

Making the railway system
work better for society.

Paper on the role of the Executive Board

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Paper on the role of the Executive Board

This document is based on initial discussions between Mats Andersson, Clio Liégeois and Hinne Groot. Consultations have been made with the European Commission and the Agency Executive director. Further discussions at the Executive board meetings in April and June have resulted in this version to be presented to the Management Board.

1. The problem

The Executive board (EB) meetings, and previously the Sub Committee (SC), have played an important role in the governance of the European Union Agency for Railways (ERA). Over the years, the SC and recently the EB have contributed in positive ways to strengthening the cooperation between the board and the Agency. Following the Administrative board reflection group created in 2011, proposals for enhanced governance of the Agency were presented in 2012 and have since been incorporated into the work of the SC and EB. Still, there are some remaining issues, addressed below, that prevent the EB in contributing to an optimal governance of the Agency. The EB has to some extent become a rehearsal act for the Management (former Administrative) board (MB) meetings. This has negatively affected the perspective and value of the meetings, the Agency's staff, the board members and finally the possibility to manage the meetings efficiently. By following the draft agenda of the MB, the EB tries to go through the MB agenda in less time. The result is:

(a) a limited discussion, but often a proof-reading exercise that has little value for all parties. The Agency has limited time to adjust any documents at this late stage, resulting in MB members, which are not members of the EB, ending up with late version changes and less possibilities to read, analyse and form positions on the content.

(b) the strategic contribution of the EB is low under this regime. The impact on MB is that most needed decision documents are approved in time, but that discussion in MB on the content remains limited also due to EB "proof reading" in advance. We have tried to introduce changes to the MB agenda by dividing it into three parts; decisions, strategy and information. This has made some improvements to the MB meetings, but the underlying support from the EB to this structure has not been changed accordingly.

(c) the EB discuss some topics at the last stage of their development (c.f. SPD and draft Statement of Estimates) without the possibility to contribute at an earlier stage from a strategic point of view.

2. The EB main tasks

According to Article 53 of the ERA Regulation, the EB has an assisting role to the MB in terms of preparing decisions and to follow up MB decisions. Furthermore, the EB shall follow up audit recommendations as well as assist the Executive director (ED) in the implementation of decisions by the MB with focus on supervision of administrative and budgetary matters.

The size of the MB makes it difficult to have thorough and in-depth discussions in order to provide strategic guidance to the Agency. The EB has a larger potential to contribute in this respect.

Even if the EB has no power to take decisions itself (except on grounds of urgency), and is rather an instrument following the direction of the MB, it is a means for a more efficient governance structure of the Agency. The EB should improve the decision making of the MB and enhance the governing of the Agency.

Finally, the MB's tasks have changed with the new Agency regulation in the sense that not only administrative decisions are taken but also policy decisions regarding implementation of the 4th railway package (RP). In addition the Executive director has become accountable to the MB for all his duties (art 54.) This policy development function and control / monitor function must be further developed by the MB and the EB should support the MB in this task.

3. The vision

We would like to see the EB enhancing its strategic and forward-looking role with a clear ambition to assist the Agency in fulfilling its tasks including getting MB decisions taken on time with the right content and to ensure successful implementation of the 4th RP. This should be done through an efficient drafting, implementation and follow-up of the Single Programming Document (SPD) and ensuring the Agency is operating and allocating resources in accordance within the legal and financial framework of the EU. At the same time, the EB must continue to monitor and follow up how administrative and budgetary matters are implemented in the Agency. Hence, there is a balance between the past, present and future, covering both strategy and compliance, to be handled in the continued work of the EB.

In order to work towards the vision and fulfilling the main tasks, there are a number of tools to be used. These will be elaborated upon below in sections 4-8.

4. The Single Programming Document – SPD

A key document for the Agency and the MB is the SPD. The SPD is the basis for the work done at ERA and resources provided, and should be seen as a starting point for all governance activities. The MB has to endorse the version of the SPD to be sent to the COM, EP and Council by 31st January and decide on the SPD by 30 November each year according to Article 52 of the ERA Regulation.

The SPD is part of a rolling process, which covers a three-year span. In 2017, there is a preparatory work done for the SPD 2018, the implementation of the SPD 2017 and the follow-up of the SPD 2016 through the Annual Activity Report (AAR). The SPD has a multi-annual and annual perspective, covering both operational and strategic issues. It also contains the Statement of Estimates, which is the foundation for the budget and available human resources. Furthermore, the Commission (and MS) has the right to ask the Agency to perform other tasks which are not included in the SPD. According to Article 43(2) of the ERA Regulation, it is very important that the MB be given the right to decide on the measures taken by the Agency to meet these requests.

