subject to effective, proportionate and dissuasive penalties as laid down in Article 206.

PUBLIC

Article 189

Cooperation on inspections

1. Upon request by one or more competent authorities ***of the Member States***, inspections referred to in Article 188, paragraphs 3 and 5, may be carried out by official representatives from more than one Member State, together with the inspectors of the Agency ***if specifically requested by the aforementioned competent authority*** in accordance with Article ~~52(2), point (a)~~ ***52(1)*** of [revised Regulation (EC) 726/2004] ('the joint inspection').

   The competent authority of the Member State receiving a request for a joint inspection, shall make all reasonable efforts***, taking into account their available resources,*** to accept such a request, and coordinate and support that joint inspection, where:

   (a) it is demonstrated, or there are reasonable ground for suspecting, that the activities carried out on the territory of the Member State receiving the request pose a risk to the safety and quality ***of the medicinal product*** in the Member State of the competent authority requesting the joint inspection ***and the competent authorities of the concerned Member States agree that an inspection is needed***;

   (b) competent authorities of the Member State requesting the joint inspection require specialist technical expertise available in the Member State receiving the joint inspection request;

PUBLIC

(c) the competent authority of the Member State receiving the request agrees that there are other reasonable grounds such as training of inspectors, sharing of good practice, for for conducting a joint inspection.

2. The competent 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***. Where the joint inspection is conducted on the territory of one of the Member States, the competent authority of that Member State shall act as the leading authority for the joint inspection, unless otherwise agreed between the Member States***;

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

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

4. Where the joint inspection is conducted in one of the Member States, the competent authority ~~leading the joint inspection~~ ***of that Member State*** shall ensure that the joint inspection is carried out in accordance with the national legislation of the Member State in which the joint inspection takes place.

PUBLIC

5. Member States may set up joint inspection programmes to facilitate routine joint inspections. Member States may operate such programmes under a***n*** agreement as referred to in paragraphs 2 and 3.

6. A competent authority of a Member State may request another competent authority to take over one of its inspections referred to in Article 188, paragraphs 3 and 5.

7. The other competent authority of the Member State shall communicate to the requesting competent authority whether it accepts the request to conduct the inspection within 10 days. Where it accepts, it shall be responsible as the competent authority to carry out the inspections pursuant to this Section.

8. For the purposes of paragraph 6, and when the request is agreed, the requesting competent authority shall, in a timely manner, submit the relevant information necessary to conduct the inspection to the competent authority of the Member State that accepted the request.

Article 190

~~Inspection guidelines~~*Principles applicable to supervision and inspections*

1. The Commission ~~may~~***shall*** adopt ~~implementing~~***delegated*** acts ***in accordance with Article 215*** to ~~lay~~***supplement this Directive by laying*** down the principles applicable to:

   (a) the system of supervision referred to in Article 188(1);

(b) the joint inspections referred to in Article 189(1);

(c) the exchange of information and cooperation in the coordination of inspections in the system of supervision between the Member States and the Agency ***referred to in Article 188(2)***; and

(d) trusted non-Union regulatory authorities~~.~~ ***referred to in Article 188(4)(a);***

(e) the exchange of information and cooperation as regards decentralised manufacturing between the competent authorities in charge of the supervision of the central site and decentralised sites and of the marketing authorisation referred to in Article 148.

The ~~implementing~~ ***delegated*** acts referred to in the first subparagraph shall be adopted in accordance with the procedure referred to in Article ~~214(2)~~***215***.

2. Member States shall, in cooperation with the Agency, establish the form and content of the manufacturing authorisation referred to in Article 142(1) and of the wholesale distribution authorisation referred to in Article 163(1), of the report referred to in Article 188 ***(9)***, of the certificates of good manufacturing practice and of the certificates of ***compliance with*** good distribution practices referred to in Article 188(13) ***and the statement of non-compliance referred to in Article 188(14)***.

SECTION 2

CONTROLS

Article 191

Controls on medicinal products

Member States shall take all appropriate measures to ensure that the marketing authorisation holder for a medicinal product and, where appropriate, the manufacturing authorisation holder, furnish proof of the controls carried out on the medicinal product or the ingredients and of the controls carried out at an intermediate stage of the manufacturing process, in accordance with the methods laid down in Annex I.

Article 192

Submission of control reports for immunological medicinal products
and of medicinal products derived from human blood or plasma

For the purpose of implementing Article 191, Member States may require manufacturers of immunological products ***and of medicinal products derived from human blood or plasma*** to submit to a competent authority of the Member States copies of all the control reports signed by the qualified person in accordance with Article 153.

PUBLIC

Article 193

Batch control of specific medicinal product by Member States

1. Where it considers it necessary in the interests of public health, a Member State may require the marketing authorisation holder of:

(a) live vaccines,

(b) immunological medicinal products used in the primary immunisation of infants or of other groups at risk,

(c) immunological medicinal products used in public health immunisation programmes,

(d) new immunological medicinal products or immunological medicinal products manufactured using new or altered kinds of technology or new for a particular manufacturer, during a transitional period normally specified in the marketing authorisation,

PUBLIC

to submit samples from each batch of the ~~bulk or the~~ medicinal product ***and if required, from the bulk,*** for examination by an Official Medicines Control Laboratory or a laboratory that a Member State has designated for that purpose before release on to the market unless the competent authority of another Member State has previously examined the batch in question and declared it to be in conformity with the approved specifications. In such a case the declaration of conformity issued by another Member States shall be ~~directly~~ recognised***. The marketing authorisation holder, in consultation with the Official Medicines Control Laboratory, shall make reasonable efforts to submit samples for examination at the beginning of their own controls***. Member States shall ensure that any such examination is completed within 30 days of the receipt ***both*** of the samples ***and documentation of the controls carried out by the marketing authorisation holder in accordance with Article 191***. ***This period of time shall be extended to 60 days if necessary to complete the examination.***

PUBLIC

2. Where, in the interests of public health, the laws of a Member State so provide, the competent authorities of the Member State may require the marketing authorisation holder for medicinal products derived from human blood or human plasma to submit samples from each batch of the ~~bulk or the~~ medicinal product ***and if required, from the bulk,*** for testing by an Official Medicines Control Laboratory or a laboratory that a Member State has designated for that purpose before being released ~~into free circulation~~***on the market***, unless the competent authorities of another Member State have previously examined the batch in question and declared it to be in conformity with the approved specifications. ***In such a case the declaration of conformity issued by another Member State shall be recognised. The marketing authorisation holder, in consultation with the Official Medicines Control Laboratory, shall make reasonable efforts to submit samples for examination at the beginning of their own controls.*** Member States shall ensure that any such examination is completed within ~~60~~ ***30*** days of the receipt ***both*** of the samples ***and documentation of the controls carried out by the marketing authorisation holder in accordance with Article 191***. ***This period of time shall be extended to 60 days if necessary to complete the examination.***

PUBLIC

Article 194

Processes for the preparation of medicinal products derived from ~~human blood or~~*substances of* human ~~plas~~~~ma~~*origin*

1. Member States shall take all necessary measures to ensure that the manufacturing and purifying processes used in the preparation of medicinal products derived from ~~human blood or~~***substances of*** human ~~plasma are~~***origin are, insofar as the state of technology permits,*** properly validated, attain batch-to-batch consistency and guarantee~~, insofar as the state of technology permits,~~ the absence of specific viral ***or other adventitious agent*** contamination.

2. To this end manufacturers shall notify the competent authorities of the Member States of the ~~method~~***methods*** used to reduce or eliminate pathogenic ~~viruses~~***virus or other adventitious agents*** liable to be transmitted by medicinal products derived from ~~human blood or~~***substances of*** human ~~plasma~~***origin***. The competent authority of the Member State may submit samples of the ~~bulk or the~~ medicinal product ***and from the bulk if required,*** for testing by a State laboratory or a laboratory designated for that purpose, either during the examination of the application pursuant to Article 29, or after a marketing authorisation has been granted.

PUBLIC

Chapter XV

Restrictions of marketing authorisations

Article 195

Suspending, revoking or varying the terms of marketing authorisations

1. The competent authorities of the Member States or, in the case of centralised marketing authorisation, the Commission shall suspend, revoke or vary a marketing authorisation if the view is taken that the medicinal product is harmful or that it lacks therapeutic efficacy, or that the benefit-risk balance is not favourable, or that its qualitative and quantitative composition is not as declared. Therapeutic efficacy shall be considered to be lacking when it is concluded that therapeutic results cannot be obtained from the medicinal product.

2. The competent authorities of the Member States or, in the case of centralised marketing authorisation, the Commission may suspend, revoke or vary a marketing authorisation if a serious risk to the environment or public health has been identified and not sufficiently addressed by the marketing authorisation holder.

PUBLIC

3. A marketing authorisation may also be suspended, revoked or varied where the particulars supporting the application as provided for in Articles 6, 9 to 14 or Annexes I to V are incorrect or have not been amended in accordance with Article 90, or where any conditions referred to in Articles 44, 45 and 87 ***of this Directive or Articles 12 and 20 [of the revised Regulation]*** have not been fulfilled or where the controls referred to in Article 191 have not been carried out.

4. Paragraph ~~2~~ ***3*** also applies in cases where the manufacture of the medicinal product is not carried out in compliance with the particulars provided pursuant to Annex I, or where controls are not carried out in compliance with the control methods described pursuant to Annex I.

5. The competent authorities of the Member State or, in the case of centralised marketing authorisation, the Commission ~~shall~~***may*** suspend or revoke the marketing authorisation for a category of preparations or all preparations where any one of the requirements laid down in Article 143 is no longer met.

PUBLIC

Article 196

Prohibition of supply or withdrawal of a medicinal product from the market

1. Without prejudice to the measures provided for in Article 195, the competent authorities of the Member States and, in the case of centralised marketing authorisation, the Commission shall take all appropriate steps to ensure that the supply of the medicinal product is prohibited and the medicinal product withdrawn from the market, if the view is taken that:

   (a) the medicinal product is harmful;

   (b) it lacks therapeutic efficacy;

   (c) the benefit-risk balance is not favourable;

   (d) its qualitative and quantitative composition is not as declared;

   (e) the controls on the medicinal product or on the ingredients and the controls at an intermediate stage of the manufacturing process have not been carried out or if some other requirement or obligation relating to the grant of the manufacturing authorisation has not been fulfilled; or

PUBLIC

(f) a serious risk to the environment or to public health via the environment has been identified and not sufficiently addressed by the marketing authorisation holder.

2. The competent authority of the Member State or, in the case of centralised marketing authorisation, the Commission may limit the prohibition to supply the product, or its withdrawal from the market, to those batches that are the subject of dispute.

3. The competent authority of the Member State or, in the case of centralised marketing authorisation, the Commission may, for a medicinal product for which the supply has been prohibited or that has been withdrawn from the market in accordance with paragraphs 1 and 2, in exceptional circumstances during a transitional period allow the supply of the medicinal product to patients who are already being treated with the medicinal product.

Article 197

Suspected falsified medicinal products and medicinal products with suspected quality defects

1. Member States shall have a system in place that aims at preventing medicinal products that are suspected to present a danger to health from reaching the patient.

PUBLIC

2. The system referred to in paragraph 1 shall cover the receipt and handling of notifications of suspected falsified medicinal products as well as of medicinal products with suspected quality defects. The system shall also cover recalls of medicinal products by marketing authorisation holders or withdrawals of medicinal products from the market ordered by competent authorities of the Member States or, in the case of centralised marketing authorisation, the Commission from all relevant actors in the supply chain both during and outside normal working hours. The system shall also make it possible to recall, where necessary with the assistance of health professionals, medicinal products from patients who received such products.

3. If the medicinal product in question is suspected of presenting a serious risk to public health, the competent authority of the Member State in which that product was first identified shall, without undue delay, transmit a rapid alert notification to all Member States and all actors in the supply chain in that Member State. In the event of such medicinal products being deemed to have reached patients, urgent public announcements shall be issued within 24 hours in order to recall those medicinal products from the patients. Those announcements shall contain sufficient information on the suspected quality defect or falsification and the risks involved.

PUBLIC

Article 198

Suspending or revoking manufacturing authorisation

In addition to the measures specified in Article 196, the competent authority of the Member State may suspend manufacture or imports of medicinal products coming from third countries, or suspend or revoke the manufacturing authorisation for a category of preparations or all preparations where Articles 144, 147, 153 and 191 are not complied with.

Article 199

Refusal, suspension or revocation within the limits of the Directive

1. ~~An~~***A marketing*** authorisation ~~to market~~***of*** a medicinal product shall not be refused, suspended or revoked except on the grounds set out in this Directive.

2. No decision concerning suspension of manufacture or of importation of medicinal products coming from third countries, prohibition of supply or withdrawal from the market of a medicinal product may be taken except on the grounds set out in Articles 195(5) and 196.

PUBLIC

Chapter XVI

General provisions

Article 200

Competent authorities of the Member States

1. Member States shall designate the competent authorities to carry out tasks under this Directive.

2. Member States shall ensure that adequate financial resources are available to provide the staff and other resources necessary for the competent authorities to carry out the activities required by this Directive and [revised Regulation (EC) No 726/2004].

3. The competent authorities of the Member States shall cooperate with each other and with the Agency and the Commission in the performance of their tasks under this Directive and [revised Regulation (EC) No 726/2004] to ensure proper application and due enforcement. The competent authorities of the Member States shall ~~transmit~~***communicate*** to each other all ~~necessary~~***appropriate*** information ***within a reasonable timeframe***.

PUBLIC

4. The competent authority of the Member State may process personal health data from ~~sources other than~~ clinical ~~studies~~***trials and other sources, including real world data,*** to support their public health tasks and, in particular, the evaluation and monitoring to medicinal products, for the purpose of improving the robustness of the scientific assessment or verifying claims of the applicant or marketing authorisation holder.

Processing of personal data under this Directive shall be subject to Regulations (EU) 2016/679 and (EU) 2018/1725, as applicable.

Article 201

Cooperation with other authorities

1. Member States, in applying this Directive, shall ensure that when questions arise with regard to the regulatory status of a medicinal product, in relation to their link to substances of human origin as referred to in Regulation (EU) No [SoHO Regulation], the competent authorities of the Member States shall consult the ***Agency and the*** relevant authorities established under that Regulation.

2. Member States, in applying this Directive, shall take the necessary measures to ensure cooperation between competent authorities for medicinal products and customs authorities.

PUBLIC

2a. ***In order to improve regulatory certainty and cross-sectoral cooperation, Member States or the Agency may request the Commission, where necessary, to organise joint meetings between the Agency and the relevant advisory and regulatory bodies established under other Union legislation to assess, for the purposes of this Directive, emerging trends and questions on the regulatory status of products or substances and to find agreement on common regulatory status principles. The summaries and conclusions of those joint meetings shall be made publicly available, including the opinions and conclusions of each of the respective bodies. The Commission may also organise joint meetings on its own initiative.***

Article 202

Member States exchange of information of manufacturing or wholesale distribution authorisations of medicinal products

1. Member States shall take all appropriate measures to ensure that the competent authorities of the Member States concerned communicate to each other such information as is appropriate to guarantee that the requirements placed on the authorisations referred to in Articles 142 and 163, on the certificates referred to in Article 188(13) or on the marketing authorisations are fulfilled.

2. Upon reasoned request, Member States shall send electronically the report referred to in ~~with~~ Article 188 to the competent authorities of another Member State or to the Agency.

3. The conclusions reached in accordance with Articles 188(13) or 188(14) shall be valid throughout the Union.

4. However, in exceptional cases, if a Member State is unable, for reasons relating to public health, to accept the conclusions reached following an inspection under Article 188(1), that Member State shall without undue delay inform the Commission and the Agency. The Agency shall inform the Member States concerned.

5. When the Commission is informed of these divergences of opinion, it may, after consulting the Member States concerned, ask the inspector who performed the original inspection to perform a new inspection; the inspector may be accompanied by two other inspectors from Member States that are not parties to the disagreement.

Article 203

Information on prohibition of supply or other action on a marketing authorisation

1. Each Member State shall take all the appropriate measures to ensure that decisions granting marketing authorisation, refusing or revoking a marketing authorisation, ~~cancelling~~ ***withdrawing*** a decision refusing or revoking a marketing authorisation, prohibiting supply, or withdrawing a product from the market, together with the reasons on which such decisions are based, are brought to the attention of the Agency without undue delay.

PUBLIC

2. ~~In addition to the notification made pursuant to Article 116 of [revised Regulation (EC) No 726/2004]~~***The marketing authorisation holder shall notify the national competent authority without undue delay of any action they take to suspend the marketing of a medicinal product, to withdraw a medicinal product from the market, to request the withdrawal of a marketing authorisation or not to apply for the renewal of a marketing authorisation, together with the reasons for such action.*** The marketing authorisation holder shall declare ~~without undue delay~~ if such notified action is based on any of the grounds set out in Articles 195 or 196(1) ***and specify the grounds for such action***.

2a. The marketing authorisation holder shall make the notification electronically and in the formats made available by the Agency. The Agency shall consult the Member States when drawing up the formats.

3. The marketing authorisation holder shall also make the notification pursuant to paragraph 2 in cases where the action is taken in a third country and where such action is based on any of the grounds set out Articles 195 or 196(1).

4. The marketing authorisation holder shall furthermore notify the Agency where the action referred to in paragraphs 2 or 3 is based on any of the grounds referred to in Articles 195 or 196(1).

PUBLIC

5. The Agency shall forward notifications received in accordance with paragraph 4 to all Member States without undue delay.

6. Member States shall ensure that appropriate information about action taken pursuant to paragraphs 1 and 2 that may affect the protection of public health in third countries is without undue delay brought to the attention of the World Health Organization, with a copy to the Agency.

7. Each year, the Agency shall make public a list of the medicinal products for which marketing authorisations have been refused, revoked or suspended in the Union, whose supply has been prohibited or that have been withdrawn from the market, including the reasons for such action.

Article 204

Notification of decisions related to marketing authorisations

1. Every decision referred to in this Directive that is taken by the competent authority of a Member State shall state in detail the reasons on which it is based.

2. Such decision shall be notified to the party concerned, together with information as to the redress available to them under the laws in force and of the time limit allowed for access to such redress.

PUBLIC

3. Decisions to grant or revoke a marketing authorisation shall be made publicly available.

Article 205

Authorisation of a medicinal product on public health grounds

1. In the absence of a marketing authorisation or of a pending application for a medicinal product authorised in another Member State in accordance with Chapter III, a Member State may for justified public health reasons***, such as the need to ensure access, availability or security of supply,*** authorise the placing on the market of the said medicinal product.

2. When a Member State avails itself of this possibility, it shall adopt the necessary measures in order to ensure that the requirements of this Directive are complied with, in particular those referred to in Chapters IV, VI, IX, XIII and XIV, and Article 206. Member States may decide that Article 74, paragraphs 1 to 3, shall not apply to medicinal products authorised under paragraph 1.

PUBLIC

3. Before granting such a marketing authorisation, a Member State:

(a) shall notify the marketing authorisation holder, in the Member State in which the medicinal product concerned is authorised, of the proposal to grant a marketing authorisation under this Article in respect of the medicinal product concerned;

(b) may request the competent authority in that Member State to submit copies of the assessment report referred to in Article 43(5) and of the marketing authorisation in force in respect of the medicinal product concerned. If so requested, the competent authority in that Member State shall supply, within 30 days of receipt of the request, a copy of the assessment report and the marketing authorisation in respect of the medicinal product concerned.

4. The Commission shall set up a publicly available register of medicinal products authorised under paragraph 1. Member States shall notify the Commission if any medicinal product is authorised, or ceases to be authorised, under paragraph 1, including the name or corporate name and permanent address of the marketing authorisation holder. The Commission shall amend the register of medicinal products accordingly and make this register available on their website.

PUBLIC

Article 206

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties must be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify without delay of any subsequent amendment affecting them.

   Those penalties shall not be inferior to those applicable to infringements of national law of similar nature and importance.

2. The rules referred to in paragraph 1, first subparagraph, shall address, inter alia, the following:

   (a) the manufacturing, distribution, brokering, import and export of falsified medicinal products, as well as sale at distance of falsified medicinal products to the public;

   (b) non-compliance with the provisions laid down in this Directive on manufacturing, distribution, import and export of active substances;

PUBLIC

(c) non-compliance with the provisions laid down in this Directive on the use of excipients;

(d) non-compliance with the provisions laid down in this Directive on pharmacovigilance;

(e) non-compliance with the provisions laid down in this Directive on advertising.

3. Where relevant, the penalties shall take into account the risk to public health presented by the falsification of medicinal products.

Article 207

Collection *and management* of unused or expired medicinal products

Member States shall ensure that ***an*** appropriate ***and accessible*** collection ~~systems are~~***system is*** in place for medicinal products that are unused or have expired ***and that the collected medicinal products are managed properly in accordance with the applicable Union and national environmental legislation, taking into account best available techniques***.

PUBLIC

Article 207a

Redispensing to the public of unused medicinal products

1. A medicinal product collected in accordance with Article 207 shall not be re-dispensed to the patients.

2. By way of derogation from paragraph 1, Member States may, allow specific unused medicinal products subject to prescription, after having been dispensed to the patients, have been collected by a pharmacy to be re-dispensed to their patients if all of the following conditions are met:

(a) the medicinal product is re-dispensed by the same pharmacy that initially dispensed it and the pharmacy is, at its own request, authorised by the competent authority Member State to re-dispense medicinal products;

(b) the collection of the unused medicinal product is not prejudicial to the patient to whom it was initially dispensed;

(c) the collected medicinal product has not been already the subject of re-dispensation;

PUBLIC

(d) the medicinal product was initially dispensed with a view of being potentially re-dispensed and necessary safeguards were applied by the dispensing pharmacy to ensure that this medicinal product is not tampered with and its storage and transport conditions will be respected;

(e) the re-dispensed medicinal product is intended for use of an individual named patient;

(f) the patient referred to in point (e) has explicitly given their written consent to be supplied with a re-dispensed medicinal products after being informed by the pharmacy of the use of a re-dispensed medicinal product and the rules concerning re-dispensing laid out in applicable national laws in accordance with this Article.

3. Member States shall ensure that before a pharmacy redispenses medicinal products to their patients in accordance with paragraph 2, such pharmacy:

(a) verifies that the medicinal product concerned is not a falsified medicinal product,

(b) verifies that the expiration date of the medicinal product has not been exceeded and it has been stored and transported under the appropriate conditions,

(c) records the name and the batch number of the medicinal product, the person from whom the medicinal product has been collected, and the receiving patient for the purpose of recall, investigations and supervision.

PUBLIC

4. Member States may set additional restrictive conditions under which medicinal products may be re-dispensed to the patients in their territory.

4a. Member States shall ensure that the collection and re-dispensing of medicinal products will not be used for obtaining economic gains and penetration of the re-dispensed medicines to the supply chain.

5. Member States shall lay down rules on liability for potential damages resulting from the use of the medicinal products that have been re-dispensed when such damages are a consequence of a failure to ensure appropriate storage or transport conditions between the initially dispensing and returning to the pharmacy, or a failure to ensure that the product redispensed has not been falsified.

7. The information on the safety features contained in the repositories referred to in Article 67(2) point (e) shall not be modified upon collection and re-dispensing of a medicinal product.

8. This Article shall not apply to medicinal products that are offered through sale at a distance.

PUBLIC

9. Member States shall notify to the Commission the national rules they implement within the scope of this Article. In particular, Member States shall notify: a. The types of medicinal products for which redispending is allowed in accordance with this Article; b. the categories of pharmacies entitled to re-dispending; c. the additional safety measures and the additional restrictive conditions introduced in accordance with paragraph 2, letter (d) and paragraph 4.

