

## MANAGEMENT BOARD DECISION 43/2016

### of 28 December 2016

On the exercise of Appointing Authority powers by the Management Board

#### THE MANAGEMENT BOARD

Having regard to the European Border and Coast Guard Regulation<sup>1</sup>, in particular Article 62(2)(r) and Article 62(8) thereof,

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')<sup>2</sup>, in particular Articles 2(1), 110(2) of the Staff Regulations and Article 6 of the CEOS,

Whereas:

- (1) Pursuant to Article 62(2)(r) of the European Border and Coast Guard Regulation, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment on the Authority Empowered to Conclude a Contract of Employment ('the Appointing Authority powers') are exercised with respect to the staff of the Agency by the Management Board of Frontex.
- (2) The first subparagraph of Article 62(8) of the European Border and Coast Guard Regulation provides that the Management Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a decision delegating the relevant Appointing Authority powers to the Executive Director of Frontex.
- (3) The Management Board adopted Decision 26/2016<sup>3</sup> of 6 October 2016 delegating the Appointing Authority powers in respect of the staff of the Agency to the Executive Director.
- (4) Management Board Decision 26/2016 retained several powers with the Management Board. Those powers are in relation to the Executive Director and the Deputy Executive Director, the decisions on selection, engagement, extension of contract, termination of contract, appraisal and reclassification of the Accounting Officer and the Fundamental Rights Officer which are subject to approval by the Management Board, and the replies to complaints against decisions of the Executive Director pursuant to Article 90(2) of the Staff Regulations.
- (5) For practical as well as personal and sensitive data protection reasons, the decisions pertaining to certain of those Appointing Authority powers not delegated by the Management Board should be decided by the Chairperson on behalf of the Management Board.
- (6) The Chairperson should regularly provide information to the Management Board on the exercise of this task on their behalf.

<sup>1</sup> 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).

<sup>2</sup> Staff Regulations of Officials of the European Union and Conditions of Employment of Other Servants of the European Union laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 (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).

<sup>3</sup> Management Board Decision 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.

- (7) The content of this Decision should be included in the revised Rules of Procedure of the Management Board.

## **HAS DECIDED AS FOLLOWS:**

### *Article 1*

#### **Scope**

This Decision concerns the exercise of the Appointing Authority powers not delegated in Management Board Decision 26/2016 of 6 October 2016.

### *Article 2*

#### **Appointing Authority powers in relation to the Executive Director and Deputy Executive Director**

1. The Executive Director and the Deputy Executive Director approve each other's absences (including teleworking) and missions using the electronic tools used by Frontex staff members (Leave Management System and Mission Management System).
2. The Executive Director and the Deputy Executive Director submit to the Management Board quarterly reports of their requests, for information and post-validation.

### *Article 3*

#### **Task to the Chairperson**

1. The Chairperson approves the decisions described in Articles 4 to 6 on behalf of the Management Board.
2. The Chairperson provides regular information on the exercise of this task to the Management Board, depersonalising it whenever possible, in order to maintain high personal data protection standards.

### *Article 4*

#### **Annual appraisal of the Accounting Officer and the Fundamental Rights Officer**

1. The draft annual appraisal report on the Accounting Officer and the Fundamental Rights Officer is sent by the Executive Director to the Chairperson for approval before it is notified to the respective staff member for comments.
2. The Chairperson provides a written reply to the Executive Director as regards the request for approval of each appraisal report. Subsequently, the appraisal reports can be accepted or refused by the respective staff member.
3. In case of refusal of the appraisal report by the respective staff member, the report will be reviewed by the respective Appeal Assessor who, before taking a final decision, obtains the approval of the Chairperson on each report.

### *Article 5*

#### **Reclassification of the Accounting Officer and the Fundamental Rights Officer**

1. In case the Accounting Officer and/or the Fundamental Rights Officer are eligible for reclassification in a given year, before taking a final decision to reclassify or not to reclassify, the Executive Director sends it for approval to the Chairperson.
2. The Chairperson provides a written reply to the Executive Director as regards the request for approval and the Executive Director implements the final decision accordingly.

3. In case the draft decision or the reply to the request are considered as adversely affecting the Accounting Officer and/or the Fundamental Rights Officer, the comments received from the respective staff member, if any, are considered before a final decision is taken.

#### *Article 6*

##### **Replies to complaints pursuant to Article 90(2) of the Staff Regulations**

1. For complaints of staff members against an act adversely affecting them, where the Executive Director took a decision or failed to adopt a measure prescribed by the Staff Regulations, the Executive Director sends a proposal of reply to the Chairperson for final decision.
2. The Chairperson sends the final reply signed to the Executive Director, who ensures that the staff member who complained is notified.

#### *Article 7*

##### **Entry into force**

1. This Decision takes effect on the day following that of its adoption.
2. The content of this decision will be included in the Rules of Procedure of the Management Board.

Done by written procedure on 28 December 2016

For the Management Board

[signed]

Marko Gašperlin  
Chairperson of the Management Board