

MANAGEMENT BOARD DECISION 34/2016 of 28 October 2016

amending Management Board Decision 34/2015 of 10 September 2015

THE MANAGEMENT BOARD

Having regard to the European Border and Coast Guard Regulation¹, in particular Article 45(2) thereof,

Having consulted the European Data Protection Supervisor,

Whereas:

- (1) Article 24(4) of the Regulation (EC) No 45/2001² provides that the Data Protection Officer shall be appointed for a term of between two and five years and shall be eligible for reappointment up to a maximum total term of ten years.
- (2) Article 3(2) of the Management Board Decision No 34/2015 of 10 September 2015 adopting Implementing Measures for the Application of Regulation (EC) No 45/2001 by Frontex provides *inter alia* that the Data Protection Officer is appointed for a period of three years.
- (3) The aforementioned Article 3(2) should be amended so that the Data Protection Officer may be appointed for five years.
- (4) It is considered that such an amendment is in line with Article 24(4) of Regulation (EC) No 45/2001.
- (5) It is also considered that such amendment is also in line with Article 8 of the Conditions of Employment of Other Servants of the European Union³, pursuant to which temporary staff may be appointed for a fixed period, renewable.
- (6) The aforementioned Article 8 is currently implemented in Frontex by Decision of the Executive Director 2009/58⁴ establishing the procedure governing the engagement and use of temporary staff, in particular Article 2, by which the initial contract of temporary staff on short term employment, employed on technical tasks of a definite duration, is offered for a period of five years, renewable for another period of five years, without the possibility of indefinite duration.
- (7) The appointment of the Data Protection Officer for a five year term is furthermore supported by the European Data Protection Supervisor⁵, who considers this longer term of five years contributes to the independence of this function and who gave his agreement to this amendment on 14 October 2016.

¹ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

³ Regulation No 31/EEC, 11/EAEC, laying down the Staff Regulations of officials and the conditions of employment of other servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385).

⁴ References to Article 2(a) of the Conditions of Employment of Other Servants are construed as being made to Article 2(f) thereof, in line with Article 6 of the Annex on Transitional Provisions applicable to the staff covered by the Conditions of Employment of Other Servants.

⁵ Position paper on the role of Data Protection Officers in ensuring effective compliance with Regulation (EC) 45/2001, Brussels, 28 November 2005, Point III.2.5, paragraph 2, page 9.

- (8) Offering this longer term of five years is more attractive and will help ensure the service of staff of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis.
- (9) The proposed extended period of appointment, from three to five years, brings the possible two contract durations in balance whilst maintaining the maximum allowed duration of a total of ten years.

HAS DECIDED AS FOLLOWS:

Article 1
Amendment

The current wording of Article 3(2) of Management Board Decision No 34/2015 of 10 September 2015 is substituted by the following wording:

“The DPO is appointed for a period of five years. The DPO may be reappointed up to a total duration of ten years. The Executive Director notifies the European Data Protection Supervisor (EDPS) on the appointment of the DPO”.

Article 2
Entry into Force

This Decision enters into force on the day following the date of its adoption.

Done by written procedure, 28 October 2016

For the Management Board

[signed]

Marko Gašperlin
Chairperson

