



Record of the proceedings of the second ELA Management Board meeting – 3 December 2019

1. INTRODUCTION BY THE CHAIRPERSON

The acting Chairperson opened the meeting with housekeeping information regarding interpretation and logistics. He noted that voting would take place in accordance with Art. 21 of the Founding Regulation and most decisions would be taken by the Management Board by a majority of members with the right to vote. The decision on the Work Programme and on the budget would require a two-thirds majority in line with Article 18(1)t and 18(1)b respectively of the ELA Regulation. The election of the Chairperson and Deputy Chairperson would also require a two-thirds majority. If not reached, a second vote would take place, requiring only a simple majority. In this regard, the acting Chairperson informed the Management Board that in the absence of IT, PT had been mandated to vote on its behalf. He informed the Management Board that RO would neither be represented by the member nor by the alternate and had not delegated its right to vote to another Member State. The acting Chairperson also informed the remaining members that the two European Commission representatives would not vote on the election of the Chairperson and deputy Chairperson.

The acting Chairperson further informed the Management Board that Mr Florian SCHIERLE had been appointed as DE Member of the Management Board, replacing Mr Holger WINKLER.

The acting Chairperson concluded this point by conveying the best wishes of the outgoing Commissioner Ms. Thyssen. He also stated that Commissioner Nicolas Schmit, who took office the previous day, was equally committed to the success of the Authority.

2. ADOPTION OF THE AGENDA – (ELA/MB/2019/015)

The acting Chairperson introduced the draft agenda, and reminded everyone that in case of conflict of interest with any of the points on the agenda, the individuals concerned would be expected to leave the room during the discussion of that point.

The acting Chairperson asked the Management Board whether anyone had any comments to the agenda or any other items to be included under the point 13 “AOB – Any other Business”. PL asked for a discussion of the cases submitted by ETUC, in particular those concerning PL and DK. It was agreed to address this topic at the next meeting.

The Management Board adopted the Agenda (ELA/MB/2019/015).

3. ADOPTION OF THE MINUTES OF THE FIRST MANAGEMENT BOARD MEETING OF 17 OCTOBER 2019 – (ELA/MB/2019/013)

The acting Chairperson asked the Management Board whether anyone had any comments on the draft minutes of the 16-17 October meeting. Since there were no comments the minutes were adopted (ELA/MB/2019/013).

4. FOLLOW-UP TO PREVIOUS MEETING AND WRITTEN PROCEDURE – (ELA/MB/2019/014, ELA/MB/2019/025, AND ELA/MB/2019/006 REV1)

The acting Chairperson informed the Management Board that following the adoption of the procedure for selecting the members and alternates of the Stakeholder Group in the inaugural meeting, the interim Executive Director addressed a letter to ETUC and to Business Europe requesting them to designate their representatives to the Stakeholder Group. Following receipt of the names, a written procedure was launched on 18 November 2019 for the appointment of the members of the Stakeholder Group by the Management Board. The written procedure was closed on 2 December 2019 with 30 favourable votes (9 positive replies and 21 absence of replies, thus considered as votes in favour).

The acting Chairperson informed the Management Board that the Stakeholder Group held a first meeting on 22 November 2019 in Brussels and, as provided by the founding Regulation, discussed the draft Work Programme 2020. The Stakeholder Group drafted an opinion submitted to the Management Board on 2 December 2019. A summary of this opinion would be presented under Item 6(a).

The independent expert appointed by the European Parliament inquired whether it would be possible for the members of the Management Board to participate in meetings of the Stakeholder Group. The acting Chairperson replied that the Regulation provides that the membership of the Stakeholder Group comprises representatives of Social Partner organisations and the European Commission, and that there will be regular joint meetings between the Management Board and the Stakeholder Group (at least once a year). AT requested more details on the members of the Stakeholder Group in addition to the acronyms of their organisations. The acting Chairperson replied the ELA website would be updated with the list of members and alternates of the Stakeholder Group and additional information about each organisation. He requested the EU Level Social Partners to provide the relevant information to the Secretariat.

