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safe railway system without frontiers.

## DECISION n° 359

*of the Management Board of the European Union Agency for  
Railways on business continuity/deputising for the Executive Director and  
repealing MB Decisions n° 258, 301 and 322*

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

#### **Having regard to:**

Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways (hereinafter referred to as “the Agency”) and repealing Regulation (EC) No 881/2004 (hereinafter referred to as “Regulation (EU) 2016/796”), and in particular Article 51(1)(f) and (h) thereof,

#### **Whereas:**

- 1) There would be a need to update the applicable rules on business continuity in terms of deputising the Executive Director in order to guarantee that stability and continuity are ensured for all kind of decisions and duties relating to the Agency activities and its day-to-day functioning, including the exercise of the appointing authority powers and the powers conferred on the authority authorised to conclude contracts of employment, both in case of the Executive Director being prevented from fulfilling his/her functions and where the post is vacant;
- 2) Furthermore, it would be necessary to ensure that decisions on authorisations, certifications, and approvals in accordance with Regulation (EU) 2016/796 as well as decisions and opinions in accordance with Commission Implementing Regulation (EU) 2018/545 and 2018/763 are taken within the legally set time limits both in case of the Executive Director being prevented from fulfilling his/her functions and where the post is vacant;
- 3) A provision aimed at limiting the powers of the deputising staff members to the business continuity should be included. The strategic decisions are related to the policy choices that the Executive Director may take. In HR matters those would be, for example, the selection and appointment of managers. The aim is that the decisions taken by the person deputising the Executive Director do not compromise the choices that the Executive Director would make. The wording used would be flexible and subject to interpretation by the Management Board depending on what it considers to be strategic.

4) Furthermore, it would be appropriate to repeal the existing MB Decisions n°258, 322 and 301 while ensuring that the Agency has a legal framework for the provisions in Article 1(5) of MB Decision n°258 as amended in due course<sup>1</sup>.

5) While Article 2 of this decision makes reference to Conflict of Interest, it is important to note that the Staff Regulations, in particular Article 11 thereof, provides a legal framework to the Agency on Conflict of Interest<sup>2</sup>.

### ***Article 1 – Business Continuity and Deputising for the Executive Director***

1. This Article covers all types of decisions and duties relating to the Agency activities, such as:
  - i. decisions regarding the delivery of authorisations, certificates, and approvals in accordance with Articles 14, 20, 21, 22 of Regulation (EU) 2016/796 including any renewal, amendment, suspension or revocation thereof, including acts related to appeal or arbitration proceedings before the Board of Appeal;
  - ii. issuing opinions in accordance with Articles 16(4) and 24(2) of Commission Implementing Regulation (EU) 2018/545;
  - iii. decisions regarding the exercise of the appointing authority powers and the powers conferred on the authority authorised to conclude contracts of employment;
  - iv. all tasks which concern the everyday functioning of the Agency.
2. Where the Executive Director post is vacant, and until the post is filled in accordance with Regulation 2016/796, the tasks in paragraph 1 shall be performed on an interim basis by the staff member who holds the highest grade and step among the Heads of Department/Units from the Management Team members, with a contract duration sufficient to cover the length of the assignment. The staff member assigned shall be Acting Executive Director.
3. Where the Executive Director, or the Acting Executive Director assigned under paragraph 2, is prevented from fulfilling his/her functions (e.g. indisposed, uncontactable) the tasks in paragraph 1 shall be performed by:
  - i. the Head of RSY, or in their absence;
  - ii. the Head of MARS, or in their absence;
  - iii. the Head of PAD, or in their absence;

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<sup>1</sup> At present the position is governed by Decision of the Executive Director of the European Union Agency for Railways ERA-ED-DEC-2275-2024. This Executive Director decision remains in force when MB Decision n°258 as amended is repealed.

<sup>2</sup> See also the references to Conflict of Interest in the Annex to [Decision n°199 of the Management Board of the European Union Agency for Railways adopting the revised Framework for Good Administrative Behaviour](#).

- iv. the staff member designated by the Management Board Chair.
4. The persons mentioned under paragraphs 2 and 3 shall exercise the powers conferred on the Executive Director's post within the limits required to ensure business continuity in the operational and the day-to-day management of the Agency, refraining from taking strategic decisions with a longer-term impact and shall be accountable to the Management Board.

### ***Article 2 – Conflict of Interest***

Where a person who:

- (a) is assigned under Article 1(2); or
- (b) performs the tasks in Article 1(1) under Article 1(3)

has declared an actual, potential or perceived conflict of interest that affects a matter they have to deal with, they will be replaced (in respect of that matter) by the next person in the order set out in Article 1.

### ***Article 3 – Repeals and transition***

1. Decision n° 258 of the Management Board of the European Union Agency for Railways establishing procedures for decision-making by the Executive Director in relation to authorisations for placing vehicles on the market, single safety certificates, and ERTMS track-side approvals - repealing MB Decisions n°194, n°209, n°219 and n°234 is hereby repealed.
2. Decision n°322 of the Management Board of the European Union Agency for Railways amending Decision n°258 establishing procedures for decision-making by the Executive Director in relation to authorisations for placing vehicles on the market, single safety certificates, and ERTMS track-side approvals and repealing Decision n° 315 is hereby repealed.
3. Decision n°301 of the Management Board of the European Union Agency for Railways establishing procedures for decision-making on business continuity, except in relation to authorisations, certificates, approvals and repealing decision n°276 is hereby repealed.
4. All decisions taken by the Executive Director delegating powers to other Agency staff members under the decisions mentioned in this Article remain in force until they expire.

***Article 4 – Entry into force***

This decision shall enter into force on the day of its adoption. It will be published on the Agency website.

For the Management Board,  
On 19-11-2024

The Chairwoman  
Paloma IRIBAS FORCAT