MANAGEMENT BOARD DECISION No 14/2018
of 5 July 2018

authorising the Executive Director to request the agreement of the European Commission to the non-application of the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants, governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b thereof

THE MANAGEMENT BOARD

Having regard to the European Border and Coast Guard Regulation1, and in particular Article 62(2)(s) thereof,

Having regard to the Staff Regulations2, and in particular Article 110(2) thereof,

Whereas:

1) Pursuant to Article 62(2)(s) of the European Border and Coast Guard Regulation, the Management Board shall adopt the appropriate implementing rules to the Staff Regulations in accordance with Article 110 of the Staff Regulations. This power of the Management Board is confirmed by Article 2(1) of Management Board Decision No 26/20163;

2) Pursuant to the second paragraph of Article 110(2) of the Staff Regulations, implementing rules to the Staff Regulations adopted by the European Commission shall apply by analogy to EU agencies nine months after their entry into force at the Commission, or nine months after the date on which the Commission has informed the agencies of the adoption of these rules (whichever is later);

3) Frontex does not wish to apply by analogy the implementing rules for Article 79(2) of the Conditions of Employment of Other Servants of the European Union governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b thereof (Commission Decision C(2017) 6760 of 16.10.2017). Frontex requires modifications to those implementing rules, before they become applicable to the Agency. Those modifications would take into account the specifics of Frontex and its staff;

4) Pursuant to the third paragraph of Article 110(2) of the Staff Regulations, it is the Agency, who by way of derogation, may request the agreement of the Commission for the non-application of certain of those implementing rules. For this, Frontex will be represented by its Executive Director. Such a justified request must be submitted to the Commission before the expiry of the nine month period mentioned in recital 2.

5) The staff committee was consulted on 25.06.2018;

6) Subsequently, the Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission;

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3 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.
HAS DECIDED AS FOLLOWS:

Article 1
Authorisation

The Executive Director is hereby authorised to request the agreement of the Commission to the non-application of the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants of the European Union, governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b thereof (Commission Decision C(2017) 6760 of 16.10.2017).

Article 2
Adoption of Frontex implementing rules to the Staff Regulations

After receiving the respective formal agreement of the Commission to a modified “agencies-specific” version of the implementing rules indicated in Article 1, the final version of the Frontex implementing rules to the Staff Regulations shall be presented to the Management Board for their final adoption.

Article 3
Entry into force

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

Done by written procedure on 5 July 2018

For the Management Board

[signed]
Marko Gašperlin
Chairperson