

Moving Europe towards a sustainable and  
safe railway system without frontiers.

## *RULES OF PROCEDURE OF THE MANAGEMENT BOARD*

### **Revision n°2**

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# DECISION n°318

## *of the Management Board of the European Union Agency for Railways establishing the Rules of Procedure of the Management Board and repealing Decision n°231*

### **THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR RAILWAYS**

Having regard to the Regulation (EU) N° 2016/796 of the European Parliament and the Council of 11 May 2016 on the European Union Agency for Railways<sup>1</sup> (hereinafter referred to as "the Agency") and repealing Regulation (EC) No 881/2004 (hereinafter referred to as "the Regulation"), and in particular Articles 46 to 51, 53 and 83 thereof,

Having regard to EEA Joint Committee Decision No 82/2005 of 10 June 2005 amending Annex XIII (Transport) to the EEA Agreement<sup>2</sup> regarding the EEA-EFTA States participation to the work of the Agency as amended;

Whereas:

The Management Board (hereinafter referred to as "the Board" or "the Management Board"), has to ensure that the Agency carries out its mission and performs the tasks assigned to it under the conditions laid down in the Regulation

Decision n°231 on the Rules of Procedures of the Management Board dated 18 June 2020 should be repealed by these rules

### **HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:**

#### *Article 1 – Composition*

1. The Management Board is composed of one representative from each Member State and two representatives of the Commission, all with a right to vote.
2. The Management Board includes also six representatives, without a right to vote, appointed by the Commission and representing, at European level, the following stakeholders: i) railway undertakings; ii) infrastructure managers; iii) the railway industry; iv) trade-union organisations; v) passengers; vi) freight customers.
3. The Board may also include one member of each EEA-EFTA Member State appointed by the corresponding authorities without a right to vote.

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<sup>1</sup> OJ L 138 26.5.2016, p. 1-43

<sup>2</sup> OJ L 268/3, 13.10.2005 and subsequent adaptations

4. The Board may also include representatives of third countries under conditions of participation to be established in the arrangements referred to in Article 75 of the Regulation.

### *Article 2 – Term of office – Notifications of Membership*

1. The duration of the term of office for each member, as set by Article 47§4 of the Regulation, is four years. This term of office is renewable.
2. Each member shall have an alternate member nominated by a Member State or the European Commission, as appropriate.
3. Members and their alternates shall be appointed in light of their knowledge of the Agency's core business, taking into account relevant managerial, administrative and budgetary skills. All parties shall make efforts to limit turnover of their representatives on the Management Board, in order to ensure continuity of the Management Board's work. All parties shall aim to achieve a balanced gender representation on the Management Board.
4. If a member or an alternate leave the Board before the end of his/her term of office, then the duration of the term of office of his/her replacement is a full term of office.
5. Nominations of a member and/or his/her alternates shall be submitted in writing to the Chairperson of the Board, if possible one month before the envisaged start of the term of office of that member or alternate.

### *Article 3 – Chairpersonship*

1. In line with Article 48 of the Regulation, the Board shall elect, by a two-thirds majority of its members entitled to vote, a Chairperson from among the representatives of the Member States and a Deputy Chairperson from among its members. The term of office of the Chairperson and the Deputy Chairperson shall be four years and shall expire when they cease to be members of the Board. This term of office is renewable once.
2. The vote for the election of Chairperson and the Deputy Chairperson shall be taken by secret ballot.
3. Two tellers shall be designated amongst the members to observe the results of the vote. At each round, the candidate with the lowest number of votes shall withdraw, until two candidates remain. Rounds will run until one candidate receives two-thirds majority of votes.
4. The Deputy Chairperson shall automatically take the place of the Chairperson if he/she is prevented from attending to his/her duties.
5. If the office of Chairperson or Deputy Chairperson falls vacant, the Deputy Chairperson or Chairperson

as the case may be, shall convene a meeting to elect a successor, to be held within three months. The member then elected shall serve as Chairperson or Deputy Chairperson for the remainder of his/her predecessor's term or until the end of his/her membership of the Board, whichever is the earlier.