Article 208

Declaration of interests

1. In order to guarantee independence and transparency, the Member States shall ensure that members of staff of the competent authority responsible for granting authorisations, rapporteurs and experts concerned with the authorisation and surveillance of medicinal products have no ***direct or indirect*** financial or other interests in the pharmaceutical industry that could affect their impartiality ***and their independence***. These persons shall make an annual declaration of their financial interests ***and update them whenever necessary***.

2. In addition, the Member States shall ensure that the competent authority makes publicly available its rules of procedure and those of its ***medicinal products' authorisation*** committees, agendas for its meetings and records of its meetings, accompanied by decisions taken, ~~details of votes and explanations of votes,~~ including minority opinions.

PUBLIC

Chapter XVII

Specific provisions concerning ~~Cyprus, Ireland, Malta and~~ the United Kingdom in respect of Northern Ireland

Article 209

Provisions relevant to the United Kingdom in respect of Northern Ireland

1. ~~By way of derogation from Article 5, the competent authorities of the United Kingdom in respect of Northern Ireland may temporarily authorise the supply to patients in Northern Ireland of a medicinal product belonging to the categories referred to in Article 3, paragraphs 1 and 2 of [revised Regulation (EC) No 726/2004] provided that all of the following conditions are fulfilled:~~

   (a) ~~the medicinal product concerned has been granted a marketing authorisation by the competent authority of the United Kingdom for parts of the United Kingdom other than Northern Ireland;~~

   (b) ~~the medicinal product concerned is only made available to patients or end-consumers in the territory of Northern Ireland and is not made available in any Member State.~~

   ~~The maximum validity of the temporary authorisation shall be six months.~~

   ~~Notwithstanding the specified validity, the temporary authorisation shall cease to be valid if the medicinal product concerned has been granted a marketing authorisation in accordance with Article 13 of [revised Regulation (EC) No 726/2004], or if such marketing authorisation has been refused in accordance with that Article.~~

PUBLIC

2. By way of derogation from Article ~~56(4)~~***56(6)***, marketing authorisations may be granted by the competent authorities of the United Kingdom in respect of Northern Ireland:

(a) to applicants established in parts of the United Kingdom other than Northern Ireland;

(b) to marketing authorisation holders established in parts of the United Kingdom other than Northern Ireland, in accordance with the mutual recognition or the decentralised procedure laid down in Chapter III, Sections 3 and 4.

The competent authorities of the United Kingdom in respect of Northern Ireland may extend marketing authorisations already granted prior to 20 April 2022 to marketing authorisation holders established in parts of the United Kingdom other than Northern Ireland.

PUBLIC

3. By way of derogation from Article 33, paragraphs 1, 3 and 4 and Article 35(1), if an application for marketing authorisation is submitted in one or more Member States and in the United Kingdom in respect of Northern Ireland, or if an application for marketing authorisation is submitted in the United Kingdom in respect of Northern Ireland for a medicinal product that is already being examined or has already been authorised in a Member State, the application regarding the United Kingdom in respect of Northern Ireland shall not have to be submitted in accordance with Chapter III, Sections 3 and 4, provided that all of the following conditions are fulfilled:

(a) the marketing authorisation for the United Kingdom in respect of Northern Ireland is granted by the competent authority for the United Kingdom in respect of Northern Ireland in compliance with Union law, and such compliance with Union law is ensured during the period of validity of that marketing authorisation;

(b) the medicinal products authorised by the competent authority for the United Kingdom in respect of Northern Ireland are made available to patients or end-consumers only in the territory of Northern Ireland, and they are not made available in any Member State.

PUBLIC

(3a) Article 51(1)(e) shall not apply to and in the United Kingdom in respect of Northern Ireland.

4. The marketing authorisation holder of a medicinal product for which a marketing authorisation has already been granted for the United Kingdom in respect of Northern Ireland in accordance with Chapter III, Sections 3 and 4, before 20 April 2022 shall be allowed to withdraw the marketing authorisation for the United Kingdom in respect of Northern Ireland from the mutual recognition or the decentralised procedure and to submit an application for a marketing authorisation for that medicinal product to the competent authorities of the United Kingdom with respect to Northern Ireland in accordance with paragraph ~~1~~***3***.

5. With regard to quality control testing referred to in Article 8 carried out in parts of the United Kingdom other than Northern Ireland regarding medicinal products included in the list referred to in Article ~~211(9)~~***209(10)*** other than those authorised by the Commission, the competent authorities of the United Kingdom in respect of Northern Ireland may consider that there is a justifiable case within the meaning of Article 8, point (b), without carrying out a case-by-case assessment provided that:

   (a) each batch of the medicinal products concerned is released by a qualified person on a site in the Union or in Northern Ireland or by a qualified person on a site in parts of the United Kingdom other than Northern Ireland applying quality standards that are equivalent to those laid down in Article 153;

PUBLIC

(b) the establishment designated by the third party conducting the quality control testing is supervised by the competent authority of the United Kingdom, including by performing on-the-spot checks;

(c) where the batch release is carried out by a qualified person who resides and operates in parts of the United Kingdom other than Northern Ireland, the manufacturing authorisation holder declares that it does not have at its disposal a qualified person who ~~resides and operates~~ ***resided and operated*** in the Union on 20 April 2022.

6. By way of derogation from Article 142(1), the competent authorities of the United Kingdom in respect of Northern Ireland shall allow medicinal products to be imported from parts of the United Kingdom other than Northern Ireland by a wholesale distribution authorisation holders as referred to in Article 163(1) that are not in possession of a relevant manufacturing authorisation provided that all of the following conditions are fulfilled:

(a) the medicinal products have undergone quality control testing either in the Union, as provided for in Article 153(3), or in parts of the United Kingdom other than Northern Ireland in compliance with Article 8, point (b);

(b) the medicinal products have been subject to batch release by a qualified person in the Union in accordance with Article 153(1) or, for medicinal products authorised by the United Kingdom in respect of Northern Ireland, in parts of the United Kingdom other than Northern Ireland applying quality standards that are equivalent to those laid down in Article 153(1);

PUBLIC

(c) the marketing authorisation for the medicinal product concerned has been granted in accordance with Union law, by the competent authority of a Member State or by the Commission or, as regards medicinal products placed on the market in Northern Ireland, by the competent authority of the United Kingdom in respect of Northern Ireland;

(d) medicinal products are only made available to patients or end-consumers in ~~the Member State into which the medicinal products are imported, or, if imported into Northern Ireland, are only made available to patients or end-consumers in~~ Northern Ireland;

~~(e) the medicinal products bear the safety features referred to in Article 67.~~

7. For batches of medicinal products that are exported to parts of the United Kingdom other than Northern Ireland from a Member State and subsequently imported into Northern Ireland, the controls upon importation referred to in Article 153(1), first and second subparagraphs, shall not be required, provided that those batches have undergone such controls in a Member State prior to being exported to parts of the United Kingdom other than Northern Ireland and that they are accompanied by the control reports referred to in Article 153(1), third subparagraph.

PUBLIC

8. Where the manufacturing authorisation is granted by the competent authority of the United Kingdom in respect of Northern Ireland, the qualified person referred to in Article 151(1) may reside and operate in parts of the United Kingdom other than Northern Ireland. This paragraph shall not apply where the manufacturing authorisation holder already has at its disposal a qualified person who ~~resides and operates~~***resided and operated*** in the Union on 20 April 2022.

9. By way of derogation from the Article 99(5), where the marketing authorisation is granted by the competent authority of United Kingdom in respect of Northern Ireland, the qualified person referred to in Article 99(4), point (a), may reside and operate in parts of the United Kingdom other than Northern Ireland. This paragraph shall not apply where the marketing authorisation holder already has at its disposal a qualified person who ~~resides and operates~~***resided and operated*** in the Union on 20 April 2022.

10. The competent authorities of the United Kingdom in respect of Northern Ireland shall publish on their website a list of medicinal products to which they have applied or intend to apply the derogations as set out in this Article and shall ensure that the list is updated and managed in an independent manner, at least on a six-monthly basis.

PUBLIC

Article 210

Regulatory functions carried out in the United Kingdom

1. The Commission shall continuously monitor developments in the United Kingdom that could affect the level of protection regarding the regulatory functions referred to in Article 99(4), Article 151(3), Article 211, paragraphs 1, 2, 5 and 6, Article 209, paragraphs 6 and 7, that are carried out in parts of the United Kingdom other than Northern Ireland taking into account, in particular, the following elements:

   (a) the rules governing the granting of marketing authorisations, the obligations of the marketing authorisation holder, the granting of manufacturing authorisations, the obligations of the manufacturing authorisation holder, the qualified persons and their obligations, quality control testing, batch release and pharmacovigilance as laid down in United Kingdom law;

   (b) whether the competent authorities of the United Kingdom ensure the effective enforcement within their territory of the rules referred to in point (a), by means of, inter alia, inspections and audits of marketing authorisation holders, manufacturing authorisation holders and wholesale distributors located in their territories, and on-the-spot checks at their premises regarding the exercise of the regulatory functions referred to in point (a).

PUBLIC

2. Where the Commission finds that the level of protection of public health ensured by the United Kingdom through rules governing the production, distribution and use of medicinal products as well as the effective enforcement of those rules is no longer essentially equivalent to that guaranteed within the Union, or where sufficient information is not available to the Commission to enable it to establish whether an essentially equivalent level of protection of public health is ensured by the United Kingdom, the Commission shall inform the United Kingdom through a written notification of that finding and of the detailed reasons therefor.

For a period of six months following the written notification made pursuant to the first subparagraph, the Commission shall enter into consultations with the United Kingdom with a view to remedying the situation giving rise to that written notification. In justified cases, the Commission may extend that period by three months.

3. If the situation giving rise to the written notification made pursuant to paragraph 2, first subparagraph, is not remedied within the time limit referred to in paragraph 2, second subparagraph, the Commission shall be empowered to adopt a delegated act amending or supplementing the provisions among those referred to in paragraph 1 whose application shall be suspended.

PUBLIC

4. Where a delegated act pursuant to paragraph 3 has been adopted, the provisions referred to in the introductory sentence of paragraph 1 as specified in the delegated act shall cease to apply on the first day of the month following the entry into force of the delegated act.

5. Where the situation giving rise to the adoption of the delegated act pursuant to paragraph 3 has been remedied, the Commission shall adopt a delegated act specifying those suspended provisions that shall apply again. In that case, the provisions specified in the delegated act adopted pursuant to this paragraph shall apply again on the first day of the month following the entry into force of the delegated act referred to in this paragraph.

~~*Article 211*~~

~~Provisions relevant to Cyprus, Ireland and Malta and applicable until 31 December 2024~~

1. ~~By way of derogation from Article 56(4), marketing authorisations may be granted in accordance with the mutual recognition or the decentralised procedure laid down in Chapter III, Sections 3 and 4, to marketing authorisation holders established in parts of the United Kingdom other than Northern Ireland.~~

   ~~Until 31 December 2024, the competent authorities of Cyprus, Ireland and Malta marketing authorisations already granted prior to 20 April 2022 may be extended to marketing authorisation holders established in parts of the United Kingdom other than Northern Ireland.~~

PUBLIC

~~The marketing authorisations granted or extended by the competent authorities of Cyprus, Ireland or Malta in accordance with the first and second subparagraphs shall cease to be valid at the latest on 31 December 2026.~~

2. ~~With regard to quality control testing referred to in Article 8 carried out in parts of the United Kingdom other than Northern Ireland regarding medicinal products included in the list referred to in paragraph 9, other than those authorised by the Commission, and, until 31 December 2024, the competent authorities of Cyprus, Ireland and Malta may consider that there is a justifiable case within the meaning of Article 8, point (b), without carrying out a case-by-case assessment provided that:~~

   (a) ~~each batch of the medicinal products concerned is released by a qualified person on a site in the Union or in Northern Ireland or by a qualified person on a site in parts of the United Kingdom other than Northern Ireland applying quality standards that are equivalent to those laid down in Article 153(1);~~

   (b) ~~the establishment designated by the third party conducting the quality control testing is supervised by the competent authority of the United Kingdom, including by performing on-the-spot checks;~~

PUBLIC

(c) ~~where the batch release is carried out by a qualified person who resides and operates in parts of the United Kingdom other than Northern Ireland, the manufacturing authorisation holder declares that it does not have at its disposal a qualified person who resides and operates in the Union on 20 April 2022.~~

3. ~~By way of derogation from Article 142(1), the competent authorities of Cyprus, Ireland and Malta shall allow medicinal products to be imported from parts of the United Kingdom other than Northern Ireland by wholesale distribution authorisation holders as referred to in Article 163(1) that are not in possession of a relevant manufacturing authorisation provided that all of the following conditions are fulfilled:~~

(a) ~~the medicinal products have undergone quality control testing either in the Union, as provided for in Article 153(3), or in parts of the United Kingdom other than Northern Ireland in compliance with Article 8, point (b);~~

(b) ~~the medicinal products have been subject to batch release by a qualified person in the Union in accordance with Article 153(1) or, for medicinal products authorised by the competent authorities the United Kingdom in respect of Northern Ireland, in parts of the United Kingdom other than Northern Ireland applying quality standards that are equivalent to those laid down in Article 153(1);~~

PUBLIC

(c) ~~the marketing authorisation for the medicinal product concerned has been granted in accordance with Union law, by the competent authority of a Member State or by the Commission or, as regards medicinal products placed on the market in Northern Ireland, by the competent authority of the United Kingdom in respect of Northern Ireland;~~

(d) ~~medicinal products are only made available to patients or end-consumers in the Member State into which the medicinal products are imported, or, if imported into Northern Ireland, are only made available to patients or end-consumers in Northern Ireland;~~

(e) ~~the medicinal products bear the safety features referred to in Article 67.~~

~~Article 166(1), point (b), shall not apply to imports that fulfil the conditions laid down in the first subparagraph.~~

4. ~~For batches of medicinal products that are exported to parts of the United Kingdom other than Northern Ireland from a Member State and subsequently imported until 31 December 2024 into Cyprus, Ireland or Malta, the controls upon importation referred to Article 153(1), first and second subparagraphs, shall not be required, provided that those batches have undergone such controls in a Member State prior to being exported to parts of the United Kingdom other than Northern Ireland and that they are accompanied by the control reports referred to in Article 153(1), third subparagraph.~~

PUBLIC

5. By way of derogation from Article 205(1) until 31 December 2024, in the absence of a marketing authorisation or of a pending application for a marketing authorisation the competent authorities of Cyprus and Malta may authorise for justified public health reasons the placing on their national market of a medicinal product authorised in parts of the United Kingdom other than Northern Ireland.

The competent authorities of Cyprus and Malta may also maintain in force or, until 31 December 2024, extend marketing authorisations that were granted pursuant to Article 205(1) before 20 April 2022 and that authorise the placing on their national market of a medicinal product authorised in parts of the United Kingdom other than Northern Ireland.

Authorisations that are granted, extended or maintained in force pursuant to the first or second subparagraphs shall not be valid after 31 December 2026.

6. By way of derogation from Article 56(4), the competent authorities of Malta and Cyprus may grant marketing authorisations as referred to in paragraph 5 to marketing authorisation holders established in parts of the United Kingdom other than Northern Ireland.

7. Where the competent authorities of Cyprus or Malta grant or extend a marketing authorisation as referred to in paragraph 5, they shall ensure compliance with the requirements of this Directive.

PUBLIC

8. ~~Before granting a marketing authorisation pursuant to paragraph 5, the competent authorities of Cyprus or Malta:~~

(a) ~~shall notify the marketing authorisation holder in parts of the United Kingdom other than Northern Ireland of the proposal to grant a marketing authorisation or to extend a marketing authorisation under paragraphs 5 to 8 in respect of the medicinal product concerned;~~

(b) ~~may request the competent authority in the United Kingdom to submit the relevant information regarding the marketing authorisation of the medicinal product concerned.~~

9. ~~The competent authorities of Cyprus, Ireland, Malta shall publish on their website a list of medicinal products to which they have applied or intend to apply the derogations as set out in this Article and shall ensure that the list is updated and managed in an independent manner, at least on a six-monthly basis.~~

Article 212

Derogations for medicinal products placed on the ~~markets of Cyprus, Ireland, Malta or~~*market of* Northern Ireland

The derogations set out in Article ~~211, paragraphs 1 and 6, Article 8, Article~~ 209, paragraphs ~~6 and 7, Article 153 (3), Article 99(4) and Article 211(5)~~***3, 6, 7 and 8*** shall not affect the obligations of the marketing authorisation holder to ensure the quality, safety and efficacy of the medicinal product placed on the ~~markets of Cyprus, Ireland, Malta or~~***market of*** Northern Ireland laid down in this Directive.

Chapter XVIII
Final provisions

Article 213

Amendment to the Annexes

The Commission is empowered to adopt delegated acts in accordance with Article 215 amending Annexes I to VI in order to adapt them to scientific and technical progress and amend Article 22 with regard to the ERA requirements set out in paragraphs 2, 3, 4 and 6 of that Article.

Article 214

Standing Committee on Medicinal Products for Human Use

1. The Commission shall be assisted by the Standing Committee on Medicinal Products for Human Use. 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 the opinion of the Committee is to be obtained by written procedure and reference is made to this paragraph, that procedure shall be terminated without result only when, within the time limit for delivery of the opinion, the chair of the Committee so decides.

PUBLIC

4. The rules of procedure of the Standing Committee on Medicinal Products shall be made publicly available.

5. The Standing Committee on Medicinal Products for Human Use shall ensure that its rules of procedure are adapted to the need to make medicinal products swiftly available to patients and take account of the tasks incumbent upon it under Chapter III and the procedure set out in Article 42.

Article 215

Exercise of the delegations

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 4(2), 24(5), 25(9), ***26(2a),*** 26(3), 28, paragraphs 2 and 3~~, 27(3), 63(5)~~, 65(2), 67(2), 88(1), 92(4), 126(1), 150(3), 153(4), ***160***, 161, ***190(1)*** ~~210(4)~~ ***210(3)*** and 213 shall be conferred on the Commission for a period of five years from [OP please insert the date of the entry into force of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

PUBLIC

The power to adopt delegated acts referred to in Article 210, paragraphs 3 and 5, shall be conferred on the Commission for an indeterminate period of time from [OP please insert the date = the date of the entry into force of this Directive].

3. The delegation of power referred to in Articles 4(2), 24(5), 25(9), ***26(2a),*** 26(3)~~, 27(3)~~, 28, paragraphs 2 and 3~~, 63(5)~~, 65(2), 67(2), 88(1), 92(4), 126(1), 150(3), 153(4), ***160***, 161, ***190(1),*** ~~210(4)~~ ***210(3)*** and 213 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.

PUBLIC

6. A delegated act adopted pursuant to Articles ~~6(2), 26(3)~~***4(2)***, 24(5)***, 25(9), 26(2a), 26(3)***, 28, paragraphs 2 and 3~~, 27(3), 63(5)~~, 65(2), 67(2), 88(1), 92(4), 126(1), 150(3), 153(4), ***160,*** 161, ***190(1),*** ~~210(4)~~***210(3)*** and 213 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 216

Report

1 By [OP please insert the date = 10 years following ~~18~~***24*** months after the date of entering into force of this Directive], the Commission shall present a report to the European Parliament and the Council on the application of this Directive, including an assessment of the fulfilment of its objectives and the resources required to implement it. ***The report shall in particular include an assessment of:***

(a) the revised framework for regulatory protection periods;

(b) the provisions to facilitate access to medicinal products laid down in Article 56a;

(c) the appropriateness of the framework of homeopathic medicinal products.

(d) the application of adapted frameworks according to Article 28.

The report shall be based, among others, on information provided by Member States.

Where a Member State has applied Article 56a, the information provided to the Commission shall include an assessment on whether the rules provided in that Article ensure timely availability and continuous supply of sufficient quantities in that Member State.

2. By [OP please insert the date = 10 years following the date of application of this Directive], the Commission shall present a report to the European Parliament and the Council on the application of Chapter VI. The report shall be based, among others, on information provided by Member States [and marketing authorisation holders], and it shall include an assessment on whether the level of digitalisation provided for in that Chapter remains appropriate. The Commission shall, if appropriate, present legislative proposals based on that assessment in order to amend this Directive or make further proposals, including on requiring the provision of the awareness card in electronic format only.

PUBLIC

3. By 5 years from the date of application of this Directive, the Commission shall present a report to the European Parliament and the Council on the application of Article 22 and the impact of the Environmental Risk Assessment of medicinal products on the protection of human health and the environment. The report shall be based, among others, on information provided by the Agency, the competent authorities of the Member States and the marketing authorisation holders. It shall include an assessment on whether the rules provided for in Article 22 appropriately contribute to risk mitigation for the environment and public health. When carrying out the assessment, the Commission shall take into account existing obligations in the field of environmental protection to economic operators already set out in Union law. The Commission shall, if appropriate, present legislative proposals based on that assessment in order to amend this Directive or make further proposals, including on expanding the scope of ERA to the manufacturing phase for all medicinal products.

PUBLIC

Article 217

Repeals

1. Directive 2001/83/EC is repealed with effect from [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive].

2. Directive 2009/35/EC is repealed with effect from [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive].

3. References to the repealed Directives 2001/83/EC and 2009/35/EC shall be construed as references to this Directive. References to the repealed Directive 2001/83/EC shall be read in accordance with the correlation table in Annex VIII.

Article 218

Transitional provisions

1. The procedures concerning the applications for marketing authorisations for medicinal products ~~validated~~***submitted*** in accordance with Article 19 of Directive 2001/83/EC before [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive] and that were pending on [OP please insert the date = the day before ~~18~~***24*** months after the date of entering into force of this Directive] shall be completed in accordance with ~~Article 29.~~***Directive 2001/83/EC***

PUBLIC

2. Procedures initiated on the basis of Articles 29, 30, 31, and 107i of Directive 2001/83/EC before [OP please insert the date = 18 months after the date of entering into force of this Directive] and that were pending on [OP please insert the date = the day before ~~18~~***24*** months after the date of entering into force of this Directive] shall be completed in accordance with Articles 32 to 34 or Article 107k, as appropriate, of that Directive as applicable on [OP please insert the date = the day before ~~18~~***24*** months after the date of entering into force of this Directive].

3. This Directive shall also apply to medicinal products authorised in accordance with Directive 2001/83/EC before [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive].

This Directive shall also apply to registrations of homeopathic medicinal products and traditional herbal medicinal products carried out in accordance with Directive 2001/83/EC before [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive].

PUBLIC

4. By way of derogation from Chapter VI, the medicinal products placed on the market in accordance with Directive 2001/83/EC before [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive] may continue to be made available on the market until [OP please insert the date = five years after ~~18~~***24*** months after the date of entering into force of this Directive], provided that they comply with the provision on labelling and package leaflet set out in Title V of Directive 2001/83/EC as applicable on [OP please insert the date = the day before ~~18~~***24*** months after the date of entering into force of this Directive].

5. By way of derogation from Article 81, reference medicinal products for which the application for marketing authorisation has been submitted before [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive] shall be subject to the provisions on data protection periods set out in Article 10 of Directive 2001/83/EC as applicable on [OP please insert the date = ~~18 months after the date of entering into force of this Directive] until [OP please insert the date = 18~~***24*** months after the date of entering into force of this Directive].

6. By way of derogation from paragraph 3, the reporting obligations as referred to in Article 57, shall not apply with regards to medicinal products authorised in accordance with Directive 2001/83/EC before [OP please insert the date = ~~18~~***24*** months after the date of entering into force of this Directive].