5. ELECTION OF THE CHAIRPERSON AND DEPUTY CHAIRPERSON – (ELA/MB/2019/017 REV 1)

The acting Chairperson told the Management Board that the Secretariat had been informed of the candidature of Mr Tom BEVERS, member representing Belgium for the position of Chairperson. The Secretariat had further been informed of the candidatures of Ms Agnieszka WOŁOSZYN, member representing, Poland and Mr Karol JOKL, member representing, Slovakia for the position of deputy Chairperson.

The election took place by secret ballot in two separate rounds, one for the Chairperson and a second one for the deputy Chairperson.

Following a brief introduction of his candidature Mr BEVERS was elected Chairperson by 26 votes in favour and 1 blank vote.

Ms Agnieszka WOŁOSZYN and Mr Karol JOKL introduced their respective candidatures for the position of Deputy Chairperson. Voting took place immediately after with 21 votes cast in favour of Ms WOŁOSZYN and 6 votes cast in favour of Mr JOKL. Ms WOŁOSZYN was therefore elected as Deputy Chairperson.

The acting Chairperson congratulated all candidates and invited Mr BEVERS and Ms WOŁOSZYN to take their seats at the main table.

6. WORK PROGRAMME AND BUDGET

6.A WORK PROGRAMME 2020 – (ELA/MB/2019/018)

The newly elected Chairperson, Mr. BEVERS, started the discussion on the draft Work Programme of the Authority for the year 2020.

The interim Executive Director presented the draft Work Programme. He welcomed the opinion of the Stakeholders Group (ELA/MB/2019/025) following its first meeting of 22 November 2019. He outlined the initiatives proposed under the two priority tasks of “facilitating access to information” and “coordinating and supporting concerted and joint inspections”, and on all other tasks, including those relating to the transfer of the European Platform tackling undeclared work and EURES, as well as the integration of existing committees and cooperation with other bodies.

The Chairperson invited the representatives of the EU level social partners to present to the Management Board the opinion of the Stakeholders Group on the draft Work Programme. The representatives of the EU level social partners shared the presentation of the Group’s opinion, while the representatives of workers and employers added specific remarks on behalf of each group.

The members of the Management Board broadly expressed support to the draft Work Programme 2020, particularly the actions envisaged to implement the two chosen priorities, highlighting the need to balance ambition and realism. Comments were mainly addressed to the task of “coordinating and supporting concerted and joint inspections”. Some members raised concerns regarding the proposed number of pilot inspections for the year, and the need to specify rules for the protection of personal data during joint operations and to translate all documents. The members of the Management Board stressed the need to build the task of concerted and joint inspections on work already carried out by EU bodies, most notably the European Platform tackling undeclared work. As regards the other tasks, notably the mediation of disputes, some members expressed the wish to accelerate the drafting of a cooperation agreement with the Administrative Commission for the coordination of social security systems. Questions were finally raised

as to the correspondence between the budget figure outlined in the Work Programme for the task of “facilitating access to information and services” and that laid down in the Budget document ELA/MB/2019/019.

The interim Executive Director took note of the comments. He clarified that the document outlining the budget for 2020 included commitments taken under EURES, actions that would be specified in a discussion to be held in 2020, leading to an addendum to the 2020 Work Programme and the definition of the Work Programmes for the consecutive years. He clarified that the Authority intended to carry out *at least* one pilot inspection and it is open for more than that, and that on data protection, the Authority could look into the topic, while leaving implementation to the national level. Finally, he clarified that considering the sensitivity of the task, the Authority would start talks with the Administrative Commission for the coordination of social security systems on the mediation task, although the timing would also depend on the Administrative Commission.

The Chairperson concluded that the Management Board invites the interim Executive Director to revise the 2020 ELA Work Programme in line with the discussion at the meeting, and that the Management Board will consider the Work Programme adopted once and subject to the approval by the Chairperson and Deputy Chairperson of the revised version, which will be subsequently distributed to all members.