6. The terms of office of Chairpersons and Deputy Chairpersons shall begin on the first day after their predecessors' terms of office.
7. If both the Chairperson and the Deputy Chairperson are absent or unable to attend a meeting, the meeting shall be chaired by the longest serving or, in the event of equal length of service, by the oldest of the longest serving member from among the members representing the Member States for the Chairperson and from among all members for the Deputy Chairperson.

#### ***Article 4 – Attendance at meetings***

1. The members should attend all meetings of the Board. Where this is not possible, their alternate should attend in their stead. Both members and alternates can participate to the meetings. One adviser per member/alternate may assist them, unless the Board decides otherwise in a particular case.
2. Any member may represent a maximum of three other members, hereinafter called “proxy”, provided that a prior written authorisation from the absent member is provided to the Chairperson. However, a member not entitled to vote cannot represent a member entitled to vote.
3. The Executive Director of the Agency shall participate in the meetings, except when his/her participation may lead to a conflict of interests, as decided by the chairperson, or when the Board is to take a decision relating to Article 70 of the Regulation, in accordance with Article 51§1 point (i) of the Regulation.
4. Staff members of the Agency and the Secretariat of the Board shall be entitled to attend the meetings of the Board at the discretion of the Executive Director, unless the Board decides otherwise in a particular case.
5. The Board may invite any person whose opinion may be of interest to attend specific agenda items of its meetings as an observer.

#### ***Article 5 – Representatives of third countries***

1. Representatives of third countries having concluded agreements with the European Union in accordance with Article 75 of the Regulation, shall be entitled to attend Board's meetings under the terms and conditions specified in such agreements.
2. The Board may invite any State which has applied for membership of the European Union, on condition that the accession negotiations have been successfully completed, to attend its meetings or part of its meetings as an observer.

### *Article 6 – Convening of meetings*

1. As set out in Article 49§2 of the Regulation, the Board shall hold an ordinary meeting at least twice a year. The date of the meeting shall be decided by the Board at least at its preceding meeting or, in case of conflicting dates, as soon as possible by email at the initiative of the Secretariat.
2. A provisional agenda shall be made available on the MB extranet at least three weeks prior to each ordinary meeting.
3. The relevant material for decision-making will be forwarded to the members at least two weeks prior to each ordinary meeting
4. Additional meetings may be organised on the initiative of the Chairperson, at the request of the Commission, at the request of the majority of its members or of one-third of the Member States' representatives on the Board. The Chairperson shall convene a meeting to take place within six weeks of receipt of the request, or as soon as practicable in urgent cases.
5. When the Board is convened to deliberate on a matter of urgency, the notice of convocation, the provisional agenda and eventual working documents shall be transmitted by the Chairperson to members no later than the tenth day before the start of the meeting, except in cases of 'force majeure'.
6. Meetings shall normally take place remotely while the Management Board retains the possibility to organise regular in-person meetings at least every second year. In such cases, if requested by a member or alternate of the Management Board, the possibility to attend the meeting remotely shall be provided. Meetings in person shall normally be held in Lille or Valenciennes, unless the Board decides otherwise.
7. When circumstances require, and provided that a majority of the members do not object, the Chairperson may change the date or place of a meeting. Notification of such change shall be given to members no later than three weeks before the original or revised date of the start of the meeting, whichever is the earlier.

### *Article 7 – Agenda*

1. A provisional agenda shall be drawn up by the Chairperson in consultation with the Executive Director.
2. The agenda shall be adopted at the beginning of each meeting.
3. With the agreement of the Board, urgent items may be added to the agenda at any time prior to the end of the meeting, and items on the agenda may be deleted or carried over to a subsequent meeting.
4. The agenda should:
  - a) include an opening and a closing section;

b) indicate for each item the requested action to be taken by the Board, as follows:

- i. “For decision”: agenda items which require adoption by decision from the Board. The Executive Board shall prepare these decisions as per Article 53 of the Regulation. In the report from the Chair of the Executive Board referred to in Article 11, the items for decisions are identified as described in Annex I, namely:
  - Decisions A: decisions for which discussion is not anticipated
  - Decisions B: decisions for which discussion is anticipated
- ii. “For information”: agenda items to be presented to the Board and not proposed for decision. The Board may request for a discussion to take place. The Chairperson shall at the end of that discussion summarise the conclusions.

c) indicate for the point b above the applicable voting rule. If no specific mention is made in the agenda, the voting rule is absolute majority.