PUBLIC

6a. For medicinal products authorised before [OP please insert the date the date of entering into application of this Directive] and for which the validity expires after that date, the renewal of the marketing authorisation shall follow the procedures referred to in Article 46.

6b. Medicinal products placed on the market prior to [24 months after the date of entering into force of this Directive] which do not comply with the requirements of this Directive may be marketed until the stocks of the medicinal products are exhausted.

7. The requirement to make the package leaflet available electronically, pursuant to Article 63, paragraph 1 shall apply as follows:

(a) for medicinal products for which the application for marketing authorisation was submitted after [OP please insert the date of entering into application], it shall apply immediately, provided that the implementing act referred to in Article 63(6) is adopted;

(b) for medicinal products authorised before [OP please insert the date the date of entering into force of this Directive] and medicinal products for which the application for marketing authorisation was submitted before [OP please insert the date of entering into application], it shall apply on [OP please insert the date = 3 years after the date of entering into application of this Directive], unless a marketing authorisation holder chooses to comply with the requirement earlier and provided that the implementing act mentioned in Article 63(6) is adopted.

PUBLIC

8. ***Medicinal products authorised before [OP please insert the date of entry into force of this Directive] which do not comply with the requirement to make the package leaflet available electronically, pursuant to Article 63, paragraph 1 may continue to be placed on the market, distributed, dispensed, sold and used until stocks of those medicinal products are exhausted.***

9 ***The competent authorities of Malta may maintain in force marketing authorisations that were granted, extended or maintained in accordance with Article 126c of Directive 2001/83/EC and that are valid at the time of entering into force of this Directive, until [OJ please insert the date = 3 years and 6 months after the date of entering into application of this Directive].***

Article 219

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions to comply with this Directive by [~~18~~***24*** months after the date of entering into force of this Directive]. They shall immediately communicate the text of those measures to the Commission. ***Member States shall apply those provisions from [24 months after the date of entering into force of this Directive].***

PUBLIC

1a. ***However Member States may apply Article 56a as from [12 months after entering into force of this Directive] in respect of medicinal products authorised after the date of entering into force of this Directive. In case of a medicinal product which has been granted a marketing authorisation in accordance with Regulation 726/2004 or the Directive 2001/83 between the entry into force and the date of application of this Directive, the second subparagraph of Article 10 (1) of the Directive 2001/83 shall not apply in the member state that made a request in accordance with Article 56a, if the marketing authorisation holder has not made the medicinal product available and has not supplied it continuously in that Member State in accordance with that Article.***

2. When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

3. Member States shall communicate to the Commission the text of the main measures of national law that they adopt in the field covered by this Directive.

Article 220

Entry into force

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

Article 221

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

PUBLIC

PUBLIC

ANNEX I

INFORMATION REFERRED TO IN THE APPLICATION

(1) Name or corporate name and permanent address of the applicant and, where applicable, of the manufacturer.

(2) Name of the medicinal product.

(3) Qualitative and quantitative particulars of all the constituents of the medicinal product, including the reference to its international non-proprietary name (INN) recommended by the World Health Organization, where an INN for the medicinal product exists, or a reference to the relevant chemical name.

(4) An environmental risk assessment (ERA) in accordance with the requirements laid down in Articles 22 and 23.

(5) For medicinal product for human use containing or consisting of genetically modified organisms, an environmental risk assessment identifying and characterising possible hazards for human health, animals and the environment. The assessment shall be conducted in accordance with the elements described in Article 8 of [revised Regulation (EC) No 726/2004] and the requirements of Annex II to this Directive, based on the principles set out in Annex II to Directive 2001/18/EC of the European Parliament and of the Council[47] taking into account the specificities of medicinal products.

[47] Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC - Commission Declaration (OJ L 106, 17.4.2001, p. 1)

(6) Description of the manufacturing method.

(7) Therapeutic indications, contra-indications and adverse reactions.

(8) Posology, pharmaceutical form, method and route of administration and expected shelf life.

(9) Reasons for any precautionary and safety measures to be taken for the storage of the medicinal product, its administration to patients and for the disposal of waste products, together with an indication of potential risks presented by the medicinal product for the environment.

(10) Description of the control methods employed by the manufacturer.

(11) A written confirmation that the manufacturer of the medicinal product has verified compliance of the manufacturer of the active substance with principles of good manufacturing practice by conducting audits, in accordance with Article 160. The written confirmation shall contain a reference to the date of the audit and a declaration that the outcome of the audit confirms that the manufacturing complies with the principles of good manufacturing practice.

PUBLIC

(12) Results of:

(a) pharmaceutical (physico-chemical, biological or micro biological) tests,

(b) non-clinical (toxicological and pharmacological) tests,

(c) clinical trials.

(13) Where relevant, evidence from other sources of clinical data (non-interventional clinical studies, registries).

(14) A summary of the applicant's pharmacovigilance system which shall include the following elements:

(a) proof that the applicant has at their disposal a qualified person responsible for pharmacovigilance,

(b) the Member States in which the qualified person resides and carries out their tasks,

(c) the contact details of the qualified person,

PUBLIC

(d) a statement signed by the applicant to the effect that the applicant has the necessary means to fulfil the tasks and responsibilities listed in Chapter VI,

(e) a reference to the location where the pharmacovigilance system master file for the medicinal product is kept.

(15) The risk management plan describing the risk management system which the applicant will introduce for the medicinal product concerned, together with a summary thereof.

(16) A statement to the effect that clinical trials carried out outside the European Union meet the ethical requirements of Regulation (EU) No 536/2014.

(17) A summary of product characteristics in accordance with Article 62, a mock-up of the outer packaging, containing the details provided for in Annex IV, and of the immediate packaging of the medicinal product, containing the details provided for in Article 66, together with a package leaflet in accordance with Article 64.

(18) A document showing that the manufacturer is authorised in their own country to produce medicinal products.

PUBLIC

(19) Copies of the following:

(a) any marketing authorisation, obtained in another Member State or in a third country, to place the medicinal product on the market, a summary of the safety data including the data contained in the periodic safety update reports, where available, and suspected adverse reactions reports, together with a list of those Member States in which an application for marketing authorisation submitted in accordance with this Directive is under examination;

(b) the summary of product characteristics proposed by the applicant in accordance with Article 62 or approved by the competent authorities of the Member State in accordance with Article 43 and the package leaflet proposed in accordance with Article 64 or approved by the competent authorities of the Member State in accordance with Article 76;

(c) details of any decision to refuse marketing authorisation, whether in the Union or in a third country, and the reasons for such a decision.

(20) A copy of any designation of the medicinal product as an orphan medicinal product as defined in Article 63 of [revised Regulation (EC) No 726/2004], accompanied by a copy of the relevant Agency opinion.

PUBLIC

(21) Where the application concerns an antimicrobial medicinal product, the application shall also contain:

a) an antimicrobial stewardship plan which shall in particular outline:

(i) information about risk mitigation measures to limit antimicrobial resistance development related to the use, prescription and administration of the medicinal product;

(ii) how the marketing authorisation holder intends to monitor and report to the competent authority the resistance to the antimicrobial medicinal product.

(iii) information about measures to monitor effectiveness of stewardship.

b) a description of the special information requirements outlined in Article 58

c) details on the pack size which shall correspond to the usual posology and duration of treatment.

(22) Where an application concerns the marketing authorisation to market a radionuclide generator, in addition to the requirements set out in Articles 6 and 9, it shall also contain:

(a) a general description of the system together with a detailed description of the components of the system that may affect the composition or quality of the daughter nucleid preparation; and

(b) qualitative and quantitative particulars of the eluate or the sublimate.

(23) Good manufacturing practices certificates

PUBLIC

ANNEX II

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PUBLIC

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PUBLIC

Introduction and general principles

(1) The particulars and documents accompanying an application for marketing authorisation pursuant to Articles 8 and 10(1) shall be presented in accordance with the requirements set out in this Annex and shall follow the guidance published by the Commission in The rules governing medicinal products in the European Community, Volume 2 B, Notice to applicants, Medicinal products for human use, Presentation and content of the dossier, Common Technical Document (CTD).

(2) The particulars and documents shall be presented as five modules: Module 1 provides European Community specific administrative data; Module 2 provides quality, non-clinical and clinical summaries, Module 3 provides chemical, pharmaceutical and biological information, Module 4 provides non-clinical reports and Module 5 provides clinical study reports. This presentation implements a common format for all ICH[48] regions (European Community, United States of America, Japan). These five Modules shall be presented in strict accordance with the format, content and numbering system delineated in details in Volume 2 B of the Notice to Applicants referred to above.

(3) The European Community-CTD-presentation is applicable for all types of marketing authorisation applications irrespective of the procedure to be applied (i.e. centralised, mutual recognition or national) and of whether they are based on a full or abridged application. It is also applicable for all types of products including new chemical entities (NCE), radio-pharmaceuticals, plasma derivatives, vaccines, herbal medicinal products, etc.

[48] International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use

(4) In assembling the dossier for application for marketing authorisation, applicants shall also take into account the scientific guidelines relating to the quality, safety and efficacy of medicinal products for human use as adopted by the Committee for Proprietary Medicinal Products (CPMP) and published by the European Medicine Evaluation Agency (EMEA) and the other pharmaceutical Community guidelines published by the Commission in the different volumes of The rules governing medicinal products in the European Community.

(5) With respect to the quality part (chemical, pharmaceutical and biological) of the dossier, all monographs including general monographs and general chapters of the European Pharmacopoeia are applicable.

(6) The manufacturing process shall comply with the requirements of Commission Directive 91/356/EEC laying down the principles and guidelines of Good Manufacturing Practice (GMP) for medicinal products for human use[49] and with the principles and guidelines on GMP, published by the Commission in The rules governing medicinal products in the European Community, Volume 4.

(7) All information, which is relevant to the evaluation of the medicinal product concerned, shall be included in the application, whether favourable or unfavourable to the product. In particular, all relevant details shall be given of any incomplete or abandoned pharmaco-toxicological or clinical test or trial relating to the medicinal product and/or completed trials concerning therapeutic indications not covered by the application.

[49] OJ L 193, 17.7.1991, p. 30

PUBLIC

(8) All clinical trials, conducted within the European Community, must comply with the requirements of Directive 2001/20/EC of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use[50]. To be taken into account during the assessment of an application, clinical trials, conducted outside the European Community, which relate to medicinal products intended to be used in the European Community, shall be designed, implemented and reported on what good clinical practice and ethical principles are concerned, on the basis of principles, which are equivalent to the provisions of Directive 2001/20/EC. They shall be carried out in accordance with the ethical principles that are reflected, for example, in the Declaration of Helsinki.

(9) Non-clinical (pharmaco-toxicological) studies shall be carried out in conformity with the provisions related to Good Laboratory Practice laid down in Council Directives 87/18/EEC on the harmonisation of regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their application for tests in chemical substances[51] and 88/320/EEC on the inspection and verification of good laboratory practice (GLP)[52].

[50] OJ L 121, 1.5.2001, p. 34
[51] OJ L 15, 17.1.1987, p. 29
[52] OJ L 145, 11.6.1988, p. 35

(10) Member States shall also ensure that all tests on animals are conducted in accordance with Council Directive 86/609/EEC of 24 November 1986 on the approximation of laws, regulation and administrative provisions of the Member States regarding the protection of animals for experimental and other scientific purposes.

(11) In order to monitor the benefit/risk assessment, any new information not in the original application and all pharmaco-vigilance information shall be submitted to the competent authority. After marketing authorisation has been granted, any change to the data in the dossier shall be submitted to the competent authorities in accordance with the requirements of Commission Regulations (EC) No 1084/2003[53] and (EC) No 1085/2003[54] of the Commission or, if relevant, in accordance with national provisions, as well as the requirements in Volume 9 of Commission publication The rules governing medicinal products in the European Community.

This Annex is divided in four different parts:

– Part I describes the application format, the summary of product characteristics, the labelling, the leaflet and presentation requirements for standard applications (Modules 1 to 5).

– Part II provides derogation for 'Specific applications', i.e. well-established medicinal use, essentially similar products, fixed combinations, similar biological products, exceptional circumstances and mixed applications (part bibliographic and part own studies).

PUBLIC

[53] See p. 1 of this Official Journal
[54] See p. 1 of this Official Journal

– Part III deals with ‘Particular application requirements’ for biological medicinal products (Plasma Master File; Vaccine Antigen Master File), radio-pharmaceuticals, homeopathic medicinal products, herbal medicinal products and orphan medicinal products.

– Part IV deals with ‘Advanced therapy medicinal products’ and concerns specific requirements for gene therapy medicinal products (using human autologous or allogeneic system, or xenogeneic system) and cell therapy medicinal products both of human or animal origin and xenogeneic transplantation medicinal products.

PUBLIC

PART I

STANDARDISED MARKETING AUTHORISATION DOSSIER REQUIREMENTS

1. MODULE 1: ADMINISTRATIVE INFORMATION

1.1. Table of contents

A comprehensive table of contents of Modules 1 to 5 of the dossier submitted for marketing authorisation application shall be presented.

1.2. Application form

The medicinal product, which is the subject of the application, shall be identified by name and name of the active substance(s), together with the pharmaceutical form, the route of administration, the strength and the final presentation, including packaging.

The name and address of the applicant shall be given, together with the name and address of the manufacturers and the sites involved in the different stages of the manufacture (including the manufacturer of the finished product and the manufacturer(s) of the active substance(s)), and where relevant the name and address of the importer.

The applicant shall identify the type of application and indicate what samples, if any, are also provided.

Annexed to the administrative data shall be copies of the manufacturing authorisation as defined in Article 40, together with a list of countries in which authorisation has been granted, copies of all the summaries of product characteristics in accordance with Article 11 as approved by Member States and a list of countries in which an application has been submitted.

As outlined in the application form, the applicants shall provide, inter alia, details of the medicinal product subject of the application, the legal basis of the application, the proposed marketing authorisation holder and manufacture(s), information on orphan medicinal product status, scientific advice and paediatric development program.

1.3. **Summary of product characteristics, labelling and package leaflet**

1.3.1 Summary of product characteristics

The applicant shall propose a summary of the product characteristics, in accordance with Article 11.

PUBLIC

1.3.2. Labelling and package leaflet

A proposed labelling text for immediate and outer packaging as well as for the package leaflet shall be provided. These shall be in accordance with all mandatory items listed in Title V on the labelling of medicinal products for human use (Article 63) and on package leaflet (Article 59).

1.3.3. Mock-ups and specimens

The applicant shall provide specimen and/or mock-ups of the immediate and outer packaging, labels and package leaflets for the medicinal product concerned.

1.3.4. Summaries of product characteristics already approved in the Member States

Annexed to the administrative data of the application form shall be copies of all the summaries of product characteristics in accordance with Articles 11 and 21 as approved by Member States, where applicable and a list of countries in which an application has been submitted.

1.4. **Information about the experts**

In accordance with Article 12 (2) experts must provide detailed reports of their observations on the documents and particulars which constitute the marketing authorisation dossier and in particular on Modules 3, 4 and 5 (chemical, pharmaceutical and biological documentation, non-clinical documentation and clinical documentation, respectively). The experts are required to address the critical points related to the quality of the medicinal product and of the investigations carried out on animals and human beings and bring out all the data relevant for evaluation.

PUBLIC

These requirements shall be met by providing a quality overall summary, a non-clinical overview (data from studies carried out in animals) and a clinical overview that shall be located in Module 2 of the marketing authorisation application dossier. A declaration signed by the experts together with brief information on their educational background, training and occupational experience shall be presented in Module 1. The experts shall have suitable technical or professional qualifications. The professional relationship of the expert to the applicant shall be declared.

1.5. **Specific requirements for different types of applications**

Specific requirements for different types of applications are addressed in Part II of the present Annex.

1.6. **Environmental risk assessment**

Where applicable, applications for marketing authorisations shall include a risk assessment overview evaluating possible risks to the environment due to the use and/or disposal of the medicinal product and make proposals for appropriate labelling provisions. Environmental risk connected with the release of medicinal products containing or consisting of GMOs (Genetically Modified Organisms) within the meaning of Article 2 of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of modified organisms and repealing Council Directive 90/220/EEC[55] shall be addressed.

Information pertaining to the environmental risk shall appear as an appendix to Module 1.

[55] OJ L 106, 17.4.2001, p. 1

The information shall be presented in accordance with the provisions of Directive 2001/18/EC, taking into account any guidance documents published by the Commission in connection with the implementation of the said Directive.

The information shall consist of:

– an introduction;

– a copy of any written consent or consents to the deliberate release into the environment of the GMO(s) for research and development purposes according to Part B of Directive 2001/18/EC;

– the information requested in Annexes II to IV of the Directive 2001/18/EC, including detection and identification methods as well as unique code of the GMO, plus any additional information on the GMO or the product of relevance to evaluating the environmental risk;

– an environment risk assessment (ERA) report prepared on basis of the information specified in Annexes III and IV of Directive 2001/18/EC and in accordance with Annex II of Directive 2001/18/EC;

PUBLIC

– taking into account the above information and the ERA, a conclusion which proposes an appropriate risk management strategy which includes, as relevant to the GMO and product in question, a post-market monitoring plan and the identification of any special particulars which need to appear in the Summary of Product Characteristics, labelling and package leaflet;

– appropriate measures in order to inform the public.

A dated signature of the author, information on the author's educational, training and occupational experience, and a statement of the author's relationship with the applicant, shall be included.

2. MODULE 2: SUMMARIES

This Module aims to summarise the chemical, pharmaceutical and biological data, the non-clinical data and the clinical data presented in Modules 3, 4 and 5 of the dossier for marketing authorisation, and to provide the reports/overviews described in Article 12 of this Directive.

Critical points shall be addressed and analysed. Factual summaries including tabular formats shall be provided. Those reports shall provide cross-references to tabular formats or to the information contained in the main documentation presented in Module 3 (chemical, pharmaceutical and biological documentation), Module 4 (non-clinical documentation) and Module 5 (clinical documentation).

PUBLIC

Information contained in Module 2 shall be presented in accordance with the format, content and numbering system delineated in the Volume 2 of the Notice to Applicants. The overviews and summaries shall comply with the basic principles and requirements as laid down herewith:

PUBLIC

2.1. Overall table of contents

Module 2 shall contain a table of contents for the scientific documentation submitted in Modules 2 to 5.

2.2. Introduction

Information on the pharmacological class, mode of action and proposed clinical use of the medicinal product for which a marketing authorisation is requested shall be supplied.

2.3. Quality overall summary

A review of the information related to the chemical, pharmaceutical and biological data shall be provided in a quality overall summary.

Key critical parameters and issues related to quality aspects shall be emphasised as well as justification in cases where the relevant guidelines are not followed. This document shall follow the scope and outline of the corresponding detailed data presented in Module 3.

2.4. **Non-clinical overview**

An integrated and critical assessment of the non-clinical evaluation of the medicinal product in animals/in vitro shall be required. Discussion and justification of the testing strategy and of deviation from the relevant guidelines shall be included.

Except for biological medicinal products, an assessment of the impurities and degradation products shall be included along with their potential pharmacological and toxicological effects. The implications of any differences in the chirality, chemical form, and impurity profile between the compound used in the non-clinical studies and the product to be marketed shall be discussed.

For biological medicinal products, comparability of material used in non-clinical studies, clinical studies, and the medicinal product for marketing shall be assessed.

Any novel excipient shall be the subject of a specific safety assessment.

The characteristics of the medicinal product, as demonstrated by the non-clinical studies shall be defined and the implications of the findings for the safety of the medicinal product for the intended clinical use in human shall be discussed.

PUBLIC

2.5. **Clinical overview**

The clinical overview is intended to provide a critical analysis of the clinical data included in the clinical summary and Module 5. The approach to the clinical development of the medicinal product, including critical study design, decisions related to and performance of the studies shall be provided.

A brief overview of the clinical findings, including important limitations as well as an evaluation of benefits and risks based on the conclusions of the clinical studies shall be provided. An interpretation of the way the efficacy and safety findings support the proposed dose and target indications and an evaluation of how the summary of product characteristics and other approaches will optimise the benefits and manage the risks is required.

Efficacy or safety issues encountered in development and unresolved issues shall be explained.

2.6. **Non-clinical summary**

The results of pharmacology, pharmaco-kinetics and toxicology studies carried out in animals/in vitro shall be provided as factual written and tabulated summaries which shall be presented in the following order:

– Introduction

– Pharmacology Written Summary

– Pharmacology Tabulated Summary

PUBLIC

– Pharmaco-kinetics Written Summary

– Pharmaco-kinetics Tabulated Summary

– Toxicology Written Summary

– Toxicology Tabulated Summary.

2.7. **Clinical Summary**

A detailed, factual summary of the clinical information on the medicinal product included in Module 5 shall be provided. This shall include the results of all bio-pharmaceutics studies, of clinical pharmacology studies, and of clinical efficacy and safety studies. A synopsis of the individual studies is required.

Summarised clinical information shall be presented in the following order:

– Summary of Bio-pharmaceutics and Associated Analytical Methods

– Summary of Clinical Pharmacology Studies

– Summary of Clinical Efficacy

– Summary of Clinical Safety

– Synopses of Individual Studies

PUBLIC

3. MODULE 3: CHEMICAL, PHARMACEUTICAL AND BIOLOGICAL INFORMATION FOR MEDICINAL PRODUCTS CONTAINING CHEMICAL AND/OR BIOLOGICAL ACTIVE SUBSTANCES

PUBLIC

3.1. **Format and presentation**

The general outline of Module 3 is as follows:

– Table of contents

– Body of data

– *Active substance*

General Information

– Nomenclature

– Structure

– General Properties

Manufacture

– Manufacturer(s)

– Description of Manufacturing Process and Process Controls

– Control of Materials

– Controls of Critical Steps and Intermediates

– Process Validation and/or Evaluation

– Manufacturing Process Development

Characterisation

– Elucidation of Structure and other Characteristics

– Impurities

Control of Active Substance

– Specification

– Analytical Procedures

– Validation of Analytical Procedures

– Batch Analyses

– Justification of Specification

Reference Standards or Materials

Container Closure System

PUBLIC

Stability

- Stability Summary and Conclusions
- Post-approval Stability Protocol and Stability Commitment
- Stability Data

– *Finished Medicinal Product*

Description and Composition of the Medicinal Product

Pharmaceutical Development

- Components of the Medicinal Product
- Active Substance
- Excipients
- Medicinal Product
- Formulation Development
- Overages
- Physicochemical and Biological Properties

– Manufacturing Process Development

PUBLIC

– Container Closure System

– Microbiological Attributes

– Compatibility

Manufacture

– Manufacturer(s)

– Batch Formula

– Description of Manufacturing Process and Process Controls

– Controls of Critical Steps and Intermediates

– Process Validation and/or Evaluation

Control of Excipients

– Specifications

– Analytical Procedures

– Validation of Analytical Procedures

– Justification of Specifications

– Excipients of Human or Animal Origin

– Novel Excipients

PUBLIC

Control of Finished Medicinal Product

- Specification(s)
- Analytical Procedures
- Validation of Analytical Procedures
- Batch Analyses
- Characterisation of Impurities
- Justification of Specification(s)

Reference Standards or Materials

Container Closure System

Stability

- Stability Summary and Conclusion
- Post-approval Stability Protocol and Stability Commitment
- Stability Data

– *Appendices*

- Facilities and Equipment (Biological Medicinal Products only)
- Adventitious Agents Safety Evaluation
- Excipients

PUBLIC

– *European Community Additional Information*

  – Process Validation Scheme for the Medicinal Product

  – Medical Device

  – Certificate(s) of Suitability

  – Medicinal products containing or using in the manufacturing process materials of animal and/or human origin (TSE procedure)

– Literature References

3.2. **Content: basic principles and requirements**

(1) The chemical, pharmaceutical and biological data that shall be provided shall include for the active substance(s) and for the finished medicinal product all of relevant information on: the development, the manufacturing process, the characterisation and properties, the quality control operations and requirements, the stability as well as a description of the composition and presentation of the finished medicinal product.