The EB is currently playing a vital part in the preparation of the SPD, but there is potential for a more structured work in the SPD process to support the MB in its decisions, as well as to use the SPD as a real tool to follow up the Agency's work. This following-up task is so far underdeveloped.

Therefore, the EB could also play a role:

- in the SPD's preparatory works to contribute to the preparation of a mature draft to be sent to COM, EP and Council by 31st of January together with the Statement of Estimates,
- on the follow-up of the SPD,
- on the request of modification of the SPD due to its implication on its follow-up.

5. Strategic calendar

As a complement to the SPD, we propose an introduction of a strategic calendar for the EB. This would be an overview of areas and issues of strategic importance with substantial impact on the resources of the Agency, which the EB should pay particular attention to in its support to the MB. The content of this calendar is for the MB to discuss and to decide upon on an annual basis. This would improve the link between the MB and the EB and help both levels in fulfilling their duties as well as providing early guidance for the Agency.

In the scope of the transition towards implementation of the 4th RP, the EB shall focus on issues that, from a financial and administrative perspective, may have an important impact on the full implementation of the 4th RP.

An important aspect of the strategic calendar is also to agree on the output of the work done by the EB. There has to be a clear output, c.f. proposal or position, for the MB to endorse. Hence, the feedback from the EB to the MB is to be secured. Special attention should also be given to avoid including strategic issues that are already handled through other fora, c.f. RISC.

6. Rapporteurs for focus areas

Normally, there are few activities between EB meetings and this is an area where the EB functioning can improve. The Chairperson and Deputy-Chairpersons of the EB and MB meet with the Agency management team at a regular basis, but there are probably issues where EB members can be given a specific role in monitoring the development over time and act as rapporteurs to the EB and MB. The preparations of key issues could be done from an early, strategic phase and be monitored by a rapporteur to a point when the issue is ready for decision. When issues have been followed by a rapporteur, there could be a point in continuing the follow-up of the implementation of the decisions taken by the MB with the same person. The reporting format is something to be further elaborated upon and discussed within the EB and MB. Workshops can potentially be used as a way of discussing issues on the strategic calendar.

Starting from the SPD, there is potential for assigning focus areas for the EB. This can then be defined in a clearer mandate from the MB. The Strategic calendar and matters dealing with the compliance to the financial and legal framework could be other potential areas to focus on.

As EB members also have duties to fulfil in their MS, this function should be introduced at a small scale and on a voluntary basis in order to assess its benefits, before extended.

7. Agenda

The EB agenda is usually set in accordance with the following MB meeting in order to review the status of the underlying documents and decisions. As said above, this has a tendency of becoming a proof reading exercise as well as trying to provide substantial feedback on the content. It also becomes a very rushed exercise as the same amount of documents handled in a 6-7 hour MB meeting is pushed into a much shorter

time limit (normally 3-4 hours). In order to provide for discussions of future issues as well as ensuring a good preparation of the upcoming MB meeting, this is not sufficient. We have had discussions in the predecessor to the EB, the SC, on whether this replication of the MB is necessary. The views have been diverging and we have not found a good way forward in pin pointing the issues to be addressed at the SC. The current agenda structure is not allowing for proper discussions at the EB. Below is a suggestion for an agenda template to discuss further.

EB Draft agenda template:

Opening

Adopting draft agenda

Strategic outlook

Strategic calendar

Discussions

Follow-up

Report from ED

Reports from EB Rapporteurs

Monitoring and supervision of staff related, resources and management issues

Discussions

Decision preparations

Specific focus on MB decision matters in the Strategic calendar and SPD

Discussions

MB Agenda planning (future MB meetings)

MB Agenda urgencies (next MB meeting)

Closing

Action list

EB meeting agenda

Adoption of previous minutes

A direction for the future would also be to have a mix of formal and informal documents for the EB meetings. Some formal documents with explanatory notes are needed for the EB to fulfil its monitoring role of resources and management, while some strategic and policy oriented agenda points can be introduced in a less formal way for an initial discussion. If these agenda points are for future decisions, they can be gradually developed and approaching a decision, the formal documents can be made available to the EB and MB members.

In addition, it should be discussed how to properly allocate time for each topic in order to allow for an in-depth discussion. Appropriate time to review the documents for the EB and MB members must also be given in order to have a proper discussion.