### *Article 8 – Quorum*

The representatives, alternate representatives or proxy holders of at least the absolute majority of members with a right to vote shall constitute the quorum necessary for the meeting to be valid. In the absence of a quorum, the Chairperson shall close the meeting and convene another one as soon as possible.

### *Article 9 – Voting*

1. The Board shall take its decisions by the absolute majority of its members, unless otherwise specified by the Regulation, entitled to vote in accordance with Article 50 of the Regulation. The Executive Director of the Agency shall have no vote.
2. When a member is absent, his/her alternate or authorized proxy according to Article 4§2 shall be entitled to exercise his/her right to vote. In addition to his/her own vote, each voting member may receive only three votes by proxy. The proxy shall be notified to the Chairperson in advance.
3. Votes shall be taken either through a voting tool made available by the Agency or by requesting that every voting member states its vote orally. In case a secret ballot is requested by at least one third of the members present, the votes are cast by return e-mail sent to the MB Secretariat.
4. For each decision adopted by the Board, figures for the votes cast shall be recorded. A statement of the views of the minority may be entered in the minutes along with the decision, if the minority so requests.
5. The Chairperson may authorise a member to speak briefly in explanation of a vote he/she has cast.

### ***Article 10 – Mandate to the Executive Board***

1. According to Article 53 of the Regulation the Board shall be assisted by an Executive Board which shall prepare decisions to be adopted by the Management Board.
2. The Board gives hereby a mandate to the Executive Board to take certain provisional decisions on its behalf where necessary on grounds of urgency, in particular on administrative and budgetary matters. The conditions are described in Annex II.
3. The final decisions following provisional decisions of the Executive Board shall be adopted by the Board at the next possible meeting or by written procedure.

### ***Article 11 – Report from the Executive Board***

1. After every Executive Board meeting, the Chairperson of the Executive Board shall provide to the members a written report summarising the preparation for decisions to be taken during the following Board meeting.
2. In the report, the Chairperson shall indicate the subcategories of the “for decision” items, in line with Article 8 of the Executive Board Rules of Procedure.
3. The report from the Executive Board shall be made available on the MB Extranet two weeks prior to Management Board meetings.

### ***Article 12 – Question and answer sessions***

1. Where necessary, the Executive Board may organise a Question & Answer (Q&A) session for the Management Board members, one week prior to Management Board meetings.
2. The aim of Q&A sessions is to provide information on the report from the Chairperson of the Executive Board and the assessment made of the documents for decisions to be taken during the following Management Board meeting.

### ***Article 13 – Written Procedure***

1. Without prejudice to Articles 8 and 9, decisions of the Board may be exceptionally taken by written procedure on a proposal from the Chairperson in consultation with the Executive Director. To this end, the members shall receive in advance the proposed measures on which a decision is sought, and they shall be able to submit comments within a defined period.
2. A proposal for a decision to be taken by written procedure shall not be subject to amendment; it shall



be approved or rejected in its entirety.

3. The period of response to the written procedure must not be less than 14 calendar days, save in exceptional circumstances. The precise date to cast a vote shall be defined by the Chairperson. Votes are cast by return e-mail sent to the MB Secretariat or by online voting, if available.
4. Any member with voting right who does not express his/her opposition or intention to abstain before the deadline laid down in the request for written procedure or to the decision to be taken by written procedure is considered to have given his/her tacit agreement to the proposal.
5. The result of a written procedure will be notified without delay to the members.

#### ***Article 14 – Urgent Business***

1. Between two meetings of the Board, urgent business that is essential for the functioning of the Agency and for any reason cannot be taken by the Executive Board according to Article 10§2, may be submitted by the Chairperson to the Board by convening an extraordinary Management Board meeting or, exceptionally, by written procedure.
2. In case of an extraordinary meeting the timelines related to provision of documents to the members of the Management Board set by these Rules may be shortened.