(2) Two main sets of information shall be provided, dealing with the active substance(s) and with the finished medicinal product, respectively.

(3) This Module shall in addition supply detailed information on the starting and raw materials used during the manufacturing operations of the active substance(s) and on the excipients incorporated in the formulation of the finished medicinal product.

PUBLIC

(4) All the procedures and methods used for manufacturing and controlling the active substance and the finished medicinal product shall be described in sufficient details to enable them to be repeated in control tests, carried out at the request of the competent authority. All test procedures shall correspond to the state of scientific progress at the time and shall be validated. Results of the validation studies shall be provided. In the case of test procedures included in the European Pharmacopoeia, this description shall be replaced by the appropriate detailed reference to the monograph(s) and general chapter(s).

(5) The monographs of the European Pharmacopoeia shall be applicable to all substances, preparations and pharmaceutical forms appearing in it. In respect of other substances, each Member State may require observance of its own national pharmacopoeia.

However, where a material in the European Pharmacopoeia or in the pharmacopoeia of a Member State has been prepared by a method liable to leave impurities not controlled in the pharmacopoeia monograph, these impurities and their maximum tolerance limits must be declared and a suitable test procedure must be described. In cases where a specification contained in a monograph of the European Pharmacopoeia or in the national pharmacopoeia of a Member State might be insufficient to ensure the quality of the substance, the competent authorities may request more appropriate specifications from the marketing authorisation holder. The competent authorities shall inform the authorities responsible for the pharmacopoeia in question. The marketing authorisation holder shall provide the authorities of that pharmacopoeia with the details of the alleged insufficiency and the additional specifications applied.

PUBLIC

In the case of analytical procedures included in the European Pharmacopoeia, this description shall be replaced in each relevant section by the appropriate detailed reference to the monograph(s) and general chapter(s).

(6) In case where starting and raw materials, active substance(s) or excipient(s) are described neither in the European Pharmacopoeia nor in the pharmacopoeia of a Member State, compliance with the monograph of a third country pharmacopoeia can be accepted. In such cases, the applicant shall submit a copy of the monograph accompanied by the validation of the analytical procedures contained in the monograph and by a translation where appropriate.

(7) Where the active substance and/or a raw and starting material or excipient(s) are the subject of a monograph of the European Pharmacopoeia, the applicant can apply for a certificate of suitability that, where granted by the European Directorate for the Quality of Medicines, shall be presented in the relevant section of this Module. Those certificates of suitability of the monograph of the European Pharmacopoeia are deemed to replace the relevant data of the corresponding sections described in this Module. The manufacturer shall give the assurance in writing to the applicant that the manufacturing process has not been modified since the granting of the certificate of suitability by the European Directorate for the Quality of Medicines.

(8) For a well-defined active substance, the active substance manufacturer or the applicant may arrange for the

(i) detailed description of the manufacturing process,

PUBLIC

(ii) quality control during manufacture, and

(iii) process validation

to be supplied in a separate document directly to the competent authorities by the manufacturer of the active substance as an Active Substance Master File.

In this case, the manufacturer shall, however, provide the applicant with all of the data, which may be necessary for the latter to take responsibility for the medicinal product. The manufacturer shall confirm in writing to the applicant that he shall ensure batch to batch consistency and not modify the manufacturing process or specifications without informing the applicant. Documents and particulars supporting the application for such a change shall be supplied to the competent authorities; these documents and particulars will be also supplied to the applicant when they concern the open part of the active substance master file.

(9) Specific measures concerning the prevention of the transmission of animal spongiform encephalopathies (materials from ruminant origin): at each step of the manufacturing process, the applicant must demonstrate the compliance of the materials used with the Note for Guidance on Minimising the Risk of Transmitting Animal Spongiform Encephalopathy Agents via Medicinal Products and its updates, published by the Commission in the Official Journal of the European Union. Demonstration of compliance with the said Note for Guidance can be done by submitting either, preferably a certificate of suitability to the relevant monograph of the European Pharmacopoeia that has been granted by the European Directorate for the Quality of Medicines or by the supply of scientific data to substantiate this compliance.

PUBLIC

(10) For adventitious agents, information assessing the risk with respect to potential contamination with adventitious agents, whether they are non-viral or viral, as laid down in relevant guidelines as well as in relevant general monograph and general chapter of the European Pharmacopoeia, shall be provided.

(11) Any special apparatus and equipment, which may be used at any stage of the manufacturing process and control operations of the medicinal product, shall be described in adequate details.

(12) Where, in accordance with the second subparagraph of Article 1(8) or the second subparagraph of Article 1(9) of Regulation (EU) 2017/745 of the European Parliament and of the Council[56], a product is governed by this Directive, the marketing authorisation dossier shall include, where available, the results of the assessment of the conformity of the device part with the relevant general safety and performance requirements set out in Annex I to that Regulation contained in the manufacturer's EU declaration of conformity or the relevant certificate issued by a notified body allowing the manufacturer to affix a CE marking to the medical device.

If the dossier does not include the results of the conformity assessment referred to in the first subparagraph and where for the conformity assessment of the device, if used separately, the involvement of a notified body is required in accordance with Regulation (EU) 2017/745, the authority shall require the applicant to provide an opinion on the conformity of the device part with the relevant general safety and performance requirements set out in Annex I to that Regulation issued by a notified body designated in accordance with that Regulation for the type of device in question.

[56] 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)

3.2.1 *Active substance(s)*

3.2.1.1. General information and information related to the starting and raw materials

a) Information on the nomenclature of the active substance shall be provided, including recommended International Non-proprietary Name (INN), European Pharmacopoeia name if relevant, chemical name(s).

The structural formula, including relative and absolute stereo-chemistry, the molecular formula, and the relative molecular mass shall be provided. For biotechnological medicinal products if appropriate, the schematic amino acid sequence and relative molecular mass shall be provided.

A list shall be provided of physicochemical and other relevant properties of the active substance, including biological activity for biological medicinal products.

b) For the purposes of this Annex, starting materials shall mean all the materials from which the active substance is manufactured or extracted.

For biological medicinal products, starting materials shall mean any substance of biological origin such as micro-organisms, organs and tissues of either plant or animal origin, cells or fluids (including blood or plasma) of human or animal origin, and biotechnological cell constructs (cell substrates, whether they are recombinant or not, including primary cells).

PUBLIC

A biological medicinal product is a product, the active substance of which is a biological substance. A biological substance is a substance that is produced by or extracted from a biological source and that needs for its characterisation and the determination of its quality a combination of physico-chemical-biological testing, together with the production process and its control. The following shall be considered as biological medicinal products: immunological medicinal products and medicinal products derived from human blood and human plasma as defined, respectively in paragraphs (4) and (10) of Article 1; medicinal products falling within the scope of Part A of the Annex to Regulation (EEC) No 2309/93; advanced therapy medicinal products as defined in Part IV of this Annex.

Any other substances used for manufacturing or extracting the active substance(s) but from which this active substance is not directly derived, such as reagents, culture media, foetal calf serum, additives, and buffers involved in chromatography, etc. are known as raw materials.

3.2.1.2. Manufacturing process of the active substance(s)

a) The description of the active substance manufacturing process represents the applicant's commitment for the manufacture of the active substance. To adequately describe the manufacturing process and process controls, appropriate information as laid down in guidelines published by the Agency shall be provided.

PUBLIC

b) All materials needed in order to manufacture the active substance(s) shall be listed, identifying where each material is used in the process. Information on the quality and control of these materials shall be provided. Information demonstrating that materials meet standards appropriate for their intended use shall be provided.

Raw materials shall be listed and their quality and controls shall also be documented.

The name, address, and responsibility of each manufacturer, including contractors, and each proposed production site or facility involved in manufacturing and testing shall be provided.

c) For biological medicinal products, the following additional requirements shall apply.

The origin and history of starting materials shall be described and documented.

Regarding the specific measures for the prevention of the Transmission of animal Spongiform Encephalopathies, the applicant must demonstrate that the active substance complies with the Note for Guidance on Minimising the Risk of Transmitting Animal Spongiform Encephalopathy Agents via Medicinal Products and its updates, published by the Commission in the Official Journal of the European Union.

When cell banks are used, the cell characteristics shall be shown to have remained unchanged at the passage level used for the production and beyond.

PUBLIC

Seed materials, cell banks, pools of serum or plasma and other materials of biological origin and, whenever possible, the materials from which they are derived shall be tested for adventitious agents.

If the presence of potentially pathogenic adventitious agents is inevitable, the corresponding material shall be used only when further processing ensures their elimination and/or inactivation, and this shall be validated.

Whenever possible, vaccine production shall be based on a seed lot system and on established cell banks. For bacterial and viral vaccines, the characteristics of the infectious agent shall be demonstrated on the seed. In addition, for live vaccines, the stability of the attenuation characteristics shall be demonstrated on the seed; if this proof is not sufficient, the attenuation characteristics shall also be demonstrated at the production stage.

For medicinal products derived from human blood or plasma, the origin and the criteria and procedures for collection, transportation and storage of the starting material shall be described and documented in accordance with provisions laid down in Part III of this Annex.

The manufacturing facilities and equipment shall be described.

PUBLIC

d) Tests and acceptance criteria carried out at every critical step, information on the quality and control of intermediates and process validation and/or evaluation studies shall be provided as appropriate.

e) If the presence of potentially pathogenic adventitious agents is inevitable, the correspondent material shall be used only when further processing ensures their elimination and/or inactivation and this shall be validated in the section dealing with viral safety evaluation.

f) A description and discussion of the significant changes made to the manufacturing process during development and/or manufacturing site of the active substance shall be provided.

3.2.1.3. Characterisation of the active substance(s)

Data highlighting the structure and other characteristics of the active substance(s) shall be provided.

Confirmation of the structure of the active substance(s) based on any physico-chemical and/or immuno-chemical and/or biological methods, as well as information on impurities shall be provided.

PUBLIC

3.2.1.4. Control of activesubstance(s)

Detailed information on the specifications used for routine control of active substance(s), justification for the choice of these specifications, methods of analysis and their validation shall be provided.

The results of control carried out on individual batches manufactured during development shall be presented.

3.2.1.5. Reference standards or materials

Reference preparations and standards shall be identified and described in detail. Where relevant, chemical and biological reference material of the European Pharmacopoeia shall be used.

3.2.1.6. Container and closure system of the active substance

A description of the container and the closure system(s) and their specifications shall be provided.

3.2.1.7. Stability of the active substance(s)

a) The types of studies conducted, protocols used, and the results of the studies shall be summarised

b) Detailed results of the stability studies, including information on the analytical procedures used to generate the data and validation of these procedures shall be presented in an appropriate format

PUBLIC

c) The post authorisation stability protocol and stability commitment shall be provided

3.2.2 Finished medicinal product

3.2.2.1 Description and composition of the finished medicinal product

A description of the finished medicinal product and its composition shall be provided. The information shall include the description of the pharmaceutical form and composition with all the constituents of the finished medicinal product, their amount on a per-unit basis, the function of the constituents of:

– the active substance(s),

– the constituent(s) of the excipients, whatever their nature or the quantity used, including colouring matter, preservatives, adjuvants, stabilisers, thickeners, emulsifiers, flavouring and aromatic substances, etc.,

– the constituents, intended to be ingested or otherwise administered to the patient, of the outer covering of the medicinal products (hard capsules, soft capsules, rectal capsules, coated tablets, films-coated tablets, etc.),

– these particulars shall be supplemented by any relevant data concerning the type of container and, where appropriate, its manner of closure, together with details of devices with which the medicinal product will be used or administered and which will be delivered with the medicinal product.

PUBLIC

The ‘usual terminology’, to be used in describing the constituents of medicinal products, shall mean, notwithstanding the application of the other provisions in Article 8 (3) (c):

– in respect of substances which appear in the European Pharmacopoeia or, failing this, in the national pharmacopoeia of one of the Member States, the main title at the head of the monograph in question, with reference to the pharmacopoeia concerned,

– in respect of other substances, the international non-proprietary name (INN) recommended by the World Health Organisation, or, failing this, the exact scientific designation; substances not having an international non-proprietary name or an exact scientific designation shall be described by a statement of how and from what they were prepared, supplemented, where appropriate, by any other relevant details,

– in respect of colouring matter, designation by the ‘E’ code assigned to them in Council Directive 78/25/EEC of 12 December 1977 on the approximation of the rules of the Member States concerning the colouring matters authorised for use in medicinal products[57] and/or European Parliament and Council Directive 94/36/EC of 30 June 1994 on colours for use in foodstuffs[58].

In order to give the ‘quantitative composition’ of the active substance(s) of the finished medicinal products, it is necessary, depending on the pharmaceutical form concerned, to specify the mass, or the number of units of biological activity, either per dosage-unit or per unit of mass or volume, of each active substance.

[57] OJ L 11, 14.1.1978, p. 18
[58] OJ L 237, 10.9.1994, p. 13

Active substances present in the form of compounds or derivatives shall be designated quantitatively by their total mass, and if necessary or relevant, by the mass of active entity or entities of the molecule.

For medicinal products containing an active substance, which is the subject of an application for marketing authorisation in any Member State for the first time, the quantitative statement of an active substance, which is a salt or hydrate shall be systematically expressed in terms of the mass of the active entity or entities in the molecule. All subsequently authorised medicinal products in the Member States shall have their quantitative composition stated in the same way for the same active substance.

Units of biological activity shall be used for substances, which cannot be defined molecularly. Where an International Unit of biological activity has been defined by the World Health Organisation, this shall be used. Where no International Unit has been defined, the units of biological activity shall be expressed in such a way as to provide unambiguous information on the activity of the substances by using where applicable the European Pharmacopoeia Units.

3.2.2.2. Pharmaceutical development

This chapter shall be devoted to information on the development studies conducted to establish that the dosage form, the formulation, manufacturing process, container closure system, microbiological attributes and usage instructions are appropriate for the intended use specified in the marketing authorisation application dossier.

PUBLIC

The studies described in this chapter are distinct from routine control tests conducted according to specifications. Critical parameters of the formulation and process attributes that can influence batch reproducibility, medicinal product performance and medicinal product quality shall be identified and described. Additional supportive data, where appropriate, shall be referenced to the relevant chapters of Module 4 (Non Clinical Study Reports) and Module 5 (Clinical Study Reports) of the marketing authorisation application dossier.

a) The compatibility of the active substance with excipients as well as key physicochemical characteristics of the active substance that can influence the performance of the finished product or the compatibility of different active substances with each other in the case of combination products, shall be documented.

b) The choice of excipients, in particular relative to their respective functions and concentration shall be documented.

c) A description of the development of the finished product shall be provided, taking into consideration the proposed route of administration and usage.

d) Any overages in the formulation(s) shall be warranted.

e) As far as the physiochemical and biological properties are concerned, any parameter relevant to the performance of finished product shall be addressed and documented.

f) The selection and optimisation of the manufacturing process as well as differences between the manufacturing process(es) used to produce pivotal clinical batches and the process used for manufacturing the proposed finished medicinal product shall be provided.

PUBLIC

g) The suitability of the container and closure system used for the storage, shipping and use of the finished product shall be documented. A possible interaction between medicinal product and container may need to be considered.

h) The microbiological attributes of the dosage form in relation with non-sterile and sterile products shall be in accordance with and documented as prescribed in the European Pharmacopoeia.

i) In order to provide appropriate and supportive information for the labelling the compatibility of the finished product with reconstitution diluent(s) or dosage devices shall be documented

3.2.2.3. Manufacturing process of the finished medicinal product

a) The description of the manufacturing method accompanying the application for Marketing Authorisation pursuant to Article 8 (3) (d), shall be drafted in such a way as to give an adequate synopsis of the nature of the operations employed.

For this purpose it shall include at least:

– mention of the various stages of manufacture including process controls and corresponding acceptance criteria, so that an assessment can be made of whether the processes employed in producing the pharmaceutical form might have produced an adverse change in the constituents,

PUBLIC

– in the case of continuous manufacture, full details concerning precautions taken to ensure the homogeneity of the finished product,

– experimental studies validating the manufacturing process, where a non-standard method of manufacture is used or where it is critical for the product,

– for sterile medicinal products, details of the sterilisation processes and/or aseptic procedures used,

– a detailed batch formula.

The name, address, and responsibility of each manufacturer, including contractors, and each proposed production site or facility involved in manufacturing and testing shall be provided.

b) Particulars relating to the product control tests that may be carried out at an intermediate stage of the manufacturing process, with a view to ensuring the consistency of the production process shall be included.

These tests are essential for checking the conformity of the medicinal product with the formula when, exceptionally, an applicant proposes an analytical method for testing the finished product which does not include the assay of all the active substances (or of all the excipient constituents subject to the same requirements as the active substances).

PUBLIC

The same applies where the quality control of the finished product depends on in-process control tests, particularly if the medicinal product is essentially defined by its method of preparation.

c) Description, documentation, and results of the validation studies for critical steps or critical assays used in the manufacturing process shall be provided.

3.2.2.4. Control of excipients

a) All the materials needed in order to manufacture the excipient(s) shall be listed identifying where each material is used in the process. Information on the quality and control of these materials shall be provided. Information demonstrating that materials meet standards appropriate for their intended use shall be provided.

Colouring matter shall, in all cases, satisfy the requirements of Directives 78/25/EEC and/or 94/36/EC. In addition, colouring matter shall meet purity criteria as laid down in Directive 95/45/EC, as amended.

b) For each excipient, the specifications and their justifications shall be detailed. The analytical procedures shall be described and duly validated.

PUBLIC

c) Specific attention shall be paid to excipients of human or animal origin.

Regarding the specific measures for the prevention of the Transmission of animal Spongiform Encephalopathies, the applicant must demonstrate also for excipients that the medicinal product is manufactured in accordance with the Note for Guidance on Minimising the Risk of Transmitting Animal Spongiform Encephalopathy Agents via Medicinal Products and its updates, published by the Commission in the Official Journal of the European Union.

Demonstration of compliance with the aforementioned Note for Guidance can be done by submitting either preferably a certificate of suitability to the relevant monograph on Transmissible Spongiform Encephalopathies of the European Pharmacopoeia, or by the supply of scientific data to substantiate this compliance.

d) Novel excipients:

For excipient(s) used for the first time in a medicinal product or by a new route of administration, full details of manufacture, characterisation, and controls, with cross references to supporting safety data, both non-clinical and clinical, shall be provided according to the active substance format previously described.

A document containing the detailed chemical, pharmaceutical and biological information shall be presented. This information shall be formatted in the same order as the chapter devoted to Active Substance(s) of Module 3.

PUBLIC

Information on novel excipient(s) may be presented as a stand-alone document following the format described in the former paragraphs. Where the applicant differs from the novel excipient manufacturer the said stand-alone document shall be made available to the applicant for submission to the competent authority.

Additional information on toxicity studies with the novel excipient shall be provided in Module 4 of the dossier.

Clinical studies shall be provided in Module 5.

3.2.2.5. Control of the finished medicinal product

For the control of the finished medicinal product, a batch of a medicinal product is an entity which comprises all the units of a pharmaceutical form which are made from the same initial quantity of material and have undergone the same series of manufacturing and/or sterilisation operations or, in the case of a continuous production process, all the units manufactured in a given period of time.

Unless there is appropriate justification, the maximum acceptable deviation in the active substance content of the finished product shall not exceed ± 5 % at the time of manufacture.

Detailed information on the specifications, (release and shelf life) justification for their choice, methods of analysis and their validation shall be provided.

PUBLIC

3.2.2.6. Reference standards or materials

Reference preparations and standards used for testing of the finished medicinal product shall be identified and described in detail, if not previously provided in the section related to the active substance.

3.2.2.7. Container and closure of the finished medicinal product

A description of the container and the closure system(s) including the identity of each immediate packaging material and their specifications shall be provided. The specifications shall include description and identification. Non-pharmacopoeial methods (with validation) shall be included where appropriate.

For non-functional outer packaging materials only a brief description shall be provided. For functional outer packaging materials additional information shall be provided.

3.2.2.8. Stability of the finished medicinal product

a) The types of studies conducted, protocols used, and the results of the studies shall be summarised;

b) Detailed results of the stability studies, including information on the analytical procedures used to generate the data and validation of these procedures shall be presented in an appropriate format; in case of vaccines, information on cumulative stability shall be provided where appropriate;

c) The post authorisation stability protocol and stability commitment shall be provided.

PUBLIC

4. MODULE 4: NON-CLINICAL REPORTS

4.1. **The general outline of Module 4 is as follows:**

– Table of contents

– Study reports

  – *Pharmacology*

    – Primary Pharmaco-dynamics

    – Secondary Pharmaco-dynamics

    – Safety Pharmacology

    – Pharmaco-dynamic Interactions

  – *Pharmaco-kinetics*

    – Analytical Methods and Validation Reports

    – Absorption

    – Distribution

    – Metabolism

    – Excretion

    – Pharmaco-kinetic Interactions (non-clinical)

    – Other Pharmaco-kinetic Studies Interactions

PUBLIC

- *Toxicology*
  - Single-Dose Toxicity
  - Repeat-Dose Toxicity Interactions
  - Genotoxicity
    - In vitro
    - In vivo (including supportive toxico-kinetics evaluations) Interactions
- Carcinogenicity
  - Long-term studies
  - Short- or medium-term studies
  - Other studies Interactions
- Reproductive and Developmental Toxicity
  - Fertility and early embryonic development
  - Embryo-fetal development
  - Prenatal and postnatal development
  - Studies in which the offspring (juvenile animals) are dosed and/or further evaluated

PUBLIC

- Local Tolerance Interactions

- *Other Toxicity Studies*
  - Antigenicity
  - Immuno-toxicity
  - Mechanistic studies
  - Dependence
  - Metabolites
  - Impurities
  - Other

- Literature references

PUBLIC

4.2. **Content: basic principles and requirements**

Special attention shall be paid to the following selected elements.

(1) The pharmacological and toxicological tests must show:

a) the potential toxicity of the product and any dangerous or undesirable toxic effects that may occur under the proposed conditions of use in human beings; these should be evaluated in relation to the pathological condition concerned;

b) the pharmacological properties of the product, in both qualitative and quantitative relationship to the proposed use in human beings. All results must be reliable and of general applicability. Whenever appropriate, mathematical and statistical procedures shall be used in designing the experimental methods and in evaluating the results.

Additionally, it is necessary for clinicians to be given information about the therapeutic and toxicological potential of the product.

(2) For biological medicinal products such as immunological medicinal products and medicinal products derived from human blood or plasma, the requirements of this Module may have to be adapted for individual products; therefore the testing program carried out shall be justified by the applicant.

PUBLIC

In establishing the testing program, the following shall be taken into consideration:

all tests requiring repeated administration of the product shall be designed to take account of the possible induction of, and interference by, antibodies;

examination of reproductive function, of embryo/foetal and peri-natal toxicity, of mutagenic potential and of carcinogenic potential shall be considered. Where constituents other than the active substance(s) are incriminated, validation of their removal may replace the study.

(3) The toxicology and pharmaco-kinetics of an excipient used for the first time in the pharmaceutical field shall be investigated.

(4) Where there is a possibility of significant degradation during storage of the medicinal product, the toxicology of degradation products must be considered.

PUBLIC

4.2.1. *Pharmacology*

Pharmacology study shall follow two distinct lines of approach.