6.B). ADOPTION OF THE BUDGET FOR THE YEAR 2020 - (ELA/MB/2019/019)

The ELA budget for 2020 was presented to the Management Board. The budget (EUR 15 683 250) covered staff and administrative expenditure, and operational expenditure for the work programme. The evolution of staff expenditure (EUR 5 085 000) reflected the sustained recruitment of new staff in line with the adopted Establishment Plan. The administrative expenditure (EUR 2 918 250) would ensure the effective administration of the ELA during its establishment phase in Brussels and in Bratislava from the moment of the move. The operational expenditure (EUR 7 680 000) would allow to start-up activities, notably the tasks aiming at facilitating access to information on rights and obligations regarding labour mobility across the Union, and coordinating and supporting concerted and joint inspections, as well as to prepare the take-over in January 2021 of existing activities currently implemented by the Commission.

The presentation was followed by a Q&A session, during which Austria raised concerns regarding the amount of detail presented in the Budget 2020 and requested further specifications concerning the estimated costs so as to be able to assess the suitability of the proposed expenditure. The interim Executive Director made further clarifications. The only modification decided by the Management Board was to increase the budget of the Title 3 - Task 3: Concerted and joint inspections by 15 000 EUR up to 745 000 EUR. A corresponding decrease would be applied to Title 3 - Task 1: Access to information and coordination of EURES.

The Management Board adopted the budget 2020 (ELA/MB/2019/019) subject to the revision described above.

7. ESTABLISHMENT OF WORKING GROUPS - (ELA/MB/2019/020 AND ELA/MB/2019/021)

The Chairperson presented the two draft Decisions to establish a Working Group on information and a Working Group on inspections, including their rules of procedure and a template for the declaration of absence of conflicts of interest. The Chairperson also stressed the importance of a timely set-up of the Working Groups in order to start the work of ELA on the two priorities indicated by the Management Board.

Members took the floor to ask for an extension of the deadlines for nomination of an expert and an alternate, to receive the relevant documents ahead of a meeting and to reply to a written consultation. Some members also proposed that the Working Group on inspections looks into issues related to data protection.

The interim Executive Director and some members referred to the need of the Working Group to be flexible and operational. While all Members of the Management Board interested to nominate an expert will be invited to do so, this is not an obligation and the Working Group can also work with a limited number of experts.

The representatives of the EU level Social Partners and the European Parliament suggested that the Working group should define procedures and criteria to receive, assess and follow-up on inspection cases brought up by Member States or Social Partners.

The Chairperson summarised the changes in the Decisions and annexes, inviting the Chairperson of the Working Group on inspections to present the initial steps of their work during the third Management Board meeting of March 2020.

Decisions No 7/2019 and 8/2019 of 3 December 2019 of the Management Board on the setting up of Working Groups on information and inspections were adopted, with the revisions agreed during the meeting. The Management Board Members took note of the deadline of 7 January to nominate an expert and eventually also an alternate in the Working Group on inspections in view of the first meeting of this group on 6 February in Brussels.

8. ADOPTION OF THE DRAFT ESTIMATE OF THE AUTHORITY'S REVENUE AND EXPENDITURE FOR 2021 (ELA/MB/2019/022)

The interim Executive Director explained the yearly process of budget establishment, and highlighted that the adoption of the draft estimate of the revenue and expenditure was the very first step of this process.

The draft estimate of the revenue and expenditure for 2021 was presented to the Management Board. This draft estimate (EUR 29 977 000) covered the staff and administrative expenditure, and the operational expenditure for the work programme. The evolution of staff expenditure (EUR 10 185 000) reflected the continued recruitment of

new staff, at a pace faster than initially planned in the Legal Financial Statement accompanying Regulation (EU) 2019/1149. The administrative expenditure (EUR 3 142 000) would ensure the effective administration of the Authority during this year. Operational expenditure (EUR 16 650 000) included appropriations related to the activities currently implemented by the Commission to be shifted to the Authority in 2021 (EUR 10 187 000), and of fresh appropriations for the implementation of the new activities of the Authority (EUR 6 463 000).

