

MANAGEMENT BOARD DECISION No 26/2016

of 6 October 2016

Delegating the powers conferred by the Staff Regulations of Officials on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority empowered to conclude contracts of employment to the Executive Director of the European Border and Coast Guard Agency

THE MANAGEMENT BOARD OF THE EUROPEAN BORDER AND COAST GUARD AGENCY (hereinafter 'the Agency'),

Having regard to the Staff Regulations of Officials of the European Union ('Staff Regulations') and the Conditions of Employment of Other Servants of the European Union ('CEOS'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular to Articles 2 (1), 110 (2) of the Staff Regulations and Article 6 of the CEOS,

Having regard to Regulation (EU) 2016/1624 of the European Parliament and the Council on the European and Coast Guard Agency and amending Regulation (EU) 2016/399 of the European Parliament and the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC of 14 of September 2016² ('Agency Regulation'),

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations reference number of the Commission's Decision C(2016) 6286 of 29 September 2016,

After consulting the Staff Committee,

Whereas:

- (1) By virtue of Article 62(2)(r) of the Agency Regulation, the powers of the appointing authority and the authority empowered to conclude contracts of employment are conferred on the Management Board of the Agency.

The first subparagraph of Article 62(8) of the Agency Regulation provides that the Management Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a decision delegating the relevant powers of the appointing authority and the authority empowered to conclude contracts of employment to the Executive Director of the Agency and laying down the conditions under which that

¹ OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 (OJ L 287, 29.10.2013, p. 15).

² 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, 16.09. 2016, p. 1).

delegation of powers may be suspended. The Executive Director shall be authorised to sub-delegate those powers.

- (2) Pursuant to the second paragraph of Article 62(8) of the Agency Regulation, where exceptional circumstances so require, the Management Board may, by way of a decision, suspend temporarily the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.
- (3) Pursuant to the sixth subparagraph of Article 110(2) of the Staff Regulations, the Management Board shall adopt the implementing rules to the Staff Regulations and to the CEOS.
- (4) Decisions on the daily management of the Agency, and in particular decisions in individual staff matters need to be taken at the most appropriate level.
- (5) The Executive Director manages the Agency and is in particular responsible for the day-to-day administration of the Agency.
- (6) It is therefore necessary to adopt a decision delegating the relevant competences in the area of staff management to the Executive Director.

HAS DECIDED AS FOLLOWS:

Article 1

This Decision concerns the exercise of the powers of the appointing authority and the authority empowered to conclude contracts of employment in respect of the staff of the Agency, except the Executive Director and the Deputy Executive Director of the Agency.

Article 2

1. The powers conferred by the Staff Regulations on the appointing authority and by the CEOS on the authority empowered to conclude contracts of employment are delegated to the Executive Director of the Agency, except the adoption of implementing rules to give effect to the Staff Regulations and the CEOS.
2. These powers are conferred on the Executive Director without prejudice to other competences of the Management Board as provided for in the Agency Regulation.
3. Decisions on selection, engagement, extension of contract, termination of contract, appraisal and reclassification of the Accounting Officer and the Fundamental Rights Officer shall be subject to approval by the Management Board.
4. The powers referred to in paragraph 1 concerning Article 90(2) of the Staff Regulations are exercised by the Management Board when the contested decision was taken at the level of the Executive Director.

Article 3

1. The Executive Director may sub-delegate the powers referred to in Article 1 to a member of temporary staff by reference to appropriate criteria, such as their function group, position, and job assignment, which they hold in the Agency.
 2. The Executive Director shall inform the Management Board of such sub-delegations.
 3. Agents to whom powers are sub-delegated under paragraph 1 may be designated by their position in the Agency or *ad personam*.
 4. Sub-delegations shall be brought to the attention of the staff in a suitable form.
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5. If a person to whom powers have been conferred under Article 2 or under paragraph 1 of this Article is unable to act, those powers shall be exercised in accordance with the rules on deputising set out in the Agency's internal rules.

6. The Executive Director, may, after approval of the Management Board, sub-delegate relevant powers referred to in Article 1 to the Commission. That sub-delegation shall be acted in writing and brought to the attention of the staff.

Article 4

1. Where exceptional circumstances so require, the Management Board may, by way of a decision, suspend temporarily the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director. The delegate shall report to the Management Board on the exercise of such a delegation.

2. The powers referred to in paragraph 1 may then be sub-delegated as necessary, in which case Article 3 shall apply *mutatis mutandis*.

3. The suspension shall be decided in accordance with the following provisions:

- a. before adopting a decision on suspension the Management Board shall carefully consider any possible impacts on the functioning of the Agency. The suspension shall be limited to the duration and extent necessary to achieve its objective;
- b. the decision on suspension shall be taken according to the voting rules of the Management Board provided for in the Agency Regulation;
- c. the decision on suspension shall be communicated to the Executive Director in writing and shall clearly define the powers being the subject of suspension, the exact duration of the suspension and any conditions thereto;
- d. the decision on suspension shall automatically suspend any related sub-delegation, unless explicitly stated otherwise in the decision;
- e. the decision on suspension shall specify who shall exercise the relevant powers during the period of suspension;
- f. the decision on suspension shall be brought to the attention of staff in a suitable form.

Article 5

This Decision shall take effect on the day following that of its adoption. It shall be brought to the attention of the staff in a suitable form.

Done by written procedure, 06 October 2016

For the European Border and Coast Guard Agency

[signed]

Marko Gašperlin
Chairperson of the Management Board