– Firstly, the actions relating to the proposed therapeutic use shall be adequately investigated and described. Where possible, recognised and validated assays, both in vivo and in vitro, shall be used. Novel experimental techniques must be described in such detail as to allow them to be reproduced. The results shall be expressed in quantitative terms using, for example, dose-effect curves, time-effect curves, etc. Wherever possible, comparisons shall be made with data relating to a substance or substances with a similar therapeutic action.

– Secondly, the applicant shall investigate the potential undesirable pharmaco-dynamic effects of the substance on physiological functions. These investigations shall be performed at exposures in the anticipated therapeutic range and above. The experimental techniques, unless they are standard procedures, must be described in such detail as to allow them to be reproduced, and the investigator must establish their validity. Any suspected modification of responses resulting from repeated administration of the substance shall be investigated.

PUBLIC

For the pharmaco-dynamic medicinal product interaction, tests on combinations of active substances may be prompted either by pharmacological premises or by indications of therapeutic effect. In the first case, the pharmaco-dynamic study shall demonstrate those interactions, which might make the combination of value in therapeutic use. In the second case, where scientific justification for the combination is sought through therapeutic experimentation, the investigation shall determine whether the effects expected from the combination can be demonstrated in animals, and the importance of any collateral effects shall at least be investigated.

4.2.2. *Pharmaco-kinetics*

Pharmaco-kinetics means the study of the fate of the active substance, and its metabolites, within the organism, and covers the study of the absorption, distribution, metabolism (bio-transformation) and excretion of these substances.

The study of these different phases may be carried mainly by means of physical, chemical or possibly by biological methods, and by observation of the actual pharmaco-dynamic activity of the substance itself.

Information on distribution and elimination shall be necessary in all cases where such data are indispensable to determine the dosage for humans, and in respect of chemo-therapeutic substances (antibiotics, etc.) and substances whose use depends on their non-pharmaco-dynamic effects (e.g. numerous diagnostic agents, etc.).

PUBLIC

In vitro studies also can be carried out with the advantage of using human material for comparison with animal material (i.e. protein binding, metabolism, drug-drug interaction).

Pharmaco-kinetic investigation of all pharmacologically active substances is necessary. In the case of new combinations of known substances, which have been investigated in accordance with the provisions of this Directive, pharmaco-kinetic studies may not be required, if the toxicity tests and therapeutic experimentation justify their omission.

The pharmaco-kinetic program shall be design to allow comparison and extrapolation between animal and human.

4.2.3. *Toxicology*

a) Single-dose toxicity

A single-dose toxicity test shall mean a qualitative and quantitative study of the toxic reactions, which may result from a single administration of the active substance or substances contained in the medicinal product, in the proportions and physico-chemical state in which they are present in the actual product.

The single-dose toxicity test must be carried out in accordance with the relevant guidelines published by the Agency.

PUBLIC

b) Repeat-dose toxicity

Repeated dose toxicity tests are intended to reveal any physiological and/or anatomo-pathological changes induced by repeated administration of the active substance or combination of active substances under examination, and to determine how these changes are related to dosage.

Generally, it is desirable that two tests be performed: one short term, lasting two to four weeks, the other long-term. The duration of the latter shall depend on the conditions of clinical use. Its purpose is to describe potential adverse effects to which attention should be paid in clinical studies. The duration is defined in the relevant guidelines published by the Agency.

c) Geno-toxicity

The purposes of the study of mutagenic and clastogenic potential is to reveal the changes which a substance may cause in the genetic material of individuals or cells. Mutagenic substances may present a hazard to health since exposure to a mutagen carries the risk of inducing germ-line mutation, with the possibility of inherited disorders, and the risk of somatic mutations including those leading to cancer. These studies are obligatory for any new substance.

PUBLIC

d) Carcino-genicity

Tests to reveal carcinogenic effects shall normally be required:

1. These studies shall be performed for any medicinal product whose expected clinical use is for a prolonged period of a patient's life, either continuously or repeatedly in an intermittent manner.

2. These studies are recommended for some medicinal products if there is concern about their carcinogenic potential, e.g. from product of the same class or similar structure, or from evidence in repeated dose toxicity studies.

3. Studies with unequivocally geno-toxic compounds are not needed, as they are presumed to be trans-species carcinogens, implying a hazard to humans. If such a medicinal product is intended to be administered chronically to humans a chronic study may be necessary to detect early tumorigenic effects.

e) Reproductive and developmental toxicity

Investigation of possible impairment of male or female reproductive function as well as harmful effects on progeny shall be performed by appropriate tests.

These tests comprise studies of effect on adult male or female reproductive function, studies of the toxic and teratogenic effects at all stages of development from conception to sexual maturity as well as latent effects, when the medicinal product under investigation has been administered to the female during pregnancy.

PUBLIC

Omission of these tests must be adequately justified.

Depending on the indicated use of the medicinal product, additional studies addressing development when administering the medicinal product of the offspring may be warranted.

Embryo/foetal toxicity studies shall normally be conducted on two mammalian species, one of which shall be other than a rodent. Peri- and postnatal studies shall be conducted in at least one species. If the metabolism of a medicinal product in particular species is known to be similar to that in man, it is desirable to include this species. It is also desirable that one of the species is the same as in the repeated dose toxicity studies.

The state of scientific knowledge at the time when the application is lodged shall be taken into account when determining the study design.

f) Local tolerance

The purpose of local tolerance studies is to ascertain whether medicinal products (both active substances and excipients) are tolerated at sites in the body, which may come into contact with the medicinal product as a result of its administration in clinical use. The testing strategy shall be such that any mechanical effects of administration or purely physico-chemical actions of the product can be distinguished from toxicological or pharmaco-dynamic ones.

PUBLIC

Local tolerance testing shall be conducted with the preparation being developed for human use, using the vehicle and/or excipients in treating the control group(s). Positive controls/reference substances shall be included where necessary.

The design of local tolerance tests (choice of species, duration, frequency and route of administration, doses) will depend upon the problem to be investigated and the proposed conditions of administration in clinical use. Reversibility of local lesions shall be performed where relevant.

Studies in animals can be substituted by validated in vitro tests provided that the test results are of comparable quality and usefulness for the purpose of safety evaluation.

For chemicals applied to the skin (e.g. dermal, rectal, vaginal) the sensitising potential shall be evaluated in at least one of the test systems currently available (the guinea pig assay or the local lymph node assay).

5. MODULE 5: CLINICAL STUDY REPORTS

5.1. **Format and Presentation**

The general outline of Module 5 is as follows:

– Table of contents for clinical study reports

– Tabular listing of all clinical studies

PUBLIC

- Clinical study reports
  - *Reports of Bio-pharmaceutical Studies*
    - Bio-availability Study Reports
    - Comparative Bio-availability and Bio-equivalence Study Reports
    - In vitro — In vivo Correlation Study Report
    - Reports of Bio-analytical and Analytical Methods
  - *Reports of Studies Pertinent to Pharmaco-kinetics Using Human Bio-materials*
    - Plasma Protein Binding Study Reports
    - Reports of Hepatic Metabolism and Interaction Studies
    - Reports of Studies Using Other Human Bio-materials Methods
    - Reports of Human Pharmaco-kinetic Studies
  - *Healthy subjects Pharmaco-kinetics and Initial Tolerability Study Reports*
    - Patient Pharmaco-kinetics and Initial Tolerability Study Reports
    - Intrinsic Factor Pharmaco-kinetics Study Reports
    - Extrinsic Factor Pharmaco-kinetics Study Reports
    - Population Pharmaco-kinetics Study Reports Methods

PUBLIC

- *Reports of Human Pharmaco-dynamic Studies*
  - Healthy Subject Pharmaco-dynamic and Pharmaco-kinetics/Pharmaco-dynamic Study Reports
  - Patient Pharmaco-dynamic and Pharmaco-kinetics/Pharmaco-dynamic Studies Study Reports Methods
- *Reports of Efficacy and Safety Studies*
  - Study Reports of Controlled Clinical Studies Pertinent to the Claimed Indication
  - Study Reports of Uncontrolled Clinical Studies
  - Reports of Analyses of Data from More than One Study including any formal integrated analyses, meta-analyses and bridging analyses
  - Other Study Reports Methods
- *Reports of Post-marketing Experience*

- Literature references Methods

PUBLIC

5.2 **Content: basic principles and requirements**

Special attention shall be paid to the following selected elements.

a) The clinical particulars to be provided pursuant to Articles 8 (3) (i) and 10 (1) must enable a sufficiently well-founded and scientifically valid opinion to be formed as to whether the medicinal product satisfies the criteria governing the granting of a marketing authorisation. Consequently, an essential requirement is that the results of all clinical trials should be communicated, both favourable and unfavourable.

b) Clinical trials must always be preceded by adequate pharmacological and toxicological tests, carried out on animals in accordance with the requirements of Module 4 of this Annex. The investigator must acquaint himself with the conclusions drawn from the pharmacological and toxicological studies and hence the applicant must provide him at least with the investigator's brochure, consisting of all the relevant information known prior to the onset of a clinical trial including chemical, pharmaceutical and biological data, toxicological, pharmaco-kinetic and pharmaco-dynamic data in animals and the results of earlier clinical trials, with adequate data to justify the nature, scale and duration of the proposed trial; the complete pharmacological and toxicological reports shall be provided on request. For materials of human or animal origin, all available means shall be employed to ensure safety from transmission of infectious agents prior to the commencement of the trial.

PUBLIC

c) Marketing authorisation holders must arrange for essential clinical trial documents (including case report forms) other than subject's medical files, to be kept by the owners of the data:

– for at least 15 years after completion or discontinuation of the trial,

– or for at least two years after the granting of the last marketing authorisation in the European Community and when there are no pending or contemplated marketing applications in the European Community,

– or for at least two years after formal discontinuation of clinical development of the investigational product.

Subject's medical files should be retained in accordance with applicable legislation and in accordance with the maximum period of time permitted by the hospital, institution or private practice.

The documents can be retained for a longer period, however, if required by the applicable regulatory requirements or by agreement with the sponsor. It is the responsibility of the sponsor to inform the hospital, institution or practice as to when these documents no longer need to be retained.

PUBLIC

The sponsor or other owner of the data shall retain all other documentation pertaining to the trial as long as the product is authorised. This documentation shall include: the protocol including the rationale, objectives and statistical design and methodology of the trial, with conditions under which it is performed and managed, and details of the investigational product, the reference medicinal product and/or the placebo used; standard operating procedures; all written opinions on the protocol and procedures; the investigator's brochure; case report forms on each trial subject; final report; audit certificate(s), if available. The final report shall be retained by the sponsor or subsequent owner, for five years after the medicinal product is no longer authorised.

In addition for trials conducted within the European Community, the marketing authorisation holder shall make any additional arrangements for archiving of documentation in accordance with the provisions of Directive 2001/20/EC and implementing detailed guidelines.

Any change of ownership of the data shall be documented.

All data and documents shall be made available if requested by relevant authorities.

PUBLIC

d) The particulars of each clinical trial must contain sufficient detail to allow an objective judgement to be made:

– the protocol, including the rationale, objectives and statistical design and methodology of the trial, with conditions under which it is performed and managed, and details of the investigational medicinal product used

– audit certificate(s), if available

– the list of investigator(s), and each investigator shall give his name, address, appointments, qualifications and clinical duties, state where the trial was carried out and assemble the information in respect of each patient individually, including case report forms on each trial subject

– final report signed by the investigator and for multi-centre trials, by all the investigators or the co-ordinating (principal) investigator.

e) The particulars of clinical trials referred to above shall be forwarded to the competent authorities. However, in agreement with the competent authorities, the applicant may omit part of this information. Complete documentation shall be provided forthwith upon request.

PUBLIC

The investigator shall, in his conclusions on the experimental evidence, express an opinion on the safety of the product under normal conditions of use, its tolerance, its efficacy and any useful information relating to indications and contra-indications, dosage and average duration of treatment as well as any special precautions to be taken during treatment and the clinical symptoms of over dosage. In reporting the results of a multi-centre study, the principal investigator shall, in his conclusions, express an opinion on the safety and efficacy of the investigational medicinal product on behalf of all centres.

f) The clinical observations shall be summarised for each trial indicating:

1) the number and sex of subjects treated;

2) the selection and age-distribution of the groups of patients being investigated and the comparative tests;

3) the number of patients withdrawn prematurely from the trials and the reasons for such withdrawal;

PUBLIC

4) where controlled trials were carried out under the above conditions, whether the control group:

   – received no treatment

   – received a placebo

   – received another medicinal product of known effect

   – received treatment other than therapy using medicinal products

5) the frequency of observed adverse reactions;

6) details concerning patients who may be at increased risk, e.g. elderly people, children, women during pregnancy or menstruation, or whose physiological or pathological condition requires special consideration;

7) parameters or evaluation criteria of efficacy and the results in terms of these parameters;

8) a statistical evaluation of the results when this is called for by the design of the trials and the variable factors involved.

PUBLIC

g) In addition, the investigator shall always indicate his observations on:

1) any signs of habituation, addiction or difficulty in weaning patients from the medicinal product;

2) any interactions that have been observed with other medicinal products administered concomitantly;

3) the criteria determining exclusion of certain patients from the trials;

4) any deaths which occurred during the trial or within the follow-up period.

h) Particulars concerning a new combination of medicinal substances must be identical to those required for new medicinal products and must substantiate the safety and efficacy of the combination.

i) Total or partial omission of data must be explained. Should unexpected results occur during the course of the trials, further pre clinical toxicological and pharmacological tests must be undertaken and reviewed.

j) If the medicinal product is intended for long-term administration, particulars shall be given of any modification of the pharmacological action following repeated administration, as well as the establishment of long-term dosage.

PUBLIC

5.2.1. *Reports of bio-pharmaceutics studies*

Bio-availability study reports, comparative bio-availability, bio-equivalence study reports, reports on in vitro and in vivo correlation study, and bio-analytical and analytical methods shall be provided.

In addition, an assessment of bio-availability shall be undertaken where necessary to demonstrate bio-equivalence for the medicinal products referred to in Article 10 (1) (a).

5.2.2. *Reports of studies pertinent to pharmaco-kinetics using human bio-materials*

For the purposes of this Annex, human bio-materials shall mean any proteins, cells, tissues and related materials derived from human sources that are used in vitro or ex vivo to assess pharmaco-kinetics properties of drug substances.

In this respect, reports of plasma protein binding study, hepatic metabolism and active substance interaction studies and studies using other human bio-materials shall be provided.

5.2.3. *Reports of human pharmaco-kinetic studies*

a) The following pharmaco-kinetic characteristics shall be described:

- absorption (rate and extent),
- distribution,
- metabolism,
- excretion.

PUBLIC

Clinically significant features including the implication of the kinetic data for the dosage regimen especially for patients at risk, and differences between man and animal species used in the pre clinical studies, shall be described.

In addition to standard multiple-sample pharmaco-kinetics studies, population pharmaco-kinetics analyses based on sparse sampling during clinical studies can also address questions about the contributions of intrinsic and extrinsic factors to the variability in the dose- pharmaco-kinetics response relationship. Reports of pharmaco-kinetic and initial tolerability studies in healthy subjects and in patients, reports of pharmaco-kinetic studies to assess effects of intrinsic and extrinsic factors, and reports of population pharmaco-kinetic studies shall be provided.

b) If the medicinal product is normally to be administered concomitantly with other medicinal products, particulars shall be given of joint administration tests performed to demonstrate possible modification of the pharmacological action.

Pharmaco-kinetic interactions between the active substance and other medicinal products or substances shall be investigated.

5.2.4. *Reports of human pharmaco-dynamic studies*

a) The pharmaco-dynamic action correlated to the efficacy shall be demonstrated including:

– the dose-response relationship and its time course,

– justification for the dosage and conditions of administration,

– the mode of action, if possible.

PUBLIC

The pharmaco-dynamic action not related to efficacy shall be described.

The demonstration of pharmaco-dynamic effects in human beings shall not in itself be sufficient to justify conclusions regarding any particular potential therapeutic effect.

b) If the medicinal product is normally to be administered concomitantly with other medicinal products, particulars shall be given of joint administration tests performed to demonstrate possible modification of the pharmacological action.

Pharmaco-dynamic interactions between the active substance and other medicinal products or substances shall be investigated.

5.2.5. *Reports of efficacy and safety studies*

5.2.5.1. Study Reports of Controlled Clinical Studies Pertinent to the Claimed indication

In general, clinical trials shall be done as 'controlled clinical trials' if possible, randomised and as appropriate versus placebo and versus an established medicinal product of proven therapeutic value; any other design shall be justified. The treatment of the control groups will vary from case to case and also will depend on ethical considerations and therapeutic area; thus it may, in some instances, be more pertinent to compare the efficacy of a new medicinal product with that of an established medicinal product of proven therapeutic value rather than with the effect of a placebo.

PUBLIC

(1) As far as possible, and particularly in trials where the effect of the product cannot be objectively measured, steps shall be taken to avoid bias, including methods of randomisation and blinding.

(2) The protocol of the trial must include a thorough description of the statistical methods to be employed, the number and reasons for inclusion of patients (including calculations of the power of the trial), the level of significance to be used and a description of the statistical unit. Measures taken to avoid bias, particularly methods of randomisation, shall be documented. Inclusion of a large number of subjects in a trial must not be regarded as an adequate substitute for a properly controlled trial.

The safety data shall be reviewed taking into account guidelines published by the Commission, with particular attention to events resulting in changes of dose or need for concomitant medication, serious adverse events, events resulting in withdrawal, and deaths. Any patients or patient groups at increased risk shall be identified and particular attention paid to potentially vulnerable patients who may be present in small numbers, e.g., children, pregnant women, frail elderly, people with marked abnormalities of metabolism or excretion etc. The implication of the safety evaluation for the possible uses of the medicinal product shall be described.

PUBLIC

5.2.5.2. Study reports of uncontrolled clinical studies reports of analyses of data from more than one study and other clinical study reports

These reports shall be provided.

5.2.6. *Reports of post-marketing experience*

If the medicinal product is already authorised in third countries, information shall be given in respect of adverse reactions of the medicinal product concerned and medicinal products containing the same active substance(s), in relation to the usage rates if possible.

5.2.7. *Case reports forms and individual patient listings*

When submitted in accordance with the relevant Guideline published by the Agency, case report forms and individual patient data listings shall be provided and presented in the same order as the clinical study reports and indexed by study.

PUBLIC

PART II

SPECIFIC MARKETING AUTHORISATION DOSSIERS AND REQUIREMENTS

Some medicinal products present specific features which are such that all the requirements of the marketing authorisation application dossier as laid down in Part I of this Annex need to be adapted. To take account of these particular situations, an appropriate and adapted presentation of the dossier shall be followed by applicants.

1. WELL-ESTABLISHED MEDICINAL USE

For medicinal products the active substance(s) of which has/have a 'well-established medicinal use' as referred to Article 10(1)(a)(ii), with recognised efficacy and an acceptable level of safety, the following specific rules shall apply.

The applicant shall submit Modules 1, 2 and 3 as described in part I of this Annex.

For Modules 4 and 5, a detailed scientific bibliography shall address non-clinical and clinical characteristics.

The following specific rules shall apply in order to demonstrate the well-established medicinal use:

a) Factors which have to be taken into account in order to establish a well-established medicinal use of constituents of medicinal products are:

– the time over which a substance has been used,

PUBLIC

– quantitative aspects of the use of the substance,

– the degree of scientific interest in the use of the substance (reflected in the published scientific literature) and

– the coherence of scientific assessments.

Therefore different periods of time may be necessary for establishing well-established use of different substances. In any case, however, the period of time required for establishing a well established medicinal use of a constituent of a medicinal product must not be less than one decade from the first systematic and documented use of that substance as a medicinal product in the Community.

b) The documentation submitted by the applicant should cover all aspects of the safety and/or efficacy assessment and must include or refer to a review of the relevant literature, taking into account pre- and post-marketing studies and published scientific literature concerning experience in the form of epidemiological studies and in particular of comparative epidemiological studies. All documentation, both favourable and unfavourable, must be communicated. With respect to the provisions on 'well-established medicinal use' it is in particular necessary to clarify that 'bibliographic reference' to other sources of evidence (post marketing studies, epidemiological studies, etc.) and not just data related to tests and trials may serve as a valid proof of safety and efficacy of a product if an application explains and justifies the use of these sources of information satisfactorily.

PUBLIC

c) Particular attention must be paid to any missing information and justification must be given why demonstration of an acceptable level of safety and/or efficacy can be supported although some studies are lacking.

d) The non-clinical and/or clinical overviews must explain the relevance of any data submitted which concern a product different from the product intended for marketing. A judgement must be made whether the product studied can be considered as similar to the product, for which application for a marketing authorisation has been made in spite of the existing differences.

e) Post-marketing experience with other products containing the same constituents is of particular importance and applicants should put a special emphasis on this issue.

2. ESSENTIALLY SIMILAR MEDICINAL PRODUCTS

a) Applications based upon Article 10(1) (a) (i) (essentially similar products) shall contain the data described in Modules 1, 2 and 3 of Part I of this Annex provided the applicant has been granted the consent of the holder of the original marketing authorisation to cross refer to the content of his Modules 4 and 5.

b) Applications based upon Article 10(1) (a) (iii) (essentially similar products i.e. generics) shall contain the data described in Modules 1, 2 and 3 of Part I of this Annex together with data showing bio-availability and bio-equivalence with the original medicinal product provided the latter is not a biological medicinal product (see Part II, 4 Similar biological medicinal products).

PUBLIC

For these products the non-clinical/clinical overviews/summaries shall particularly focus on the following elements:

– the grounds for claiming essential similarity;

– a summary of impurities present in batches of the active substance(s) as well as those of the finished medicinal product (and where relevant decomposition products arising during storage) as proposed for use in the product to be marketed together with an evaluation of these impurities;

– an evaluation of the bio-equivalence studies or a justification why studies were not performed with respect to the guideline on 'Investigation of Bio-availability and Bio-equivalence';

– an update of published literature relevant to the substance and the present application. It may be acceptable for articles in 'peer review' journals to be annotated for this purpose;

– every claim in the summary of product characteristics not known from or inferred from the properties of the medicinal product and/or its therapeutic group should be discussed in the non clinical/clinical overviews/summaries and substantiated by published literature and/or additional studies.

– if applicable, additional data in order to demonstrate evidence on the equivalence of safety and efficacy properties of different salts, esters or derivatives of an authorised active substance should be provided by the applicant when he claims essential similarity.

PUBLIC

3. ADDITIONAL DATA REQUIRED IN SPECIFIC SITUATIONS

Where the active substance of an essentially similar medicinal product contains the same therapeutic moiety as the original authorised product associated with a different salt/ester complex/derivative evidence that there is no change in the pharmaco-kinetics of the moiety, pharmaco-dynamics and/or in toxicity which could change the safety/efficacy profile shall be demonstrated. Should this not be the case, this association shall be considered as a new active substance.

Where a medicinal product is intended for a different therapeutic use or presented in a different pharmaceutical form or to be administered by different routes or in different doses or with a different posology, the results of appropriate toxicological and pharmacological tests and/or of clinical trials shall be provided.

4. SIMILAR BIOLOGICAL MEDICINAL PRODUCTS

The provisions of Article 10(1)(a) (iii) may not be sufficient in the case of biological medicinal products. If the information required in the case of essentially similar products (generics) does not permit the demonstration of the similar nature of two biological medicinal products, additional data, in particular, the toxicological and clinical profile shall be provided.

When a biological medicinal product as defined in Part I, paragraph 3.2 of this Annex, which refers to an original medicinal product having been granted a marketing authorisation in the Community, is submitted for a marketing authorisation by an independent applicant after the expiry of data protection period, the following approach shall be applied.