#### ***Article 15 – Appointment and dismissal of the Executive Director***

In accordance with Article 68 of the Regulation, the Board shall have the power to appoint and dismiss the Executive Director. The decision of the Board on the appointment or dismissal of the Executive Director shall be taken by a two-thirds majority of all members entitled to vote.

#### ***Article 16 – Transmission of documents; minutes of meetings***

1. The draft minutes, the attendance list, and the decisions taken with figures for the votes cast at each vote, shall be uploaded on the MB Extranet not later than four weeks after the end of the meeting.
2. The minutes shall be approved by the Board at its next meeting.
3. The final minutes shall be published on the MB Extranet not later than two weeks after their approval.

#### ***Article 17 – Confidentiality***

1. Where specific matters during the Management Board meetings are discussed as confidential, all

persons present including members, alternates, observers, advisers shall respect the confidential character of the matters concerned.

2. Related meeting documents are disclosed in line with Regulation (EC) n° 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents and Administrative Board Decision n° 41 on Arrangements to be applied by the Agency for Public Access to Documents as amended.
3. The Management Board shall have access to the Executive Board's documents and the Executive Board's Extranet.

### ***Article 18 – Declaration of confidentiality***

1. In order to respect their commitment to the obligation of confidentiality mentioned in Article 17 of these Rules, MB members, alternates, and their advisors shall submit a declaration of confidentiality.
2. Upon the Chairperson's request, other participants to the MB proceedings may need to submit the declaration of confidentiality to the Secretariat.
3. The template of the declaration is provided in Annex III. The declarations shall be kept by the Secretariat and retained for a period of two years after the end of the term of office of the member/alternate/advisors.
4. The Management Board may decide that any member/ alternate / advisor not complying with article 18§1 be prevented from attending Management Board proceedings.

### ***Article 19– Conflict of Interest***

1. The members and alternate members of the Management Board shall undertake to act independently in the public interest.
2. For this purpose, they shall make an annual declaration of interests which shall include all interests which could relate to the Agency's activities in accordance with the Management Board Rules on conflicts of interest.<sup>3</sup>
3. At each meeting, the members and alternates shall declare any interests not already declared elsewhere that might be considered prejudicial to their independence in relation to the items on the agenda. The Management Board shall assess those interests and based on the outcome, may decide to examine during the meeting specific items on the agenda without the members concerned being present and /or being able to vote
4. The Management Board shall take such decision based on the principles set in the Rules on Conflicts of Interests and in accordance Article 9§1 of the present rules.

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[Amended Decision n°162 of the Management Board of the European Union Agency for Railways adopting rules for the prevention and management of conflicts of interest in respect of the members of the Management Board.pdf dated 25 November 2020](#)

5. The absence of the members concerned during the examination of such specific agenda items does not affect the right of the Member States and of the Commission to be represented by an alternate, any other Member of the Board by proxy, or an advisor.
6. The members shall be informed in due time of the intention of the Board to decide whether or not they should be present. If their alternates are unable to vote in their stead or there is no possibility to give proxy to another member, the Board will refrain, where possible, from deciding on that specific agenda item and postpone the decision to the next meeting.
7. The Management Board may decide to examine specific items of the agenda without the presence of the members nominated in their capacity as professionals from the sectors most concerned, in case there are confidentiality or conflicts of interest issues.
8. A request for application of the provision of paragraph 5 of this Article is addressed to the Chairperson of the Board at least three weeks before the meeting concerned takes place and has to be justified. Any member is entitled to introduce such request. The Chairperson shall present such request and the related justification at the opening of the meeting and the Board shall decide in accordance with Article 9§1.
9. If a member/alternate does not fulfil his or her obligations in relation to independence and confidentiality, and thus the work of the Management Board is substantially affected, the Board acting in accordance with Article 9§1, may ask the Appointing Authority for the replacement of that member/alternate.