Once the core principles for the EB role have been decided, the final design of the EB agenda could be decided by the EB chair in agreement with the Executive Director. A further suggestion is to strive towards having preliminary draft agendas over the coming calendar year available for the EB and MB members at an early stage. This is in line with the current planning of the MB decisions, which has been drafted by the Agency and presented to the MB, and would complement this approach.

8. Meeting dates

EB meetings are normally scheduled 2-3 weeks prior to the MB. This is laid down in the Rules of Procedure for the Executive board (decision 135 by MB, 23rd June, 2016). The possibility for the EB to provide feedback and for the Agency to make changes in the documents, which are to be presented to the MB, is very limited. This has over the years resulted in a number of late submissions of documents to the MB or complementary notes to already existing explanatory notes, which at times have been confusing for MB members. In order to remedy this, it should be considered that the EB should not deliver opinions on items submitted to the MB for decision later than 14 days before the MB. The EB meetings should therefore be scheduled 6 to 8 weeks before the MB, which would offer a better guarantee that documents would be ready in due time. A review of the meeting calendar is therefore warranted and for the EB Chair to decide in agreement with the Executive Director. Some thoughts on the schedule are given below.

MB – Standard calendar of meetings in January, June and November. For 2017 (and possibly 2018), September is added to deal with 4th RP decisions.

EB – End February, End April (MB June/Sep), Mid July (MB Sep/Nov), Early October (MB Nov/Jan), Mid December (MB Jan/Jun).

Chair/management team meetings – MB Chair and Deputy-Chairs of MB and EB. Early warning of topics to be addressed at the coming EB's. Monthly and aligned with EB meetings.

MB Workshops – complementary and on demand to strengthen MB decisions. Preferably allocated around MB meetings to avoid extra travel costs.

9. Risks to be managed and avoided

By engaging the EB closer with the Agency, there is an underlying risk of micromanagement, which should be avoided. The rapporteur function should be clear in having a strategic perspective and done for the good of the MB. If this can be managed well, there should be an added value of the work and no extra burden on the Agency.

Another possible risk that should be managed is the role that EB members should play in this reformed version of the EB. As the members of the EB shall assist and advise the Executive Director and be appointed on the basis of their relevant competence and experience, it is implicit that their role is to represent their own MS, but at the same time also consider the perspective of all MS and the interest of the Agency.

This can be made clear towards potential EB candidates, and could also be worth mentioning in the mandate given by the MB (see point 10 below).

As issues related to the Agency are also discussed in other fora, c.f. RISC and NSA Network, attention must be paid to avoid the EB to duplicate those discussions.

By being active and working close with the Agency in trust, we can rather avoid surprises. This is even more important at these times when there is a high level of change going on. The MB has been given some very important decision-making tasks that require a lot of negotiations and considerations. Being late or not involved in this work is likely to lead to unpleasant surprises.

10. Changing the EB Rules of Procedure (RoP)?

There is nothing in the present EB RoP that prevents an implementation of the thoughts in this note. Convening of meetings is currently indicated as at least once every three months and no less than two weeks prior to a MB meeting. Hence, meeting more often and earlier is within this scope.

Working towards an enhanced strategic focus could however benefit from a stronger mandate from the MB. This would then have to be introduced in the MB Rules of Procedure, art. 11. The current mandate only deals with provisional decision making. If the MB would like the EB to take a more strategic perspective when preparing the decisions of the MB, there is a possibility to add this to the mandate. This could focus on some principal ideas on what to focus on and how to report back to the MB.

Summary:

- We would like to give the EB an enhanced strategic role, while ensuring its core activities related to supervision and monitoring of resources and management
- In order to support the MB in its decision-making and follow-up, we would like the EB to get involved at an early stage to discuss strategic directions of ERA activities and ensure compliance with legal and financial regulations
- To deal with this change in perspective, the EB would need a different working method with rapporteurs for focus areas and benefit from a strategic calendar
- The enhanced strategic role could be expressed in form of a more elaborated mandate from the MB together with a list of priorities and actions for the EB to follow
- Our key priority is to ensure that ERA is an well-functioning Agency, both internally and externally, and create reasonable assurance of progress in line with SPD objectives

Next steps:

- Discussion at 42nd Management Board meeting on June 27, 2017.
- Launch new approach together with new chairperson of MB/EB
- Continue discussions on strategic calendar at MB meeting in September

Decision proposal:

The MB adopts the principles reflected in the paper and gives mandate to the Chair to come back to the MB in September with:

- Any necessary changes to the Rules of Procedure for the EB
- A proposal for a strategic calendar for the MB to adopt
- A review of the schedule of the meeting dates 2017 and 2018 to reflect the views expressed herein.