PUBLIC

– Information to be supplied shall not be limited to Modules 1, 2 and 3 (pharmaceutical, chemical and biological data), supplemented with bio-equivalence and bio-availability data. The type and amount of additional data (i.e. toxicological and other non-clinical and appropriate clinical data) shall be determined on a case by case basis in accordance with relevant scientific guidelines.

– Due to the diversity of biological medicinal products, the need for identified studies foreseen in Modules 4 and 5, shall be required by the competent authority, taking into account the specific characteristic of each individual medicinal product.

The general principles to be applied are addressed in a guideline taking into account the characteristics of the concerned biological medicinal product published by the Agency. In case the originally authorised medicinal product has more than one indication, the efficacy and safety of the medicinal product claimed to be similar has to be justified or, if necessary, demonstrated separately for each of the claimed indications.

5. FIXED COMBINATION MEDICINAL PRODUCTS

Applications based upon Article 10 (1) (b) shall relate to new medicinal products made of at least two active substances not previously authorised as a fixed combination medicinal product.

For those applications a full dossier (Modules 1 to 5) shall be provided for the fixed combination medicinal product. Where applicable, information regarding the manufacturing sites and the adventitious agents, safety evaluation shall be provided.

PUBLIC

6. DOCUMENTATION FOR APPLICATIONS IN EXCEPTIONAL CIRCUMSTANCES

When, as provided for in Article 22, the applicant can show that he is unable to provide comprehensive data on the efficacy and safety under normal conditions of use, because:

– the indications for which the product in question is intended are encountered so rarely that the applicant cannot reasonably be expected to provide comprehensive evidence, or

– in the present state of scientific knowledge, comprehensive information cannot be provided, or

– it would be contrary to generally accepted principles of medical ethics to collect such information,

marketing authorisation may be granted subject to certain specific obligations.

These obligations may include the following:

– the applicant shall complete an identified programme of studies within a time period specified by the competent authority, the results of which shall form the basis of a reassessment of the benefit/risk profile,

– the medicinal product in question may be supplied on medical prescription only and may in certain cases be administered only under strict medical supervision, possibly in a hospital and in the case of a radio-pharmaceutical, by an authorised person,

PUBLIC

– the package leaflet and any medical information shall draw the attention of the medical practitioner to the fact that the particulars available concerning the medicinal product in question are as yet inadequate in certain specified respects.

7. MIXED MARKETING AUTHORISATION APPLICATIONS

Mixed marketing-authorisation applications shall mean marketing-authorisation application dossiers where Module 4 and/or 5 consists of a combination of reports of limited non-clinical and/or clinical studies carried out by the applicant and of bibliographical references. All other Module(s) are in accordance with the structure described in Part I of this Annex. The competent authority shall accept the proposed format presented by the applicant on a case by case basis.

PUBLIC

PART III

PARTICULAR MEDICINAL PRODUCTS

This Part lays down specific requirements related to the nature of identified medicinal products.

13. BIOLOGICAL MEDICINAL PRODUCTS

1.1. **Plasma-derived medicinal product**

For medicinal products derived from human blood or plasma and by derogation from the provisions of Module 3, the dossier requirements mentioned in 'Information related to the starting and raw materials', for starting materials made of human blood/plasma may be replaced by a Plasma Master File certified in accordance with this Part.

a) P r i n c i p l e s

For the purposes of this Annex:

– Plasma Master File shall mean a stand-alone documentation, which is separate from the dossier for marketing authorisation which provides all relevant detailed information on the characteristics of the entire human plasma used as a starting material and/or a raw material for the manufacture of sub/intermediate fractions, constituents of the excipient and active substance(s), which are part of medicinal products or medical devices referred to in Directive 2000/70/EC of the European Parliament and of the Council of 16 November 2000 amending Council Directive 93/42/EC as regards medical devices incorporating stable derivatives of human blood or human plasma[59].

[59] OJ L 313, 13.12.2000, p. 22

– Every centre or establishment for fractionation/processing of human plasma shall prepare and keep updated the set of detailed relevant information referred to in the Plasma Master File.

– The Plasma Master File shall be submitted to the Agency or to the competent authority by the applicant for a marketing authorisation or the holder of the marketing authorisation. Where the applicant for a marketing authorisation or the marketing authorisation holder differs from the holder of the Plasma Master File, the Plasma Master File shall be made available to the applicant or marketing authorisation holder for submission to the competent authority. In any case, the applicant or marketing authorisation holder shall take responsibility for the medicinal product.

– The competent authority that is evaluating the marketing authorisation shall await for the Agency to issue the certificate before deciding on the application.

– Any marketing authorisation dossier containing a human plasma-derived constituent shall refer to the Plasma Master File corresponding to the plasma used as a starting/raw material.

PUBLIC

b) C o n t e n t

In accordance with the provisions of Article 109, as amended by Directive 2002/98/EC, which refers to the requirements for donors and the testing of donations, the Plasma Master File shall include information on the plasma used as starting/raw material, in particular:

(1) Plasma origin

(i) information on centres or establishments in which blood/plasma collection is carried out, including inspection and approval, and epidemiological data on blood transmissible infections.

(ii) information on centres or establishments in which testing of donations and plasma pools is carried out, including inspection and approval status.

(iii) selection/exclusion criteria for blood/plasma donors.

(iv) system in place which enables the path taken by each donation to be traced from the blood/plasma collection establishment through to finished products and vice versa.

PUBLIC

(2) Plasma quality and safety

(i) compliance with European Pharmacopoeia Monographs.

(ii) testing of blood/plasma donations and pools for infectious agents, including information on test methods and, in the case of plasma pools, validation data on the tests used.

(iii) technical characteristics of bags for blood and plasma collection, including information on anticoagulants solutions used.

(iv) conditions of storage and transport of plasma.

(v) procedures for any inventory hold and/or quarantine period.

(vi) characterisation of the plasma pool.

(3) System in place between the plasma-derived medicinal product manufacturer and/or plasma fractionator/processor on the one hand, and blood/plasma collection and testing centres or establishments on the other hand, which defines the conditions of their interaction and their agreed specifications.

PUBLIC

In addition, the Plasma Master File shall provide a list of the medicinal products for which the Plasma Master File is valid, whether the medicinal products have been granted a marketing authorisation or are in the process of being granted such an authorisation, including medicinal products referred to in Article 2 of Directive 2001/20/EC of the European Parliament and of the Council relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use.

c) Evaluation and Certification

– For medicinal products not yet authorised, the marketing authorisation applicant shall submit a full dossier to a competent authority, which shall be accompanied by a separate Plasma Master File where one does not already exist.

– The Plasma Master File is subject to a scientific and technical evaluation carried out by the Agency. A positive evaluation shall result in a certificate of compliance with Community legislation for the Plasma Master File, which shall be accompanied by the evaluation report. The certificate issued shall apply throughout the Community.

PUBLIC

– The Plasma Master File shall be updated and re-certified on an annual basis.

– Changes subsequently introduced to the terms of a Plasma Master File must follow evaluation procedure laid down by Commission Regulation (EC) No 542/95[60] concerning the examination of variations to the terms of a marketing authorisation falling within the scope of Council regulation (EEC) No 2309/93 of 22 July 1993 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products[61]. Conditions for the assessment of these changes are laid down by Regulation (EC) No 1085/2003.

– As a second step to the provisions in the first, second, third and fourth indents, the competent authority that will grant or has granted the marketing authorisation shall take into account the certification, re-certification or variation of the Plasma Master File on the concerned medicinal product(s).

– By derogation from the provisions of the second indent of the present point (evaluation and certification), where a Plasma Master File corresponds only to blood/plasma-derived medicinal products the marketing authorisation of which is restricted to a single Member State, the scientific and technical evaluation of the said Plasma Master File shall be carried out by the national competent authority of that Member State.

PUBLIC

[60] OJ L 55, 11.3.1995, p. 15
[61] OJ L 214, 24.8.1993, p. 1

1.2. **Vaccines**

For vaccines for human use and by derogation from the provisions of Module 3 on 'Active substance(s)', the following requirements when based on the use of a Vaccine Antigen Master File system shall apply.

The marketing authorisation application dossier of a vaccine other than human influenza vaccine, shall be required to include a Vaccine Antigen Master File for every vaccine antigen that is an active substance of this vaccine.

a) P r i n c i p l e s

For the purposes of this Annex:

– Vaccine Antigen Master File shall mean a stand-alone part of the marketing authorisation application dossier for a vaccine, which contains all relevant information of biological, pharmaceutical and chemical nature concerning each of the active substances, which are part of this medicinal product. The stand-alone part may be common to one or more monovalent and/or combined vaccines presented by the same applicant or marketing authorisation holder.

– A vaccine may contain one or several distinct vaccine antigens. There are as many active substance(s) as vaccine antigen(s) present in a vaccine.

– A combined vaccine contains at least two distinct vaccine antigens aimed at preventing a single or several infectious diseases.

PUBLIC

– A monovalent vaccine is a vaccine, which contains one vaccine antigen aimed at preventing a single infectious disease.

b) C o n t e n t

The Vaccine Antigen Master File shall contain the following information extracted from the relevant part (Active substance) of Module 3 on 'Quality Data' as delineated in Part I of this Annex:

Active Substance

1. General Information, including compliance with the relevant monograph(s) of the European Pharmacopoeia.

2. Information on the manufacture of the active substance: this heading must cover the manufacturing process, information on the starting and raw materials, specific measures on TSEs and adventitious agents safety evaluation and facilities and equipment.

3. Characterisation of the active substance

4. Quality control of the active substance

5. Reference standard and materials

6. Container and closure system of the active substance

7. Stability of the active substance.

PUBLIC

c) Evaluation and Certification

– For novel vaccines, which contain a novel vaccine antigen, the applicant shall submit to a competent authority a full marketing-authorisation application dossier including all the Vaccine Antigen Master Files corresponding to each single vaccine antigen that is part of the novel vaccine where no master file already exists for the single vaccine antigen. A scientific and technical evaluation of each Vaccine Antigen Master File shall be carried out by the Agency. A positive evaluation shall result in a certificate of compliance to the European legislation for each Vaccine Antigen Master File, which shall be accompanied by the evaluation report. The certificate shall apply throughout the Community.

– The provisions of the first indent shall also apply to every vaccine, which consists of a novel combination of vaccine antigens, irrespective of whether or not one or more of these vaccine antigens are part of vaccines already authorised in the Community.

– Changes to the content of a Vaccine Antigen Master File for a vaccine authorised in the Community shall be subject to a scientific and technical evaluation carried out by the Agency in accordance with the procedure laid down in Commission Regulation (EC) No 1085/2003. In the case of a positive evaluation the Agency shall issue a certificate of compliance with Community legislation for the Vaccine Antigen Master File. The certificate issued shall apply throughout the Community.

PUBLIC

– By derogation from the provisions of the first, second and third indents of the present point (evaluation and certification), where a Vaccine Antigen Master File corresponds only to a vaccine which is the subject of a marketing authorisation which has not been/will not be granted according to a Community procedure, and, provided the authorised vaccine includes vaccine antigens which have not been evaluated through a Community procedure, the scientific and technical evaluation of the said Vaccine Antigen Master File and its subsequent changes, shall be carried out by the national competent authority that has granted the marketing authorisation.

– As a second step to the provisions in the first, second, third and fourth indents, the competent authority that will grant or has granted the marketing authorisation shall take into account the certification, re-certification or variation of the Vaccine Antigen Master File on the concerned medicinal product(s).

PUBLIC

2. RADIO-PHARMACEUTICALS AND PRECURSORS

2.1. **Radio-pharmaceuticals**

For the purposes of this chapter, applications based upon Articles 6 (2) and 9 shall provide a full dossier in which the following specific details shall be included:

Module 3

a) In the context of a radio-pharmaceutical kit, which is to be radio-labelled after supply by the manufacturer, the active substance is considered to be that part of the formulation which is intended to carry or bind the radio-nuclide. The description of the manufacturing method of radio-pharmaceutical kits shall include details of the manufacture of the kit and details of its recommended final processing to produce the radioactive medicinal product. The necessary specifications of the radio-nuclide shall be described in accordance, where relevant, with the general monograph or specific monographs of the European Pharmacopoeia. In addition, any compounds essential for the radio-labelling shall be described. The structure of the radio-labelled compound shall also be described.

For radio-nuclides, the nuclear reactions involved shall be discussed.

In a generator, both mother and daughter radio-nuclides shall be considered as active substances.

PUBLIC

b) Details of the nature of the radio-nuclide, the identity of the isotope, likely impurities, the carrier, the use and the specific activity shall be provided.

c) Starting materials include irradiation target materials.

d) Considerations on chemical/radiochemical purity and its relationship to bio-distribution shall be provided.

e) Radio-nuclide purity, radiochemical purity and specific activity shall be described.

f) For generators, details on the testing for mother and daughter radio-nuclides are required. For generator-eluates, tests for mother radio-nuclides and for other constituents of the generator system shall be provided.

g) The requirement to express the content of active substances in terms of the mass of active entities shall only apply to radio-pharmaceutical kits. For radio-nuclides, radioactivity shall be expressed in Becquerels at a given date and, if necessary, time with reference to time zone. The type of radiation shall be indicated.

h) For kits, the specifications of the finished product shall include tests on performance of products after radio-labelling. Appropriate controls on radiochemical and radio-nuclidic purity of the radio-labelled compound shall be included. Any material essential for radio-labelling shall be identified and assayed.

i) Information on stability shall be given for radio-nuclide generators, radio-nuclide kits and radio-labelled products. The stability during use of radio-pharmaceuticals in multi-dose vials shall be documented.

PUBLIC

Module 4

It is appreciated that toxicity may be associated with a radiation dose. In diagnosis, this is a consequence of *the* use of radio-pharmaceuticals; in therapy, it is the property desired. The evaluation of safety and efficacy of radio-pharmaceuticals shall, therefore, address requirements for medicinal products and radiation dosimetry aspects. Organ/tissue exposure to radiation shall be documented. Absorbed radiation dose estimates shall be calculated according to a specified, internationally recognised system by a particular route of administration.

Module 5

The results of clinical trials shall be provided where applicable otherwise justified in the clinical overviews.

2.2. **Radio-pharmaceutical precursors for radio-labelling purposes**

In the specific case of a radio-pharmaceutical precursor intended solely for radio-labelling purposes, the primary objective shall be to present information which would address the possible consequences of poor radio-labeling efficiency or in vivo dissociation of the radio-labeled conjugate, i.e. questions related to the effects produced in the patient by free radio-nuclide. In addition, it is also necessary to present relevant information relating to occupational hazards, i.e. radiation exposure to hospital staff and to the environment.

In particular, the following information where applicable shall be provided:

PUBLIC

Module 3

The provisions of Module 3 shall apply to the registration of radio-pharmaceutical precursors as define above (indents a) to i)), where applicable.

Module 4

Concerning single dose and repeat dose toxicity, the results of studies carried out in conformity with the provisions related to good laboratory practice laid down in Council Directives 87/18/EEC and 88/320/EEC shall be provided, unless otherwise justified.

Mutagenicity studies on the radio-nuclide are not considered to be useful in this particular case.

Information relating to the chemical toxicity and disposition of the relevant 'cold' nuclide shall be presented.

Module 5

Clinical information generated from clinical studies using on the precursor itself is not considered to be relevant in the specific case of a radio-pharmaceutical precursor intended solely for radio-labelling purposes.

However, information demonstrating the clinical utility of the radio-pharmaceutical precursor when attached to relevant carrier molecules shall be presented.

PUBLIC

3. HOMEOPATHIC MEDICINAL PRODUCTS

This section sets out specific provisions on the application of Modules 3 and 4 to homeopathic medicinal products as defined in Article 1(5).

Module 3

The provisions of Module 3 shall apply to the documents submitted in accordance with Article 15 in the simplified registration of homeopathic medicinal products referred to in Article 14(1) as well as to the documents for authorisation of other homeopathic medicinal products referred to in Article 16(1) with the following modifications.

a) Terminology

The Latin name of the homeopathic stock described in the marketing authorisation application dossier must be in accordance with the Latin title of the European Pharmacopoeia or, in absence thereof, by an official pharmacopoeia of a Member State. Where relevant the traditional name(s) used in each Member State shall be provided.

b) Control of starting materials

The particulars and documents on the starting materials, i.e. all of the materials used including raw materials and intermediates up to the final dilution to be incorporated into the finished medicinal product, accompanying the application shall be supplemented by additional data on the homeopathic stock.

PUBLIC

The general quality requirements shall apply to all of the starting and raw materials as well as intermediate steps of the manufacturing process up to the final dilution to be incorporated into the finished medicinal product. If possible, an assay is required if toxic components are present and if the quality cannot be controlled on final dilution to be incorporated because of the high dilution degree. Every step of the manufacturing process from the starting materials up to the final dilution to be incorporated into the finished medicinal product must be fully described.

In case dilutions are involved, these dilution steps should be done in accordance with the homeopathic manufacturing methods laid down in the relevant monograph of the European Pharmacopoeia or, in absence thereof, by an official pharmacopoeia of a Member State.

c) Control tests on the finished medicinal product

The general quality requirements shall apply to the homeopathic finished medicinal products, any exception needs to be duly justified by the applicant.

Identification and assay of all the toxicologically relevant constituents shall be carried out. If it can be justified that an identification and/or an assay on all the toxicologically relevant constituents is not possible e.g. due to their dilution in the finished medicinal product the quality shall be demonstrated by complete validation of the manufacturing and dilution process.

PUBLIC

d) Stability tests

The stability of the finished medicinal product must be demonstrated. Stability data from the homeopathic stocks are generally transferable to dilutions/triturations obtained thereof. If no identification or assay of the active substance is possible due to the degree of dilution, stability data of the pharmaceutical form may be considered.

Module 4

The provisions of Module 4 shall apply to the simplified registration of homeopathic *medicinal* products referred to in Article 14(1) with the following specifications.

Any *missing* information must be justified, e.g., justification must be given why demonstration of an acceptable level of safety can be supported although some studies are lacking.

4. HERBAL MEDICINAL PRODUCTS

Applications for herbal medicinal products shall provide a full dossier in which the following specific details shall be included.

Module 3

The provisions of Module 3, including compliance with monograph(s) of the European Pharmacopoeia, shall apply to the authorisation of herbal medicinal products. The state of scientific knowledge at the time when the application is lodged shall be taken into account.

PUBLIC

The following aspects specific to herbal medicinal products shall be considered:

(1) Herbal substances and herbal preparations

For the purposes of this Annex the terms ‘herbal substances and preparations’ shall be considered equivalent to the terms ‘herbal drugs and herbal drug preparations’, as defined in the European Pharmacopoeia.

With respect to the nomenclature of the herbal substance, the binomial scientific name of plant (genus, species, variety and author), and chemotype (where applicable), the parts of the plants, the definition of the herbal substance, the other names (synonyms mentioned in other Pharmacopoeias) and the laboratory code shall be provided.

With respect to the nomenclature of the herbal preparation, the binomial scientific name of plant (genus, species, variety and author), and chemotype (where applicable), the parts of the plants, the definition of the herbal preparation, the ratio of the herbal substance to the herbal preparation, the extraction solvent(s), the other names (synonyms mentioned in other Pharmacopoeias) and the laboratory code shall be provided.

To document the section of the structure for herbal substance(s) and herbal preparation(s) where applicable, the physical form, the description of the constituents with known therapeutic activity or markers (molecular formula, relative molecular mass, structural formula, including relative and absolute stereo-chemistry, the molecular formula, and the relative molecular mass) as well as other constituent(s) shall be provided.

PUBLIC

To document the section on the manufacturer of the herbal substance, the name, address, and responsibility of each supplier, including contractors, and each proposed site or facility involved in production/collection and testing of the herbal substance shall be provided, where appropriate.

To document the section on the manufacturer of the herbal preparation, the name, address, and responsibility of each manufacturer, including contractors, and each proposed manufacturing site or facility involved in manufacturing and testing of the herbal preparation shall be provided, where appropriate.

With respect to the description of manufacturing process and process controls for the herbal substance, information shall be provided to adequately describe the plant production and plant collection, including the geographical source of the medicinal plant and cultivation, harvesting, drying and storage conditions.

With respect to the description of manufacturing process and process controls for the herbal preparation, information shall be provided to adequately describe the manufacturing process of the herbal preparation, including description of the processing, solvents and reagents, purification stages and standardisation.

PUBLIC

With respect to the manufacturing process development, a brief summary describing the development of the herbal substance(s) and herbal preparation(s) where applicable shall be provided, taking into consideration the proposed route of administration and usage. Results comparing the phyto-chemical composition of the herbal substance(s) and herbal preparation(s) where applicable used in supporting bibliographic data and the herbal substance(s) and herbal preparation(s), where applicable, contained as active substance(s) in the herbal medicinal product applied for shall be discussed, where appropriate.

With respect to the elucidation of the structure and other characteristics of the herbal substance, information on the botanical, macroscopical, microscopical, phyto-chemical characterisation, and biological activity if necessary, shall be provided.

With respect to the elucidation of the structure and other characteristics of the herbal preparation, information on the phyto- and physicochemical characterisation, and biological activity if necessary, shall be provided.

The specifications for the herbal substance(s) and herbal preparation(s) where applicable shall be provided.

The analytical procedures used for testing the herbal substance(s) and herbal preparation(s) where applicable shall be provided.

PUBLIC

With respect to the validation of analytical procedures, analytical validation information, including experimental data for the analytical procedures used for testing the herbal substance(s) and herbal preparation(s) where applicable shall be provided.

With respect to batch analyses, description of batches and results of batch analyses for the herbal substance(s) and herbal preparation(s) where applicable shall be provided, including those for pharmacopoeial substances.

Justification for the specifications of the herbal substance(s) and herbal preparation(s) where applicable shall be provided.

Information on the reference standards or reference materials used for testing of the herbal substance(s) and herbal preparation(s) where applicable shall be provided.

Where the herbal substance or the herbal preparation is the subject of a monograph, the applicant can apply for a certificate of suitability that was granted by the European Directorate for the Quality of Medicines.

(2) Herbal Medicinal Products

With respect to the formulation development, a brief summary describing the development of the herbal medicinal product should be provided, taking into consideration the proposed route of administration and usage. Results comparing the phyto-chemical composition of the products used in supporting bibliographic data and the herbal medicinal product applied for shall be discussed, where appropriate.

PUBLIC

5. ORPHAN MEDICINAL PRODUCTS

– In the case of an orphan medicinal product in the meaning of Regulation (EC) No 141/2000, general provisions of Part II-6 (exceptional circumstances) can be applied. The applicant shall then justify in the non-clinical and clinical summaries the reasons for which it is not possible to provide the complete information and shall provide a justification of the benefit/risk balance for the orphan medicinal product concerned.

– When an applicant for an marketing authorisation for an orphan medicinal product invokes the provisions of Article 10 (1)(a)(ii) and Part II-1 of this Annex (well-established medicinal use), the systematic and documented use of the concerned substance can refer — as way of derogation — to the use of that substance in accordance with the provisions of Article 5 of this Directive.

PUBLIC

PART IV

ADVANCED THERAPY MEDICINAL PRODUCTS

1. INTRODUCTION

Marketing authorisation applications for advanced therapy medicinal products, as defined in point (a) of Article 2(1) of Regulation (EC) No 1394/2007, shall follow the format requirements (Modules 1, 2, 3, 4 and 5) described in Part I of this Annex.