### *Article 20 – Reimbursement of expenses*

1. All travel and subsistence expenses incurred by the members in connection with meetings where members participate in-person relating to Board business shall be paid by the Agency in accordance with the following provisions:
  - i. A *daily allowance* of 102 € per meeting day; the daily allowance is reduced by 50 % if the distance between the place of departure mentioned in the invitation and the place of the meeting is less than 100 km;

The daily subsistence allowance is made up as follows: 15 % for breakfast, 25 % for lunch, 25 % for dinner, 35 % for incidental expenses.

The daily allowance will be reduced by 25 % for each lunch or dinner and by 15 % for each breakfast provided.

If, for justifiable reasons, the member has not attended the meal provided, the authorising officer may decide not to make the deduction.

- ii. An *accommodation allowance* of 180 € per night when the times of the meeting are incompatible with the times of travel means with a maximum of allowances equal to the number of meeting days + 1;
  - iii. The *travel expenses* to and from the place of the meeting by the most appropriate means of transport given the distance involved from the declared address. In exceptional and justified cases, the Agency may agree to a different point of departure and/or return. This agreement should be given before travel tickets are purchased. If the Agency has agreed to a different point of departure/return, it will reimburse the travel expenses from this point of departure/return. In case the point of departure/return is changed without the prior agreement of the Agency, the reimbursement will be limited to the price of a ticket to and from the member's declared address.
2. Expenses incurred by alternate members relating to Board business shall be paid by the Agency in accordance with paragraph 1, where the alternate replaces the member for whom he/she has been appointed as alternate; and for the alternate of the member nominated as Chairperson during his/hers term of office.
  3. Advisers mentioned in Article 4§1 shall not be entitled to reimbursement of expenses unless the Board decides otherwise.
  4. Persons who participate to the Board meetings mentioned in Article 4§5 shall be reimbursed in line with the rules for reimbursement for working parties' experts.

### *Article 21– Correspondence*

Correspondence should be sent preferably through emails to the Management Board Secretariat. Should paper-based documents need to be sent to the Board, they shall be addressed to the Agency in its Headquarters location.

### *Article 22 – Secretariat*

The Executive Director shall provide the Secretariat and the appropriate management support to enable the Board to carry out its work.

### *Article 23 – Amendment of the rules of procedure*

1. The Board may amend these Rules of Procedure by absolute majority of its members entitled to vote.
2. Amendments to the Rules of Procedure shall enter into force on the date decided by the Board.

### ***Article 24 – Transitional provisions***

1. The Management Board replaces and succeeds the Administrative Board of European Railway Agency established by Article 25 of Regulation (EC) No 881/2004 as regards all decisions, agreements, and legal obligations.
2. The Chairperson and Deputy Chairperson shall remain in office until their term expires and if they continue to be members of the Board.

### ***Article 25 – Repeals***

1. The Decision n°231 of the Management Board of the European Union Agency for Railways establishing the Rules of Procedure of the Management Board dated 18 June 2020 is repealed.
2. The Decision n°134 of the Management Board of the European Union Agency for Railways establishing the Rules of Procedure of the Management Board dated 23 June 2016 is repealed.

### ***Article 26 – Entry into force***

These Rules of procedure shall enter into force on the date following that of their adoption by the Board.

For the Management Board

The Chairwoman  
Clio LIÉGEOIS

## Annex I – Guidelines on the classification of agenda items

### 1. Overview of the Agenda

The following agenda structure guideline is applied for Management Board meetings, as indicated in Article 7:

#### a) For decision

- *Decisions A*: decisions for which discussion during the Board meetings is not anticipated and there is a written report provided by the Executive Board; such decisions would be brought to a vote without discussion. If a member of the Management Board wishes nonetheless to discuss an item categorised under 'Decisions A', the request is automatically accepted.
- *Decisions B*: decisions for which the Executive Board report is presented at the Board meeting, and for which discussion during the meeting is anticipated before the vote.

#### b) For information

Agenda items to be presented to the Board and not proposed for decision. The Board may request for a discussion to take place.

### 2. Criteria for the categorisation of Decisions A and Decisions B

In line with Article 53 of the Regulation, the Executive Board shall prepare decisions to be adopted by the Management Board. Therefore, except in case of justified urgency, the decisions to be taken in MB meetings have to be assessed and analysed by the Executive Board before they are submitted to the Board for decision.

