

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

DECISION n° 394

of the Management Board of the European Union Agency for Railways on delegating powers to the Executive Director to adopt non-substantial amendments to the Single Programming Document and repealing Decision n° 317

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 and repealing Regulation (EC) No. 881/2004¹, and in particular Articles 46 to 54 thereof,

Having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council²,

Having regard to DECISION n°206 of the Management Board of the European Union Agency for Railways adopting the new ERA Financial Regulation³, and in particular Title III, Chapter 1, Article 32 of the Annex thereof;

Whereas:

- (1) *Article 51(1)(b) of the ERA Regulation prescribes that the Management Board (hereinafter also referred to as "MB") adopts each year, by a two-thirds majority of its members entitled to vote, after having received the opinion of the Commission and in accordance with Article 52, the programming document of the Agency (hereinafter also referred to as "SPD", including the annual and multi-annual work programme).*
- (2) *Title III Chapter 1 Article 32 (3) of the ERA Financial Regulation defines that any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial work programme, in accordance with the provisions of the constituent act.*

¹ OJ L 138 26.5.2016, p. 1-43, hereinafter referred to as "ERA Regulation"

² OJ L 122, 10.5.2019, p. 1-38

³https://www.era.europa.eu/content/decision-n%C2%B0206-management-board-european-union-agency-railways-adopting-new-era-financial_en

- (3) *The same paragraph of the ERA Financial Regulation provides that the Management Board may adopt a decision delegating powers to make non-substantial amendments to the annual work programme to the Executive Director of the Agency.*
- (4) *The Agency applies the provisions of Article 26 of the ERA Financial Regulation in respect of budget transfers, including the relevant thresholds.*
- (5) *MB Decision n°317 was adopted as the update of the initial delegation decision (n°289), with an additional round of return of experience and analysis foreseen in 2025.*
- (6) *This experience and analysis⁴ was presented to the MB n°69 on 17 June 2025 with proposed changes to MB Decision n°317. To ensure greater clarity, it would be better to repeal rather than amend MB Decision n°317, and replace it with the present decision.*

HAS ADOPTED THIS DECISION:

Article 1 - Delegation to the Executive Director

1. The Management Board confers the powers on the Executive Director of the Agency to make non-substantial amendments to the annual work programme.
2. Any non-substantial amendment shall be formalised in an Executive Director decision or an electronic ED approval workflow with equivalent legal effect. The annual work programme shall be amended accordingly to the decision taken, and the changes as a result of a non-substantial amendment shall be duly tracked and recorded.
3. Notwithstanding that the power to make a non-substantial amendment decision is conferred on the Executive Director as per Article 1(1), the Executive Director may at any time defer the decision to the Management Board. Consequently, the Executive Director may always seek the MB's approval of an amendment, should the sensitivity of the subject matter require so, and/or the discussion and the decision would be better suited at MB level, and/or be linked to *force majeure*.

Article 2 - Definitions and scope of application

1. As a general rule, amendments of the multiannual work programme and any change that significantly affects the nature of the activities / objectives of the work programme is always substantial and requires a modifying decision adopted following the same procedure as the initial decision.
2. Non-substantial changes neither significantly affect the nature of the annual work programme activities, nor its objectives.
3. The Management Board provides the following set of criteria to be applied when an amendment is deemed substantial or non-substantial:

Substantial	Non-substantial
<ul style="list-style-type: none"> • <i>approval of SPD draft, adoption</i> • <i>amendment of the multiannual work programme</i> • <i>approval of strategies or policies referred to in the SPD (e.g. Section II 2.4, Annex VI, X, XII of the SPD 2023)</i> • <i>major change in the strategic statements, outcome indicators or KPIs</i> 	<ul style="list-style-type: none"> • <i>any change of editorial nature</i> • <i>minor amendments of the annexes (e.g. editorial changes, filling "p.m."-s, corrections, addition of data that became available later)</i> • <i>minor change in the strategic statements, outcome indicators or KPIs that does not affect the overall reading</i>

⁴ Decision n° 317 of the Management Board of the European Union Agency for Railways on delegating powers to the Executive Director to adopt non-substantial amendments to the Single Programming Document and repealing Decision n° 289, and in particular Article 6(2) thereof.

Substantial	Non-substantial
<ul style="list-style-type: none"> • <i>commencement of a completely new programme, deletion / termination of a programme or its output(s) that impacts the programme's overall delivery</i> • <i>amendment of an output (indicator and/or target) by making it significantly "easier" (i.e. the Agency needs to deliver less, later, etc.)</i> • <i>adding a new output that entails tasks previously not foreseen by the SPD</i> • <i>postponement of an output for a reason within ERA's sphere of influence, or by more than 6 months, or to a subsequent year's work programme</i> • <i>amendment of the overall financial and human resource planning with a direct connection to or impact on the EU budgetary procedure</i> 	<ul style="list-style-type: none"> • <i>rewording, deletion or minor revision of a programme, its description, its output(s) that does not impact the programme's overall delivery</i> • <i>amendment of an output (indicator and/or target) in the "stricter" direction (i.e. the Agency needs to deliver more, earlier, etc.)</i> • <i>adding a new output that is in line with the existing ones</i> • <i>postponement of an output with sufficient justification, this reason being beyond ERA's sphere of influence (e.g. force majeure⁵), and by less than 6 months</i> • <i>integrating changes only to reflect provisions of MB adopted decisions or as a request from the MB that has been agreed</i> • <i>adding a new programme to the annual work programme that has already been envisaged by the multiannual programming for subsequent years, or which only covers activities already performed by other existing programmes and is already resourced</i>

Article 3 – Reporting to the Management Board and to the Executive Board

1. The Executive Director shall inform the Management Board on all the decisions on non-substantial amendments in the context of the Management Board meetings in the form of a table summarising all the non-substantial amendments undertaken in the preceding period (i.e. since the previous MB meeting) under the recurring agenda point “Report from the Executive Director”.
2. This list of non-substantial amendments shall include the following information: content of the amendment, decision date, criteria applied (delegation basis), justification.
3. This item will also be submitted for the Executive Board meetings in preparation of the Management Board meetings.

Article 4 – Suspension and amendment of delegation

1. The Management Board retains the ultimate control of the delegation provided for by Article 1.
2. The Management Board may adopt decisions that overrule decisions of the Executive Director under the delegation provided for by Article 1, at the request of a member of the Management Board.
3. The Management Board may decide to suspend or amend the delegation of powers to the Executive Director granted by this Decision before its duration expires. Any such decision shall be taken by the Management Board in accordance with the following provisions:
 - a. before deciding, the Management Board shall carefully consider any possible impact on the functioning of the Agency;
 - b. it shall be taken by absolute majority of Management Board members with a right to vote;

⁵ The MB shall be informed without delay about the occurrence, potential implications and developments connected to a force majeure event or circumstance that has an impact on project/service delivery

- c. it shall be communicated to the Executive Director in writing and shall clearly define the subject and any conditions thereto;
- 4. The Management Board retains the right to adopt non-substantial amendments to the annual work programme on its own initiative, and such a decision always supersedes the Executive Director's decision on the same subject matter, regardless of which decision is made first.

Article 5 – Repeals

Decision n°317 of the Management Board of the European Union Agency for Railways on delegating powers to the Executive Director to adopt non-substantial amendments to the Single Programming Document and repealing Decision n° 289 is hereby repealed.

Article 6 – Entry into force

This Decision shall enter into force on the day of its adoption.

For the Management Board,

On 07/01/2025



Hinne GROOT
The Chairperson