The technical requirements for Modules 3, 4 and 5 for biological medicinal products, as described in Part I of this Annex, shall apply. The specific requirements for advanced therapy medicinal products described in sections 3, 4 and 5 of this part explain how the requirements in Part I apply to advanced therapy medicinal products. In addition, where appropriate and taking into account the specificities of advanced therapy medicinal products, additional requirements have been set.

Due to the specific nature of advanced therapy medicinal products, a risk-based approach may be applied to determine the extent of quality, non-clinical and clinical data to be included in the marketing authorisation application, in accordance with the scientific guidelines relating to the quality, safety and efficacy of medicinal products referred to in point 4 of the 'Introduction and general principles'.

PUBLIC

The risk analysis may cover the entire development. Risk factors that may be considered include: the origin of the cells (autologous, allogeneic, xenogeneic), the ability to proliferate and/or differentiate and to initiate an immune response, the level of cell manipulation, the combination of cells with bioactive molecules or structural materials, the nature of the gene therapy medicinal products, the extent of replication competence of viruses or micro-organisms used in vivo, the level of integration of nucleic acids sequences or genes into the genome, the long time functionality, the risk of oncogenicity and the mode of administration or use.

Relevant available non-clinical and clinical data or experience with other, related advanced therapy medicinal products may also be considered in the risk analysis.

Any deviation from the requirements of this Annex shall be scientifically justified in Module 2 of the application dossier. The risk analysis described above, when applied, shall also be included and described in Module 2. In this case, the methodology followed, the nature of the identified risks and the implications of the risk based approach for the development and evaluation program shall be discussed and any deviations from the requirements of this Annex resulting from the risk analysis shall be described.

PUBLIC

2. DEFINITIONS

For the purposes of this Annex, in addition to the definitions laid down in Regulation (EC) No 1394/2007, the definitions set out in sections 2.1 and 2.2 shall apply.

2.1. **Gene therapy medicinal product**

Gene therapy medicinal product means a biological medicinal product which has the following characteristics:

(a) it contains an active substance which contains or consists of a recombinant nucleic acid used in or administered to human beings with a view to regulating, repairing, replacing, adding or deleting a genetic sequence;

(b) its therapeutic, prophylactic or diagnostic effect relates directly to the recombinant nucleic acid sequence it contains, or to the product of genetic expression of this sequence.

Gene therapy medicinal products shall not include vaccines against infectious diseases.

PUBLIC

2.2. **Somatic cell therapy medicinal product**

Somatic cell therapy medicinal product means a biological medicinal product which has the following characteristics:

(a) contains or consists of cells or tissues that have been subject to substantial manipulation so that biological characteristics, physiological functions or structural properties relevant for the intended clinical use have been altered, or of cells or tissues that are not intended to be used for the same essential function(s) in the recipient and the donor;

(b) is presented as having properties for, or is used in or administered to human beings with a view to treating, preventing or diagnosing a disease through the pharmacological, immunological or metabolic action of its cells or tissues.

For the purposes of point (a), the manipulations listed in Annex I to Regulation (EC) No 1394/2007, in particular, shall not be considered as substantial manipulations.

PUBLIC

3. SPECIFIC REQUIREMENTS REGARDING MODULE 3

3.1. **Specific requirements for all advanced therapy medicinal products**

A description of the traceability system that the marketing authorisation holder intends to establish and maintain to ensure that the individual product and its starting and raw materials, including all substances coming into contact with the cells or tissues it may contain, can be traced through the sourcing, manufacturing, packaging, storage, transport and delivery to the hospital, institution or private practice where the product is used, shall be provided.

The traceability system shall be complementary to, and compatible with, the requirements established in Directive 2004/23/EC of the European Parliament and of the Council[62], as regards human cells and tissues other than blood cells, and Directive 2002/98/EC, as regards human blood cells.

3.2. **Specific requirements for gene therapy medicinal products**

3.2.1. *Introduction: finished product, active substance and starting materials*

[62] OJ L 102, 7.4.2004, p. 48

3.2.1.1. Gene therapy medicinal product containing recombinant nucleic acid sequence(s) or genetically modified microorganism(s) or virus(es)

The finished medicinal product shall consist of nucleic acid sequence(s) or genetically modified microorganism(s) or virus(es) formulated in their final immediate container for the intended medical use. The finished medicinal product may be combined with a medical device or active implantable medical device.

The active substance shall consist of nucleic acid sequence(s) or genetically modified microorganism(s) or virus(es).

3.2.1.2. Gene therapy medicinal product containing genetically modified cells

The finished medicinal product shall consist of genetically modified cells formulated in the final immediate container for the intended medical use. The finished medicinal product may be combined with a medical device or active implantable medical device.

The active substance shall consist of cells genetically modified by one of the products described in section 3.2.1.1 above.

3.2.1.3. In the case of products consisting of viruses or viral vectors, the starting materials shall be the components from which the viral vector is obtained, i.e. the master virus vector seed or the plasmids used to transfect the packaging cells and the master cell bank of the packaging cell line.

PUBLIC

3.2.1.4. In the case of products consisting of plasmids, non-viral vectors and genetically modified microorganism(s) other than viruses or viral vectors, the starting materials shall be the components used to generate the producing cell, i.e. the plasmid, the host bacteria and the master cell bank of recombinant microbial cells.

3.2.1.5. In the case of genetically modified cells, the starting materials shall be the components used to obtain the genetically modified cells, i.e. the starting materials to produce the vector, the vector and the human or animal cells. The principles of good manufacturing practice shall apply from the bank system used to produce the vector onwards.

3.2.2. *Specific requirements*

In addition to the requirements set out in sections 3.2.1 and 3.2.2 of Part I of this Annex, the following requirements shall apply:

(a) information shall be provided on all the starting materials used for the manufacture of the active substance, including the products necessary for the genetic modification of human or animal cells and, as applicable, subsequent culture and preservation of the genetically modified cells, taking into consideration the possible absence of purification steps;

(b) for products containing a microorganism or a virus, data on the genetic modification, sequence analysis, attenuation of virulence, tropism for specific tissues and cell types, cell cycle dependence of the microorganism or virus, pathogenicity and characteristics of the parental strain shall be provided;

PUBLIC

(c) process-related impurities and product-related impurities shall be described in the relevant sections of the dossier, and in particular replication competent virus contaminants if the vector is designed to be replication incompetent;

(d) for plasmids, quantification of the different plasmid forms shall be undertaken throughout the shelf life of the product;

(e) for genetically modified cells, the characteristics of the cells before and after the genetic modification, as well as before and after any subsequent freezing/storage procedures, shall be tested.

For genetically modified cells, in addition to the specific requirements for gene therapy medicinal products, the quality requirements for somatic cell therapy medicinal products and tissue engineered products (see section 3.3) shall apply.

3.3. **Specific requirements for somatic cell therapy medicinal products and tissue engineered products**

3.3.1. *Introduction: finished product, active substance and starting materials*

The finished medicinal product shall consist of the active substance formulated in its immediate container for the intended medical use, and in its final combination for combined advanced therapy medicinal products.

The active substance shall be composed of the engineered cells and/or tissues.

PUBLIC

Additional substances (e.g. scaffolds, matrices, devices, biomaterials, biomolecules and/or other components) which are combined with manipulated cells of which they form an integral part shall be considered as starting materials, even if not of biological origin.

Materials used during the manufacture of the active substance (e.g. culture media, growth factors) and that are not intended to form part of the active substance shall be considered as raw materials.

3.3.2. *Specific requirements*

In addition to the requirements set out in sections 3.2.1 and 3.2.2 of Part I of this Annex, the following requirements shall apply:

3.3.2.1. Starting materials

(a) Summary information shall be provided on donation, procurement and testing of the human tissue and cells used as starting materials and made in accordance with Directive 2004/23/EC. If non-healthy cells or tissues (e.g. cancer tissue) are used as starting materials, their use shall be justified.

(b) If allogeneic cell populations are being pooled, the pooling strategies and measures to ensure traceability shall be described.

(c) The potential variability introduced through the human or animal tissues and cells shall be addressed as part of the validation of the manufacturing process, characterisation of the active substance and the finished product, development of assays, setting of specifications and stability.

PUBLIC

(d) For xenogeneic cell-based products, information on the source of animals (such as geographical origin, animal husbandry, age), specific acceptance criteria, measures to prevent and monitor infections in the source/donor animals, testing of the animals for infectious agents, including vertically transmitted micro-organisms and viruses, and evidence of the suitability of the animal facilities shall be provided.

(e) For cell-based products derived from genetically modified animals, the specific characteristics of the cells related to the genetic modification shall be described. A detailed description of the method of creation and the characterisation of the transgenic animal shall be provided.

(f) For the genetic modification of the cells, the technical requirements specified in section 3.2 shall apply.

(g) The testing regimen of any additional substance (scaffolds, matrices, devices, biomaterials, biomolecules or other components), which are combined with engineered cells of which they form an integral part, shall be described and justified.

(h) For scaffolds, matrices and devices that fall under the definition of a medical device or active implantable medical device, the information required under section 3.4 for the evaluation of the combined advanced therapy medicinal product shall be provided.

PUBLIC

3.3.2.2. Manufacturing process

(a) The manufacturing process shall be validated to ensure batch and process consistency, functional integrity of the cells throughout manufacturing and transport up to the moment of application or administration, and proper differentiation state.

(b) If cells are grown directly inside or on a matrix, scaffold or device, information shall be provided on the validation of the cell culture process with respect to cell-growth, function and integrity of the combination.

3.3.2.3. Characterisation and control strategy

(a) Relevant information shall be provided on the characterisation of the cell population or cell mixture in terms of identity, purity (e.g. adventitious microbial agents and cellular contaminants), viability, potency, karyology, tumourigenicity and suitability for the intended medicinal use. The genetic stability of the cells shall be demonstrated.

(b) Qualitative and, where possible, quantitative information on product- and process-related impurities, as well as on any material capable of introducing degradation products during production, shall be provided. The extent of the determination of impurities shall be justified.

PUBLIC

(c) If certain release tests cannot be performed on the active substance or finished product, but only on key intermediates and/or as in-process testing, this shall be justified.

(d) Where biologically active molecules (such as growth factors, cytokines) are present as components of the cell-based product, their impact and interaction with other components of the active substance shall be characterised.

(e) Where a three-dimensional structure is part of the intended function, the differentiation state, structural and functional organisation of the cells and, where applicable, the extracellular matrix generated shall be part of the characterisation for these cell-based products. Where needed, non-clinical investigations shall complement the physicochemical characterisation.

3.3.2.4. Excipients

For excipient(s) used in cell or tissue-based medicinal products (e.g. the components of the transport medium), the requirements for novel excipients, as laid down in Part I of this Annex, shall apply, unless data exists on the interactions between the cells or tissues and the excipients.

3.3.2.5. Developmental studies

The description of the development program shall address the choice of materials and processes. In particular, the integrity of the cell population as in the final formulation shall be discussed.

PUBLIC

3.3.2.6. Reference materials

A reference standard, relevant and specific for the active substance and/or the finished product, shall be documented and characterised.

3.4. Specific requirements for advanced therapy medicinal products containing devices

Advanced therapy medicinal product containing devices as referred to in Article 7 of Regulation (EC) No 1394/2007

A description of the physical characteristics and performance of the product and a description of the product design methods shall be provided.

The interaction and compatibility between genes, cells and/or tissues and the structural components shall be described.

3.4.2. *Combined advanced therapy medicinal products as defined in Article 2(1)(d) of Regulation (EC) No 1394/2007*

For the cellular or tissue part of the combined advanced therapy medicinal product, the specific requirements for somatic cell therapy medicinal products and tissue engineered products set out in section 3.3 shall apply and, in the case of genetically modified cells, the specific requirements for gene therapy medicinal products set out in section 3.2 shall apply.

PUBLIC

The medical device or the active implantable medical device may be an integral part of the active substance. Where the medical device or active implantable medical device is combined with the cells at the time of the manufacture or application or administration of the finished products, they shall be considered as an integral part of the finished product.

Information related to the medical device or the active implantable medical device (which is an integral part of the active substance or of the finished product) which is relevant for the evaluation of the combined advanced therapy medicinal product shall be provided. This information shall include:

(a) information on the choice and intended function of the medical device or implantable medical device and demonstration of compatibility of the device with other components of the product;

(b) evidence of conformity of the medical device part with the essential requirements laid down in Annex I to Council Directive 93/42/EEC[63], or of conformity of the active implantable device part with the essential requirements laid down in Annex 1 to Council Directive 90/385/EEC[64];

(c) where applicable, evidence of compliance of the medical device or implantable medical device with the BSE/TSE requirements laid down in Commission Directive 2003/32/EC[65];

[63] OJ L 169, 12.7.1993, p. 1
[64] OJ L 189, 20.7.1990, p. 17
[65] OJ L 105, 26.4.2003, p. 18

(d) where available, the results of any assessment of the medical device part or the active implantable medical device part by a notified body in accordance with Directive 93/42/EEC or Directive 90/385/EEC.

The notified body which has carried out the assessment referred to in point (d) of this section shall make available on request of the competent authority assessing the application, any information related to the results of the assessment in accordance with Directive 93/42/EEC or Directive 90/385/EEC. This may include information and documents contained in the conformity assessment application concerned, where necessary for the evaluation of the combined advanced therapy medicinal product as a whole.

4. SPECIFIC REQUIREMENTS REGARDING MODULE 4

4.1. **Specific requirements for all advanced therapy medicinal products**

The requirements of Part I, Module 4 of this Annex on the pharmacological and toxicological testing of medicinal products may not always be appropriate due to unique and diverse structural and biological properties of advanced therapy medicinal products. The technical requirements in sections 4.1, 4.2 and 4.3 below explain how the requirements in Part I of this Annex apply to advanced therapy medicinal products. Where appropriate and taking into account the specificities of advanced therapy medicinal products, additional requirements have been set.

PUBLIC

The rationale for the non-clinical development and the criteria used to choose the relevant species and models (in vitro and in vivo) shall be discussed and justified in the non-clinical overview. The chosen animal model(s) may include immuno-compromised, knockout, humanised or transgenic animals. The use of homologous models (e.g. mouse cells analysed in mice) or disease mimicking models shall be considered, especially for immunogenicity and immunotoxicity studies.

In addition to the requirements of Part I, the safety, suitability and biocompatibility of all structural components (such as matrices, scaffolds and devices) and any additional substances (such as cellular products, biomolecules, biomaterials, and chemical substances), which are present in the finished product, shall be provided. Their physical, mechanical, chemical and biological properties shall be taken into account.

4.2. **Specific requirements for gene therapy medicinal products**

In order to determine the extent and type of non-clinical studies necessary to determine the appropriate level of non-clinical safety data, the design and type of the gene therapy medicinal product shall be taken into account.

PUBLIC

4.2.1. *Pharmacology*

(a) In vitro and in vivo studies of actions relating to the proposed therapeutic use (i.e. pharmacodynamic 'proof of concept' studies) shall be provided using models and relevant animal species designed to show that the nucleic acid sequence reaches its intended target (target organ or cells) and provides its intended function (level of expression and functional activity). The duration of the nucleic acid sequence function and the proposed dosing regimen in the clinical studies shall be provided.

(b) Target selectivity: When the gene therapy medicinal product is intended to have a selective or target-restricted functionality, studies to confirm the specificity and duration of functionality and activity in target cells and tissues shall be provided.

4.2.2. *Pharmacokinetics*

(a) Biodistribution studies shall include investigations on persistence, clearance and mobilisation. Biodistribution studies shall additionally address the risk of germline transmission.

(b) Investigations of shedding and risk of transmission to third parties shall be provided with the environmental risk assessment, unless otherwise duly justified in the application on the basis of the type of product concerned.

PUBLIC

4.2.3. *Toxicology*

(a) Toxicity of the finished gene therapy medicinal product shall be assessed. In addition, depending on the type of product, individual testing of active substance and excipients shall be taken into consideration, the in vivo effect of expressed nucleic acid sequence-related products which are not intended for the physiological function shall be evaluated.

(b) Single-dose toxicity studies may be combined with safety pharmacology and pharmacokinetic studies, e.g. to investigate persistence.

(c) Repeated dose toxicity studies shall be provided when multiple dosing of human subjects is intended. The mode and scheme of administration shall closely reflect the planned clinical dosing. For those cases where single dosing may result in prolonged functionality of the nucleic acid sequence in humans, repeated toxicity studies shall be considered. The duration of the studies may be longer than in standard toxicity studies depending on the persistence of the gene therapy medicinal product and the anticipated potential risks. A justification for the duration shall be provided.

(d) Genotoxicity shall be studied. However, standard genotoxicity studies shall only be conducted when they are necessary for testing a specific impurity or a component of the delivery system.

(e) Carcinogenicity shall be studied. Standard lifetime rodent carcinogenicity studies shall not be required. However, depending on the type of product, the tumourigenic potential shall be evaluated in relevant in vivo/in vitro models.

PUBLIC

(f) Reproductive and developmental toxicity: Studies on the effects on fertility and general reproductive function shall be provided. Embryo-foetal and perinatal toxicity studies and germline transmission studies shall be provided, unless otherwise duly justified in the application on the basis of the type of product concerned.

(g) *Additional toxicity studies*

– Integration studies: integration studies shall be provided for any gene therapy medicinal product, unless the lack of these studies is scientifically justified, e.g. because nucleic acid sequences will not enter into the cell nucleus. For gene therapy medicinal products not expected to be capable of integration, integration studies shall be performed, if biodistribution data indicate a risk for germline transmission.

– Immunogenicity and immunotoxicity: potential immunogenic and immunotoxic effects shall be studied.

4.3. **Specific requirements for somatic cell therapy medicinal products and tissue engineered products**

4.3.1. *Pharmacology*

(a) The primary pharmacological studies shall be adequate to demonstrate the proof of concept. The interaction of the cell-based products with the surrounding tissue shall be studied.

PUBLIC

(b) The amount of product needed to achieve the desired effect/the effective dose, and, depending on the type of product, the frequency of dosing shall be determined.

(c) Secondary pharmacological studies shall be taken into account to evaluate potential physiological effects that are not related to the desired therapeutic effect of the somatic cell therapy medicinal product, of the tissue engineered product or of additional substances, as biologically active molecules besides the protein(s) of interest might be secreted or the protein(s) of interest could have unwanted target sites.

4.3.2. *Pharmacokinetics*

(a) Conventional pharmacokinetic studies to investigate absorption, distribution, metabolism and excretion shall not be required. However, parameters such as viability, longevity, distribution, growth, differentiation and migration shall be investigated, unless otherwise duly justified in the application on the basis of the type of product concerned.

(b) For somatic cell therapy medicinal products and tissue engineered products, producing systemically active biomolecules, the distribution, duration and amount of expression of these molecules shall be studied.

PUBLIC

4.3.3. *Toxicology*

(a) The toxicity of the finished product shall be assessed. Individual testing of active substance(s), excipients, additional substances and any process-related impurities shall be taken into consideration.

(b) The duration of observations may be longer than in standard toxicity studies and the anticipated lifespan of the medicinal product, together with its pharmacodynamic and pharmacokinetic profile, shall be taken into consideration. A justification of the duration shall be provided.

(c) Conventional carcinogenicity and genotoxicity studies shall not be required, except with regard to the tumourigenic potential of the product.

(d) Potential immunogenic and immunotoxic effects shall be studied.

(e) In the case of cell-based products containing animal cells, the associated specific safety concerns such as transmission to humans of xenogeneic pathogens shall be addressed.

PUBLIC

5. SPECIFIC REQUIREMENTS REGARDING MODULE 5

5.1. Specific requirements for all advanced therapy medicinal products

5.1.1. The specific requirements in this section of Part IV are additional requirements to those set in Module 5 in Part I of this Annex.

5.1.2. Where the clinical application of advanced therapy medicinal products requires specific concomitant therapy and involve surgical procedures, the therapeutic procedure as a whole shall be investigated and described. Information on the standardisation and optimisation of those procedures during clinical development shall be provided.

Where medical devices used during the surgical procedures for application, implantation or administration of the advanced therapy medicinal product may have an impact on the efficacy or safety of the advanced therapy product, information on these devices shall be provided.

Specific expertise required to carry out the application, implantation, administration or follow-up activities shall be defined. Where necessary, the training plan of health care professionals on the use, application, implantation or administration procedures of these products shall be provided.

5.1.3. Given that, due to the nature of advanced therapy medicinal products, their manufacturing process may change during clinical development, additional studies to demonstrate comparability may be required.

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5.1.4. During clinical development, risks arising from potential infectious agents or the use of material derived from animal sources and measures taken to reduce such risk shall be addressed.

5.1.5. Dose selection and schedule of use shall be defined by dose-finding studies.

5.1.6. The efficacy of the proposed indications shall be supported by relevant results from clinical studies using clinically meaningful endpoints for the intended use. In certain clinical conditions, evidence of long-term efficacy may be required. The strategy to evaluate long-term efficacy shall be provided.

5.1.7. A strategy for the long-term follow-up of safety and efficacy shall be included in the risk management plan.

5.1.8. F„or combined advanced therapy medicinal products, the safety and efficacy studies shall be designed for and performed on the combined product as a whole.

PUBLIC

5.2. **Specific requirements for gene therapy medicinal products**

5.2.1. *Human pharmacokinetic studies*

Human pharmacokinetic studies shall include the following aspects:

(a) shedding studies to address the excretion of the gene therapy medicinal products;

(b) biodistribution studies;

(c) pharmacokinetic studies of the medicinal product and the gene expression moieties (e.g. expressed proteins or genomic signatures).

5.2.2. *Human pharmacodynamic studies*

Human pharmacodynamic studies shall address the expression and function of the nucleic acid sequence following administration of the gene therapy medicinal product.

5.2.3. *Safety studies*

Safety studies shall address the following aspects:

(a) emergence of replication competent vector;

(b) emergence of new strains;

(c) reassortment of existing genomic sequences;

(d) neoplastic proliferation due to insertional mutagenicity.

PUBLIC

5.3. **Specific requirements for somatic cell therapy medicinal products**

5.3.2 *Somatic cell therapy medicinal products where the mode of action is based on the production of defined active biomolecule(s)*

For somatic cell therapy medicinal products where the mode of action is based on the production of defined active biomolecule(s), the pharmacokinetic profile (in particular distribution, duration and amount of expression) of those molecules shall be addressed, if feasible.

5.3.2. *Biodistribution, persistence and long-term engraftment of the somatic cell therapy medicinal product components*

The biodistribution, persistence and long-term engraftment of the somatic cell therapy medicinal product components shall be addressed during the clinical development.

5.3.3. *Safety studies*

Safety studies shall address the following aspects:

(a) distribution and engrafting following administration;

(b) ectopic engraftment;

(c) oncogenic transformation and cell/tissue lineage fidelity.

PUBLIC

5.4. **Specific requirements for tissue engineered products**

5.4.1 *Pharmacokinetic studies*

Where conventional pharmacokinetic studies are not relevant for tissue engineered products, the biodistribution, persistence and degradation of the tissue engineered product components shall be addressed during the clinical development.

5.4.2. *Pharmacodynamic studies*

Pharmacodynamic studies shall be designed and tailored to the specificities of tissue engineered products. The evidence for the 'proof of concept' and the kinetics of the product to obtain the intended regeneration, repairing or replacement shall be provided. Suitable pharmacodynamic markers, related to the intended function(s) and structure shall be taken into account.

5.4.3. *Safety studies*

Section 5.3.3 shall apply.

PUBLIC

ANNEX III

CONDITIONS FOR QUALIFICATION OF A QUALIFIED PERSON

1. The qualified person shall ~~hold~~***be in possession of evidence of formal qualifications awarded on completion of*** a university ~~degree~~***course of study, or a course recognised as equivalent by the Member State concerned, extending over a period of at least four years of theoretical and practical study,*** in one or more of the following scientific disciplines: pharmacy, medicine, veterinary medicine, chemistry, pharmaceutical chemistry and technology, biology***, biomedical engineering and biotechnology, chemical engineering***.