In addition, as per Article 11 of these Rules of Procedures the Chairperson of the Executive Board provides a written report to the members presenting the outcome of the preparation of the decisions which took place during the relevant Executive Board meeting. In this report, the labelling of decisions as Decisions A or Decisions B has to be made clear, in line with the criteria indicated below.

Finally, as per Article 12 of these Rules of Procedures the Executive Board where necessary may decide to organise Question & Answers sessions prior to the Management Board meetings to further clarify any pending questions members of the Management Board might have, especially on the abovementioned report and decision classification, described in Article 7§4.

The following types of decisions are eligible to be classified under Decisions A:

- a) non-sensitive and straightforward documents of administrative nature, including but not limited to: implementing rules related to staff, conversion of types of posts, etc.
- b) non-sensitive and straightforward documents of a financial / budgetary nature, including but not limited to: budget transfers above the threshold indicated in Article 26 of the ERA Financial Regulation, budget amendments, opinion on the Agency's annual accounts, etc.

Other decisions are classified under Decisions B.

## Annex II – Mandate to the Executive Board-conditions and step-by-step

### 1. Conditions

1.1. The conditions of the mandate referred to in **Article 10**, given by the Management Board to the Executive Board, are described as follows:

- a) Provisional Decisions: decisions which are not final yet because they have to be adopted by the Management Board. Until their final adoption, their effects are limited in time,
- b) Where necessary: instances which concern action/s essential or needed to complete the tasks of the Management Board,
- c) On grounds of urgency: decisions relating to subject-matters that have to be dealt with or happen immediately.

1.2. All the above conditions have to be met simultaneously.

1.3. Provisional decisions shall be in particular on administrative and budgetary matters.

### 2. Step-by-step

- a) Identify whether the conditions set in point 1 above apply, namely urgency and necessity as well as if the matter concerned may be the subject of a provisional decision
- b) If (a) is fulfilled, the Executive Board to take a provisional decision with limited effects in time until the MB takes a final decision
- c) The Management Board to adopt the final decision either in meeting or by Written Procedure

The EB provisional decision should be limited in time normally, i.e. until the MB takes the final decision. The decision could be reverted, but the effects of the provisional EB decision would remain valid during the time the EB decision was applicable and until the MB takes the final decision.

It is important to note that if the matter does not fill in the conditions set under point 1 hereinabove, the Management Board then takes a decision by Written Procedure or at the meeting if the meeting date is closer than the time it takes for a Written Procedure to be completed. The decision has to be taken by the Chairperson.

## Annex III – ERA Management Board Declaration of confidentiality for participants in the Management Board proceedings <sup>4</sup>

Name:

\_\_\_\_\_

Role:

- Management Board Member or Alternate<sup>5</sup>  
 Adviser of (Name)<sup>6</sup> \_\_\_\_\_  
 Other (Name)<sup>7</sup> \_\_\_\_\_

I, hereby commit:

- to ensure the confidentiality of sensitive information and documents whose disclosure may damage the interests or the reputation of ERA, its staff or those of participants in the ERA activities both during and after my duties/role in Management Board have ended. This includes the confidential nature of opinions provided in any form during Management Board meetings.
- not to use any sensitive information or document other than for the purpose of my work in connection with Agency's activities.

I understand that the obligation of confidentiality set forth above shall not extend to information which is or became publicly known or available not due to any reprehensible behaviour on my side.

Done at \_\_\_\_\_ on \_\_\_\_\_

Signature

Personal data are processed in line with Regulation (EU) No 2018/1725<sup>8</sup>

Data Protection Notice (hyperlink to the website to be added).

<sup>4</sup> Management Board proceedings encompass any meeting (including meeting preparation and follow-up, associated discussion, or any other related activity) of the ERA Management Board. By analogy it applies also to Executive Board activities.

<sup>5</sup> specify if Member or Alternate (strikethrough the irrelevant entry)

<sup>6</sup> specify the name of the Management Board member or alternate

<sup>7</sup> Name of the organisation / country, as relevant.

<sup>8</sup> Regulation (EC) N°1725/2018 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