The Management Board adopted the draft estimate of the Authority's revenue and expenditure for 2021 (ELA/MB/2019/022).

STAFF MATTERS

9. ADOPTION OF FIRST PART OF IMPLEMENTING RULES TO THE STAFF REGULATIONS – (ELA/MB/2019/023)

The Chairperson presented the general principle of applying the Staff Regulations and Conditions of Employment of EU staff also at ELA. Thereafter the interim Executive Director of ELA explained the differences between the two set of rules presented for adoption by the Management Board. The first type includes a total of 20 rules that would apply by analogy to the existing rules in the European Commission, to ensure equal treatment. The Management Board adopted these 20 rules.

A second group of seven Decisions presented for adoption contained minimal modifications to reflect ELA's specificities, and had received the ex-ante agreement of the Commission under Article 110(2) of the Staff Regulations.

On a question regarding the conditions that apply to potentially interested candidates to ELA vacancies, the Interim Executive Director pointed to the existence of an FAQ section dedicated to this topic on ELA's website, and invited all Board members to share their feedback to update this section regularly.

The Management Board adopted this group of seven Decisions with no changes (ELA/MB/2019/023 – Decisions 9 to 14/2019 of 3 December 2019 of the Management Board)

10. APPOINTMENT OF A MEMBER OF THE MANAGEMENT BOARD AS OBSERVER IN THE EXECUTIVE DIRECTOR'S SELECTION BOARD

The Chairperson informed the Management Board that Mr. Gilles Gateau had expressed an interest in becoming the observer, on behalf of the Management Board, in the selection process to recruit the Executive Director of the Authority. Mr. Gateau confirmed his commitment and availability for this task. The Management Board agreed to appoint Mr. Gateau as the Management Board observer in this selection process.

11. CALL FOR SECONDING NATIONAL LIAISON OFFICERS – (ELA/MB/2019/024)

Prompted by a question regarding the foreseen timing to identify their respective National Liaison Officers (NLO), three delegations confirmed that they had already identified the person they would like to appoint as NLO, whereas 15 others believed that they would be able to do so by mid-March. Seven other delegations would need more time to identify a suitable candidate.

An exchange of views followed on the administrative steps to appoint NLOs and the exact nature of their tasks.

The interim Executive Director clarified that the verification of minimum conditions would be done on the basis of the documents and evidence provided by each NLO upon appointment by their respective Member State. The interim Executive Director also clarified that NLOs would all have the same core tasks, whereas some specific additional tasks might be agreed between the NLO and their ELA line manager for ELA to benefit from a particular level of expertise by the NLO in question. The Member State of origin would be informed of any additional tasks.

On the conditions applicable to NLOs, the interim Executive Director confirmed that a decision to cover tuition fees of children of staff at ELA in international schools would be submitted to the approval of the Management Board by written procedure, with a proposal to also offer this possibility to SNEs, and therefore to NLOs, working at ELA.

The Board reached an agreement on the call for interest to identify the NLOs, following a modification to include a specific reference to labour inspection as part of the selection criteria.

The Chairperson concluded by signalling the agreement by the Board to set the deadline for the identification of NLOs for 16 March.

Other activities

The Chairperson informed the Management Board the third meeting of the Management Board would be held on Tuesday 24 March in Bratislava. The fourth meeting would be held in June or early July on a date to be confirmed according to the schedule of recruitment process for the position of Executive Director. The fifth meeting would be held in September, together with a Conference and the Joint meeting of the Stakeholder Group with the Management Board.

Possible written procedures in the near future include Staff rules prior to the March meeting in order to ensure that potential staff could be provided with adequate information and the Headquarters Agreement.

The Chairperson confirmed that the AOB point raised by PL regarding ETUC cases submitted to ELA would be taken up at the next meeting.

Letters would be sent after the meeting on the appointment of experts to the two Working Groups being created on inspections and information.