However, the minimum duration of the university course may be three and a half years where the course is followed by a period of theoretical and practical training of a minimum duration of one year and including a training period of at least six months in a pharmacy open to the public, corroborated by an examination at university level.

Where two university courses or two courses recognised by the Member State as equivalent co-exist in a Member State and where one of these extends over four years and the other over three years, the three-year course leading to evidence of formal qualifications awarded on completion of a university course or its recognised equivalent shall be considered to fulfil the condition of duration referred to in the second subparagraph in so far as evidence of formal qualifications awarded on completion of both courses are recognised as equivalent by the Member State in question.

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The course shall include theoretical and practical study bearing upon at least the following basic subjects:

(a) Physics

(b) General and inorganic Chemistry

(c) Organic chemistry

(d) Analytical chemistry

(e) Pharmaceutical chemistry, including analysis of medicinal products

(f) Biochemistry

(g) Physiology

(h) Microbiology

(i) Pharmacology

(j) Pharmaceutical technology

(k) Toxicology.

Studies in these subjects shall be so balanced as to enable the person concerned to fulfil the obligations specified in Article 153.

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In so far as evidence of formal qualifications mentioned in the first subparagraph do not fulfil the criteria laid down in this paragraph, the competent authority of the Member State shall ensure that the person concerned provides evidence of adequate knowledge of the subjects involved.

2. The qualified person shall have acquired practical full-time experience over at least two years ***or equivalent experience acquired over proportionally longer period of time***, in one or more undertakings ***or entities not engaged in an economic activity*** that are authorised manufacturers, obtaining sufficient knowledge of manufacture, testing, supply chains, good manufacturing practice and pharmaceutical quality systems as well as regulatory processes and dossier content for ensuring the quality of medicinal products. ***The duration of practical experience may be reduced by one year by the competent authority of the Member State where a university course lasts for at least five years.***

3. ~~A qualified person shall be in possession of a diploma, certificate or other evidence of formal qualifications awarded on completion of a university course of study, or a course recognised as equivalent by the Member State concerned, extending over a period of at least four years of theoretical and practical study in one of the following scientific disciplines: pharmacy, medicine, veterinary medicine, chemistry, pharmaceutical chemistry and technology, biology.~~

PUBLIC

However, the minimum duration of the university course may be three and a half years where the course is followed by a period of theoretical and practical training of a minimum duration of one year and including a training period of at least six months in a pharmacy open to the public, corroborated by an examination at university level.

Where two university courses or two courses recognised by the State as equivalent co-exist in a Member State and where one of these extends over four years and the other over three years, the three-year course leading to a diploma, certificate or other evidence of formal qualifications awarded on completion of a university course or its recognised equivalent shall be considered to fulfil the condition of duration referred to in the second subparagraph in so far as the diplomas, certificates or other evidence of formal qualifications awarded on completion of both courses are recognised as equivalent by the Member State in question.

The course shall include theoretical and practical study bearing upon at least the following basic subjects:

(a) Experimental physics

(b) General and inorganic chemistry

(c) Organic chemistry

(d) Analytical chemistry

(e) Pharmaceutical chemistry, including analysis of medicinal products

PUBLIC

(f) ~~General and applied biochemistry (medical)~~

(g) ~~Physiology~~

(h) ~~Micro biology~~

(i) ~~Pharmacology~~

(j) ~~Pharmaceutical technology~~

(k) ~~Toxicology~~

(l) ~~Pharmacognosy (study of the composition and effects of the natural active substances of plant and animal origin).~~

~~Studies in these subjects should be so balanced as to enable the person concerned to fulfil the obligations specified in Article 153.~~

~~In so far as certain diplomas, certificates or other evidence of formal qualifications mentioned in the first subparagraph do not fulfil the criteria laid down in this paragraph, the competent authority of the Member State shall ensure that the person concerned provides evidence of adequate knowledge of the subjects involved.~~

PUBLIC

4. ~~The qualified person shall have acquired practical experience over at least two years, in one or more undertakings or not-for-profit entities that are authorised to manufacture medicinal products, in the activities of qualitative analysis of medicinal products, of quantitative analysis of active substances and of the testing and checking necessary to ensure the quality of medicinal products.~~

5. A person engaging in the activities of the person referred to in Article 152 from the time of the application of Second Council Directive 75/319/EEC[66], in a Member State without complying with the provisions of this Annex shall be eligible to continue to engage in those activities within the Union.

6. The holder of a diploma, certificate or other evidence of formal qualifications awarded on completion of a university course — or a course recognised as equivalent by the Member State concerned — in a scientific discipline allowing them to engage in the activities of the person referred to in Article 48 in accordance with the laws of that Member State may — if they began their course prior to 21 May 1975 — be considered as qualified to carry out in that Member State the duties of the person referred to in Article 152 provided that they have previously engaged in the following activities for at least two years before 21 May 1985 following notification of this directive in one or more undertakings or not-for-profit entities authorised to manufacture: production supervision or qualitative and quantitative analysis of active substances, and the necessary testing and checking under the direct authority of the person referred to in Article 152 to ensure the quality of the medicinal products.

[66] Second Council Directive 75/319/EEC of 20 May 1975 on the approximation of provisions laid down by Law, Regulation or Administrative Action relating to proprietary medicinal products (OJ L 147, 9.6.1975, p. 13). Directive is not in force anymore.

ANNEX IV

LABELLING PARTICULARS

The following particulars shall appear on the outer packaging of medicinal products or, where there is no outer packaging, on the immediate packaging:

(a) the name of the medicinal product, ***(***including in Braille***)***, followed by its strength***, if appropriate (including in Braille),*** and pharmaceutical form ***(including in Braille, if appropriate)***, and, if appropriate, whether it is intended for babies, children or adults; where the medicinal product contains up to three active substances, the international non-proprietary name (INN) shall be included, ***unless it is already part of the name of the medicinal product,*** or, if one does not exist, the common name;

(b) a statement of the active substances expressed qualitatively and quantitatively per ~~dosage~~***dose or*** unit or according to the form of administration for a given volume or weight, using their common names;

(c) the pharmaceutical form and the contents by weight, by volume or by number of doses of the medicinal product;

(d) a list of those excipients known to have a recognised action or effect and included in the detailed guidance published pursuant to Article 68;

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(e) the method of administration and, if necessary, the route of administration. Space shall be provided for the prescribed dose to be indicated;

(f) a special warning that the medicinal product must be stored out of the reach and sight of children;

(g) ~~a~~ special warning, if ~~this is~~ necessary for the medicinal product;

(h) the expiry date in clear terms (month/year);

(i) special storage precautions, if any;

(j) specific precautions relating to the disposal of unused medicinal products or waste derived from medicinal products~~, where appropriate,~~ as well as reference to any appropriate collection system in place;

(k) the name and address of the marketing authorisation holder and, where applicable, the name of the representative appointed by the holder to represent them;

(l) the number of the marketing authorisation for placing the medicinal product on the market;

(m) the manufacturer's batch number;

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(n) in the case of non-prescription medicinal products, instructions for use;

(o) for medicinal products other than radiopharmaceuticals referred to in Article 67(1), safety features enabling wholesale distributors and persons authorised or entitled to supply medicinal products to the public to:

(i) verify the authenticity of the medicinal product, and

(ii) identify individual packs,

– as well as a device allowing verification of whether the outer packaging has been tampered with.

PUBLIC

ANNEX V

CONTENTS OF SUMMMARY PRODUCT CHARACTERISTICS

PUBLIC

The summary of product characteristics shall contain, in the order indicated below, the following information:

(1) name of the medicinal product followed by the strength and the pharmaceutical form.

(2) qualitative and quantitative composition in terms of the active substances and of the excipient, knowledge of which is essential for proper administration of the medicinal product. The usual common name or chemical description shall be used.

(3) pharmaceutical form.

(4) clinical particulars:

(a) therapeutic indications,

(b) posology and method of administration for adults and, where necessary for children,

(c) contra-indications,

(d) special warnings and precautions for use and, in the case of immunological medicinal products, any special precautions to be taken by persons handling such medicinal products and administering them to patients, together with any precautions to be taken by the patient,

(e) interaction with other medicinal products and other forms of interactions,

(f) use during pregnancy***, breastfeeding, during periods when people are trying to conceive, and information on effects on fertility*** ~~and lactation,~~

(g) effects on ability to drive and to use machines,

(h) undesirable effects ***including standardised text expressly asking healthcare professionals to report any suspected adverse reaction in accordance with the national reporting system referred to in Article 106(1) and specifying the different ways of reporting available (electronic reporting, postal address or others) in compliance with Article 106(1), second subparagraph;***

(i) overdose (symptoms, emergency procedures, antidotes).

(5) pharmacological properties:

(a) pharmacodynamic properties,

(b) pharmacokinetic properties,

(c) non-clinical safety data.

(6) pharmaceutical particulars:

(a) list of excipients,

(b) major incompatibilities,

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(c) shelf life ***and***, when necessary***, shelf life*** after reconstitution ***or dilution*** of the medicinal product or when the immediate packaging is opened for the first time,

(d) ~~special~~ precautions for storage,

(e) nature and contents of container,

(f) ~~special~~ precautions for disposal of a ~~used~~ medicinal product or waste materials derived from such medicinal product, if appropriate. In case of antimicrobial medicinal products in addition to the precautions a warning that inappropriate disposal of the medicinal product contributes to antimicrobial resistance.

(7) marketing authorisation holder.

(8) marketing authorisation numbers.

(9) date of the first marketing authorisation or renewal of the marketing authorisation.

(10) date of revision of the text.

(11) for radiopharmaceuticals, full details of internal radiation dosimetry.

(12) for radiopharmaceuticals, additional detailed instructions for extemporaneous preparation and quality control of such preparation and, where appropriate, maximum storage time during which any intermediate preparation such as an eluate or the ready-to-use pharmaceutical will conform with its specifications.

~~For marketing authorisations under Articles 9 to 12 and subsequent variations, those parts of the summary of product characteristics of the reference medicinal product referring to indications or dosage forms that are still covered by patent law at the time when a generic or biosimilar medicinal product is placed on the market need not be included.~~

PUBLIC

ANNEX VI

CONTENTS OF PACKAGE LEAFLET

PUBLIC

The package leaflet shall contain, in the order indicated below, the following information:

(1) for the identification of the medicinal product:

(a) the name of the medicinal product followed by its strength and pharmaceutical form, and, if appropriate, whether it is intended for babies, children or adults. The common name shall be included where the medicinal product contains only one active substance and if its name is an invented name;

(b) the pharmaco-therapeutic group or type of activity in terms easily comprehensible for the patient;

(2) the therapeutic indications;

(3) a list of information that is necessary before the medicinal product is taken:

(a) contra-indications;

(b) appropriate precautions for use;

(c) forms of interaction with other medicinal products and other forms of interaction (e.g. alcohol, tobacco, food ***and herbal products***) that may affect the action of the medicinal product;

(d) special warnings;

(4) the necessary and usual instructions for proper use, and in particular:

(a) the ~~dosage~~***dose/posology***,

(b) the method ***including any necessary step for preparation and use of any required device for measurement or delivery*** and, if necessary, route of administration;

(c) the frequency of administration, specifying if necessary the appropriate time at which the medicinal product may or must be administered;

and, as appropriate, depending on the nature of the medicinal product:

(d) the duration of treatment, where it should be limited;

(e) the action to be taken in case of an overdose (such as symptoms, emergency procedures);

(f) what to do when one or more doses have not been taken;

(g) indication, if necessary, of the risk of withdrawal effects;

(h) a specific recommendation to consult the doctor or the pharmacist, as appropriate, for any clarification on the use of the medicinal product;

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(5) a description of the adverse reactions that may occur under normal use of the medicinal product and, if necessary, the action to be taken in such a case***, including standardised text expressly asking patients to communicate any suspected adverse reaction to their doctor, pharmacist, healthcare professional or directly to the national reporting system referred to in Article 106(1), and specifying the different ways of reporting available (electronic reporting, postal address or others) in compliance with Article 106(1), second subparagraph***;

(6) references to the following:

(a) the expiry date indicated on the label, with a warning against using the medicinal product after that date;

(b) where appropriate, ~~special~~ storage precautions;

(c) if necessary, a warning concerning certain visible signs of deterioration;

(d) the full qualitative composition (in active substances and excipients) and the quantitative composition in active substances, using common names, for each presentation of the medicinal product;

(e) for each presentation of the medicinal product, the pharmaceutical form and content in weight, volume or units of dosage;

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(f) information on where the leaflet is available in formats accessible for persons with disabilities;

(g) the name***, address and e-mail*** ~~and~~ address of the marketing authorisation holder and, where applicable, the name of their appointed representatives in the Member States;

(h) the name and address of the manufacturer.

(7) the date on which the package leaflet was last revised;

~~(8)~~ for antimicrobials, a ~~warning that improper use and disposal of~~***section that contains the global antimicrobial resistance symbol, specific information about*** the medicinal product ~~contributes to~~***concerned and information on*** antimicrobial resistance ***and the importance of appropriate use and disposal of antimicrobials referred to in Article 69 paragraph 2***.

The list set out in point (3) shall:

(a) take into account the particular condition of certain categories of users (children, pregnant or breastfeeding women, ~~older adults~~***elderly***, persons with specific pathological conditions and persons with disabilities);

(b) mention, if appropriate, possible effects on the ability to drive vehicles or to operate machinery;

(c) list those excipients the knowledge of which is important for the safe and effective use of the medicinal product ~~and that are included in the detailed guidance referred to in Article 77~~.

PUBLIC

ANNEX VII

AREAS FOR ADAPTED FRAMEWORKS REFERRED TO IN ARTICLE 28

Phage-containing medicinal products, in cases where the medicinal product has a variable composition depending on the specific clinical context.

PUBLIC

ANNEX VIII

CORRELATION TABLE ***[TO BE UPDATED]***

Directive 2001/83 (EC)	Regulation (EC) No 1901/2006	This Directive
Art. 2(1)		Art. 1(1) and (2)
Art. 2(2)		Art. 1(4)
Art. 2(3)		Art. 1(3) and 142(1), second sentence
Art. 3(1), (2) and (3)		Art. 1(5), point (a), (b) and (c)
Art. 3(7)		Art. 2 (1) and (2)
Art 4(4)		Art. 1(10), point (a)
Art. 110		Art. 1(7)
Art. 4(3)		Art. 1(9)
Art. 4(5)		Art.1(8)
Art. 5(1)		Art. 3(1)
Art. 5(2)		Art. 3(2)
Art. 5(3)		Art. 3(3)
Art. 5(4)		Art. 3(4)
Art. 6(1)		Art. 5
Art. 6(2)		Art. 16(1)
Art. 7		Art. 16(2)
Art. 6(1)		Art. 5(1)
Art. 8(3)		Art. 6(2) and Annex I
Art. 8(3), 2nd and 3rd subparagraphs		Art. 6(3) and (4)
	Art. 7 and Art. 8	Art. 6(5)
	Art. 9	Art. 6(6)

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Directive 2001/83 (EC)	Regulation (EC) No 1901/2006	This Directive
Art. 12		Art. 7
Art. 10(1), 1st subparagraph		Art. 9(1)
Art. 10(2), point (b), 3th sentence		Art. 9(3), second subparagraph
Art. 10(1), 3rd subparagraph		Art. 9(3)
Art. 10(2), point (b), 2nd sentence		Art. 9(4)
Art. 10(3)		Art. 10
Art. 10(4)		Art. 11
Art. 10a		Art. 13
Art. 10c		Art. 14
Art. 17(1), 1st subparagraph		Art. 30
Art. 17(1), 2nd subparagraph		Art. 33(1) and (2), Art. 35
Art. 17(2)		Art. 33(3)
Art. 18		Art. 33(4)
Art. 19(1)		Art. 29(1), points (a), (b) and (c)
	Art. 23(1)	Art. 48(1) and (2)
	Art. 23(2), 1st subparagraph, introductory sentence and points (a) and (b)	Art. 48(3)
	Art. 23(2), 2nd subparagraph	Art.48(4)
	Art. 23(3), 2nd subparagraph	Art. 48(5)
	Art. 24	Art. 48(6)
	Art. 28(1), 2nd subparagraph	Art. 49(1)
	Art. 28(2)	Art. 49(2)
	Art. 28(3), 1st sentence	Art. 49(3)

PUBLIC

Directive 2001/83 (EC)	Regulation (EC) No 1901/2006	This Directive
	Art. 29, 3rd subparagraph	Art. 49(4)
Art. 20, 1st subparagraph		Art. 8
Art. 21		Art. 43
Art. 21a, 1st subparagraph		Art. 44(1), points (a) to (f)
Art. 21a, 2nd subparagraph		Art. 44(2)
Art. 22		Art. 45(1) and (2)
Art. 26(1)		Art. 47(1), points (a), (b) and (c)
Art. 26(2) and (3)		Art. 47(2) and (3)
Art. 6(1a)		Art. 56(1)
Art. 23a, 1st subparagraph		Art. 56(2)
Art. 8(2)		Art. 56(6)
Art. 23a, 3rd subparagraph		Art. 56(9)
Art. 25		Art. 61
Art. 70		Art. 50
Art. 71(1)		Art. 51(1), points (a) to (d)
Art. 71(2)		Art. 51(3)
Art. 71(3)		Art. 51(4)
Art. 71(4) and (5)		Art. 51(5) and (6)
Art. 72		Art. 52
Art. 73		Art. 53
Art. 74		Art. 54
Art. 74a		Art. 55
Art. 11, 1st subparagraph, introductory sentence		Art. 62(1)
Art. 11, 2nd subparagraph		Art. 62(2)
Art. 11, 4th subparagraph		Art. 62(3)

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Directive 2001/83 (EC)	Regulation (EC) No 1901/2006	This Directive
Art. 58		Art. 63(1)
Art. 63(2), 1st subparagraph, 1st sentence		Art. 63(2)
Art. 58		Art. 63(4)
Art. 59(1), 1st subparagraph, introductory sentence		Art. 64(1)
Art. 59(1), 3rd subparagraph		Art. 64(2)
Art. 59(3)		Art. 64(3)
Art. 54, introductory sentence		Art. 65(1)
Art. 54a		Art. 67
Art. 66		Art. 68(1), (2) and (3)
Art. 67		Art. 68(4)
Art. 56		Art. 70
Art. 56a		Art. 71
Art. 57		Art. 72
Art. 62		Art. 73
Art. 63(1), 1st and 2nd subparagraphs		Art. 74(1) and (2)
Art. 63(2), 1st subparagraph, 2nd sentence		Art. 74(3)
Art. 63(3), 2nd sentence		Art. 74(4)
Art. 63(3), 1st sentence		Art. 75, introductory sentence and points (a) and (b)
Art. 61		Art. 76
Art. 60		Art. 78
Art. 64		Art. 79
Art. 65		Art. 77
Art. 10(5)		Art. 81(2), point (d)

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Directive 2001/83 (EC)	Regulation (EC) No 1901/2006	This Directive
Art. 10(6)		Art. 85
Art. 27		Art. 37
Art. 28(1)		Art. 34(1) and (2), Art. 36(1) and (2)
Art. 28(2)		Art. 36(5) and (6)
Art. 28(3)		Art. 34(5)
Art 28(4) and (5)		Art. 34(6) and (7), Art. 36(6) and (8)
Art. 29(1), (2) and (3)		Art. 38(1), (2) and (3)
Art. 29(4), 1st sentence		Art. 38(4)
Art. 29(6)		Art. 38(5)
Art. 30(1)		Art. 39
Art. 30(2)		Art. 40
Art. 32(1), (2) and (3)		Art. 41(1), (2) and (3)
Art. 32(4), 1st subparagraph, introductory sentence and points (a) to (d)		Art. 41(4), 1st subparagraph, introductory sentence and points (a) to (d)
Art. 32(4), 2nd and 3rd subparagraph		Art. 41(4), 2nd and 3rd subparagraph
Art. 32(5)		Art. 41(5)
Art. 33		Art. 42
Art. 81, 3rd subparagraph		Art. 56(3), 2nd subparagraph
	Art 33	Art.59
	Art. 35	Art. 60

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Directive 2001/83 (EC)	Regulation (EC) No 1901/2006	This Directive
Art. 34		Art. 42
	Art. 36(1)	Art. 86(1)
	Art. 36(2)	Art. 86(2)
	Art. 36(3)	Art. 86(3)
	Art. 36(5)	Art. 86(4)
Art. 22a, 1st subparagraph, introductory sentence and points (a) and (b)		Art. 87(1), 1st subparagraph, introductory sentence and points (a) and (b)
Art. 22a, 2nd subparagraph		Art. 87(1), 2nd subparagraph
Art. 22a(2) and (3)		Art. 87(2) and (3)
Art. 22b		Art. 88
Art. 22c		Art. 89
Art. 23(1), (2) and (3)		Art. 90(1), (2) and (3)
Art. 23(4), 1st subparagraph		Art. 90(4), 1st sentence
Art. 23(4), 2nd subparagraph		Art. 90(5)
Art. 23b(1)		Art. 92(2)
Art. 23b(2)		Art. 92(3), 1st and 2nd sentence
Art. 23b(2a)		Art. 92(4), introductory sentence and points (a) and (b)
Art. 35		Art. 93
	Art. 45(1)	Art. 94(1)
	Art. 46(3)	Art. 94(3)
	Art. 46(4)	Art. 94(4)
	Art. 46(5)	Art. 94(5)

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Directive 2001/83 (EC)	Regulation (EC) No 1901/2006	This Directive
Art. 31(1), 1st subparagraph		Art. 95(1), 1st subparagraph, 1st sentence Art. 95(1), 1st subparagraph, 2nd sentence
Art. 31(1), 2nd to 5th subparagraph		Art. 95(1), 2nd to 5th subparagraph
Art. 31(2), (3) and (4)		Art. 95(2), (3) and (4)
Art. 101		Art. 96
Art. 102, 1st subparagraph, points (a) to (e)		Art. 97(1)
Art. 102, 2nd subparagraph		Art. 97(2)
Art. 103		Art. 98
Art. 104(1) and (2)		Art. 99(1), (2) and (3)
Art. 104(3), 1st subparagraph		Art. 99(4)
Art. 104(3), 2nd subparagraph		Art. 99(5)
Art. 104(4)		Art. 99(6)
Art. 104a		Art. 100
Art. 105		Art. 101
Art. 106		Art. 102(1), introductory sentence and points (a) to (c), (e)
Art. 107l		Art. 103
Art. 106a		Art. 104
Art. 107		Art. 105(1) to (5)
Art. 107a(1), 1st subparagraph, 1st sentence		Article 106(1), 1st subparagraph, 1st sentence
Art. 107a(1), 1st subparagraph, 2nd sentence		Article 106(1), 1st subparagraph, 3rd sentence

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Directive 2001/83 (EC)	Regulation (EC) No 1901/2006	This Directive
Art. 107a(1), 2nd subparagraph		Art. 106(1), 2nd subparagraph
Art. 107a(2) to (6)		Article 106(2) to (6)
Art. 107b(1), 1st subparagraph		Art. 107(1), 1st subparagraph
Art. 107b(1), 2nd and 3rd subparagraph		Art. 107(2)
Art. 107b(2) and (3)		Art. 107(3) and (4)
Art. 107c		Art. 108
Art. 107d		Art. 109
Art. 107e		Art. 110
Art. 107f		Art. 111
Art. 107g		Art. 112
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