

**Draft Decision No 6/2020****of 24 March 2020****of the Management Board****On the delegation to the Executive Director of the European Labour Authority of the powers conferred by the Staff Regulations 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**

THE MANAGEMENT BOARD OF THE EUROPEAN LABOUR AUTHORITY,

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants ('CEOS') of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 2(1), 110(2) of the Staff Regulations and Article 6 of the CEOS,

Having regard to Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing the European Labour Authority amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344² (hereinafter 'the founding Regulation' and 'the Authority'), and in particular Article 18(2) thereof,

Having regard to the Rules of Procedures of the Management Board of European Labour Authority ('the Authority'), and in particular Article 2 thereof³,

Having regard to the Commission Decision giving its agreement pursuant to Article 110(2) of the Staff Regulations C(2019) [NN] of [DD] [Month] 2019,

After informing the Staff,

Whereas:

- (1) By virtue of Article 18(1)(k) of the founding Regulation, the powers of the appointing authority and the authority empowered to conclude contracts of employment are conferred on the Management Board of the Authority.
- (2) Pursuant to Article 18(2) of the founding Regulation, the Management Board should adopt, in accordance with Article 110(2) of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the CEOS delegating the relevant appointing authority powers to the Executive Director of the Authority and setting out the conditions under which this delegation of powers can be suspended. The Executive Director is authorised to sub-delegate those powers.

¹ 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.

² OJ L 186, 11.7.2019, p.21.

³ Decision No 1/2019 of 17 October 2019 of the Management Board on the Rules of Procedure of the Management Board of the European Labour Authority

- (3) Pursuant to Article 18(3) of the founding Regulation, where exceptional circumstances so require, the Management Board may, by way of a decisions, temporarily suspend the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.
- (4) Pursuant to the sixth subparagraph of Article 110(2) of the Staff Regulations and Article 18(1)(l) of the founding Regulation, the Management Board is to adopt, in agreement with the Commission, the implementing rules for giving effect to the Staff Regulations and the CEOS.
- (5) Decisions on the daily management of the Authority, and in particular decisions in individual staff matters should be taken at the most appropriate level.
- (6) The Executive Director manages the Authority and should be, in particular, responsible for the day-to-day administration of the Authority.
- (7) On the basis of Service Level Agreements, certain appointing authority powers of a technical nature could be sub-delegated by the Executive Director to the services of the European Commission services, in particular to the Paymaster's Office or the Directorate-General for Human Resources and Security, notably when those services are not available within the Authority.
- (8) It is therefore necessary to adopt a decision delegating the relevant competences in the area of staff management to the Executive Director,

HAS DECIDED AS FOLLOWS:

Article 1

This Decision concerns the exercise of the powers of the appointing authority and the authority empowered to conclude contracts of employment in respect of the staff of the Authority, except:

1. the Executive Director;
2. the appointment of the accounting officer.

Article 2

1. Within the limits of Article 1, the powers conferred by the Staff Regulations on the appointing authority and by the CEOS on the authority empowered to conclude contracts of employment shall be delegated to the Executive Director of the Authority, except for the adoption of the implementing rules to give effect to the Staff Regulations and the CEOS.
2. The powers referred to in paragraph 1 are conferred on the Executive Director without prejudice to other competences of the Management Board as provided for in the founding Regulation.
3. Decisions related to the extension of contract, termination of contract, appraisal and reclassification of the accounting officer shall be subject to the approval of the Management Board.

4. The powers referred to in paragraph 1 concerning Article 90(2) of the Staff Regulations are exercised by the Chairperson of the Management Board, when the contested decision was taken at the level of the Executive Director.

Article 3

1. The Executive Director may sub-delegate, by way of a formal decision, the powers referred to in Article 1 to a member of temporary staff by reference to appropriate criteria, such as their function group, position and job assignment, which they hold in the Authority. In such case, the Executive Director may not exercise him- or herself the power, unless he or she has taken back the sub-delegation by way of a formal decision.
2. Agents to whom powers are sub-delegated under paragraph 1 may be designated by their position in the Authority or *ad personam*.
3. Sub-delegations shall be brought to the attention of the staff in a suitable form.
4. The Executive Director may sub-delegate the relevant powers referred to in Article 1 to the services of the Commission. The sub-delegation shall be carried out in writing and brought to the attention of the staff.

Article 4

Where a person to whom powers have been conferred pursuant to Article 2 or Article 3(1) is unable to act, those powers shall be exercised in accordance with the rules on deputising.

Article 5

1. Where exceptional circumstances so require, the Management Board may, by way of a decision, temporarily suspend the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director. The delegate shall report to the Management Board on the exercise of such a delegation.
2. The powers referred to in paragraph 1 may then be sub-delegated as necessary, in which case Article 3 shall apply *mutatis mutandis*.
3. The suspension shall be decided in accordance with the following provisions:
 - a. before adopting a decision on suspension, the Management Board shall carefully consider any possible impacts on the functioning of the Authority. The suspension shall be limited to the duration and extent necessary to achieve its objective;
 - b. the decision on suspension shall be taken according to the voting rules of the Management Board provided for in the Regulation;

- c. the decision on suspension shall be communicated to the Executive Director in writing and shall clearly define the powers being suspended, the exact duration of the suspension and any conditions thereto;
- d. the decision on suspension shall automatically suspend any related sub-delegation, unless explicitly stated otherwise in the decision;
- e. the decision on suspension shall specify who shall exercise the relevant powers during the period of suspension;
- f. the decision on suspension shall be brought to the attention of staff in a suitable form.

Article 6

This Decision shall take effect on the day following its adoption and it shall be brought to the attention of the staff of the Authority in a suitable form.

Done at Bratislava, 24 March 2020

For the Management Board

Tom BEVERS
Chairperson of the Management Board