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## DECISION n° 245

*of the Management Board of the European Union Agency for Railways amending MB Decision n° 189 and n° 213 on the practical modalities relating to recovery of costs incurred by the Agency for its assistance to Member States, candidate countries and stakeholders on training and other appropriate activities*

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

Having regard to the Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways<sup>1</sup> (hereinafter referred to as “the Agency”) and repealing Regulation (EC) No. 881/2004 (hereinafter called “the Regulation”), and in particular Articles 43 and Article 8,

Having regard to Decision 189 of the Management Board of the European Union Agency for Railways on the practical modalities relating to recovery of costs incurred by the Agency for its assistance to Member States, candidate countries and stakeholders on training and other appropriate activities, dated 28 November 2018, hereafter ‘Decision n°189’,

Having regard to Decision 213 of the Management Board of the European Union Agency for Railways on the practical modalities relating to recovery of costs incurred by the Agency for its assistance to Member States, candidate countries and stakeholders on training and other appropriate activities, dated 27 November 2019, hereafter ‘Decision n°213’,

Whereas:

- (1) The Agency was confronted with significant financial constraints in 2019 and 2020 and therefore, it was agreed that it had a legitimate interest to recover costs when engaging at the request of the Commission, Member States, candidate countries or the networks referred to in Art.38 of the Agency Regulation, in training and other appropriate activities concerning the application and explanation of railway safety and interoperability legislation and related products of the Agency such as registers, implementation guides and recommendations;
- (2) The Agency’s financial situation will still be uncertain and constrained also beyond 2020;
- (3) Therefore, in order to counter the negative effects of such budget constraints, the Agency should continue to charge for costs related to assistance provided to requesting parties as it was the case during the years 2019 and 2020.

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<sup>1</sup> OJ L 138, 26.5.2016, p. 1-43.

**HAS DECIDED AS FOLLOWS:**

***Article 1***

1. Article 4 of Decision n° 189 is replaced by the following :

*“The present decision shall enter into force on the day following that of its adoption and shall be applicable until 16 June 2022. It will be published on the Agency website.”*

2. All other Articles of Decision n° 189 remain unchanged.

***Article 2***

The present decision shall enter into force on 1 January 2021. It will be published on the Agency website.

For the Management Board

The Chairwoman  
Clio LIÉGEOIS

Annex : Consolidated version

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

Having regard to the Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways<sup>2</sup> (hereinafter referred to as “the Agency”) and repealing Regulation (EC) No. 881/2004 (hereinafter called “the Regulation”), and in particular Articles 43 and Article 8,

Whereas:

- (4) The Agency being confronted with significant financial constraints in 2019 has a legitimate interest to recover costs when engaging at the request of the Commission, Member States, candidate countries or the networks referred to in Art.38 of the Agency Regulation, in training and other appropriate activities concerning the application and explanation of railway safety and interoperability legislation and related products of the Agency such as registers, implementation guides and recommendations,
- (5) The networks of national safety authorities, investigating bodies and representative bodies as referred in Article 38 of the Regulation shall facilitate submission of the individual requests of their members to the Agency for the purposes of article 43 of the Regulation
- (6) As the Management Board decides on the nature and extent of these activities, including the possible impact on resources, the Agency’s programming document and the costs of the such assistance are envisaged to be borne by the requesting parties, unless otherwise agreed, it is necessary that the Agency proceeds to the recovery of the costs from the parties requesting assistance and for that the practical modalities should be put in place,

**HAS DECIDED AS FOLLOWS:*****Article 1***

3. The Agency shall recover the costs related to the activities undertaken following requests envisaged under Article 43 of Regulation (EU) 2018/796, unless otherwise agreed with the party submitting the request.
4. The Agency shall be put in place a flexible mechanism which will allow for the costs to be recovered in a transparent way and in line with the applicable financial rules.

***Article 2***

For each request received, which is not already included in its programming document, the Agency will draft and submit to the Management Board an early impact assessment detailing, among others: the type of the request received; the possible impact on resources; the capacity of the Agency to mobilise the necessary resources; the estimated costs to be recovered from the requestor.

***Article 3***

Subject to the Management Board approval, based on the early impact assessment, the Agency will include the respective request in its work programme and consequently amend the Single Programming Document, if necessary.

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<sup>2</sup>. OJ L 138, 26.5.2016, p. 1-43.

**Article 4**

The present decision shall enter into force on the day following that of its adoption and shall be applicable till 16 June 2022. It will be published on the Agency website.

For the Management Board

The Chairperson  
Clio LIÉGEOIS