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## DECISION n° 347

*of the Management Board of the European Union Agency authorising the Executive Director to request the European Commission's agreement on the draft Management Board Decision concerning the probationary period, management trial period and the annual appraisal of the Executive Director of the European Union Agency for Railways*

**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 881/2004,*
- *the Staff Regulations of Officials ('SR') and the Conditions of Employment of Other Servants of the European Union ('CEOS') laid down by Council Regulation (EEC, Euratom, ECSC) No 259/681, and in particular, paragraph 5 of Article 110(2) SR,*
- *The request from the authorities in DG HR d.d. 12.12.2023 asking ERA to update its rules before the appointment of the new Director,*

**Whereas:**

*the current Decision 151/10.2008 in place is outdated and not in line with the Staff Regulations and its accompanying implementing rules,*

After consulting the ERA Staff Committee on the draft Management Board Decision concerning the probationary period, management trial period and the annual appraisal of the Executive Director of the European Union Agency for Railways,

**HAS DECIDED AS FOLLOWS:**

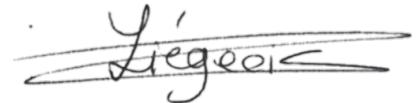
***Article 1***

The Executive Director is hereby authorised to request the European Commission’s agreement on the draft Management Board decision concerning the probationary period, management trial period and the annual appraisal of the Executive Director of the European Union Agency for Railways, set out in the Annex.

***Article 2***

This decision shall enter into force on 19 March 2024. It shall be published on the Agency’s website.

For the Management Board,



Clio LIÉGEOIS  
The Chairwoman

Annex: Draft MB Decision concerning the probationary period, management trial period and the annual appraisal of the Executive Director of the European Union Agency for Railways Consultation document – Staff Committee

# Annex

## DRAFT DECISION n° 3xx

### *of the Management Board of the European Union Agency for Railways concerning the probationary period, management trial period and the annual appraisal of the Executive Director of the European Union Agency for Railways*

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

Having regard to the Treaty on the Functioning of the European Union,

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 to Articles 43,44 and 46 of the Staff Regulations and Articles 14, 15 and 20 of the CEOS,

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 881/2004 (hereinafter "Founding Regulation"<sup>2</sup>), and notably the European Union Agency for Railways (hereinafter "ERA") and in particular Articles 51(1)(j) and 67(1) thereof,

Having regard to the Commission's Decision<sup>3</sup> giving its agreement pursuant to Article 110(2) of the Staff Regulations,

After consulting the ERA Staff Committee,

#### **Whereas:**

- (1) Pursuant to Article 67 (1) of Founding Regulation, the Staff Regulations and the CEOS are applicable to the staff of the ERA.*
- (2) Pursuant to Article 51 (1) (j) of the Founding Regulation, rules implementing the Staff Regulations and the CEOS are adopted by the ERA Management Board in accordance with Article 110(2) of the Staff Regulations.*

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<sup>1</sup> 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

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

<sup>3</sup> [Commission Decision C(YYYY)XXXX of DD MM YYYY]

- (3) *The Executive Director of the ERA is a temporary agent engaged under Article 2(a) of the CEOS, pursuant to Article 68 of the Founding Regulation.*
- (4) *The Executive Director of the ERA shall be subject to an annual appraisal, to a probationary period and to a management trial period. These various procedures aim to assess the Executive Director with regard to his/her ability, efficiency and conduct in the service.*
- (5) *It is necessary to lay down specific rules which govern the various appraisals, to which the Executive Director shall be subject, in order to determine the role of each actor and identify the various stages to be achieved in order to ensure the transparency of these procedures.*

## HAS DECIDED AS FOLLOWS:

### TITLE I

#### Probationary period and management trial period

##### Article 1- Scope of the probationary period and the management trial period

1. A newly engaged ERA Executive Director (hereinafter ‘the probationer’) shall be subject to a probationary period, as specified in Article 14(1) of the CEOS.
2. The extension of the probationary period as referred to in Article 14(1) of the CEOS may be proposed by the Reporting Panel to the authority authorised to conclude contracts of employment (hereinafter ‘AACC’)<sup>4</sup>.
3. In parallel to the probationary period, a newly engaged Executive Director shall serve a management trial period of nine months, unless he/she has already successfully passed such a trial period in a previous function in any other European institution or body.

##### Article 2 - Tasks and designation of the various actors

To assess the probationary period and the management trial period, Articles 9 and 10 shall apply *mutatis mutandis*.

##### Article 3 - Content and form of the probationary report

1. The probationary report shall appreciate, according to the criteria defined therein, the ability, efficiency and the conduct in the service of the probationer within the probationary period. It shall also include the assessment of the management skills, unless the management trial period has already been successfully passed as indicated in Article 1(3).

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<sup>4</sup> In that case, the ERA Management Board is represented by its Chair  
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2. Subject to paragraph 1, the content and form of the probationary report can, if necessary, be amended by decision of the Management Board on a proposal from the Reporting Panel.

#### **Article 4 — Procedure for the probationary period and the management trial period**

1. During the month which follows the first day of entry into service, the Reporting Panel shall meet the probationer in order to discuss his/her job description, set the objectives and agree, in writing, on how these objectives and the performance level expected from the probationer will be assessed during his/her probationary period, taking into account the assessment criteria defined in paragraph 3.

2. In case of an obvious inaptitude, a report may be drawn up at any time of the probationary period. The AACC shall proceed in accordance with Article 14(2) of the CEOS.

3. At the latest one month before the expiry of the probationary period, a report shall be drawn up by the Reporting Panel on the efficiency of the probationer, on his/her abilities to perform the duties pertaining to his/her post, including the probationer's management skills as determined by Article 1(3), and on his/her conduct in the service. The assessment shall particularly take into account the efficiency based on fulfilment of objectives and carrying out of the implementation of the ERA work plan, demonstrated abilities and conduct in the service, in particular with regard to rights and obligations determined in Title II of the Staff Regulations, applicable to temporary agents by virtue of Article 11 of the CEOS. The probationer and the Reporting Panel shall hold a formal dialogue on the report.

4. At the latest ten working days after the formal dialogue, the Reporting Panel shall make a single proposal to the AACC in the final report, as to the establishment, extension of the probationary period pursuant to Article 1(2), or dismissal of the probationer, which shall be based on the probationer's ability, including management skills, efficiency and conduct in the service.

5. After having been notified of the report in writing, the probationer shall have eight working days to accept the report, accept it after adding comments in the appropriate section of the report, or refuse the report justifying the reason for the refusal in its appropriate section. If the report is accepted by the probationer, the appraisal report is closed. A report is deemed to be accepted in case of absence of reaction of the probationer within the set deadline.

#### **Article 5 - Appeal procedure**

Article 14 shall apply mutatis mutandis.

#### **Article 6 - Final decision**

1. After the acceptance of the report by the probationer, or, if applicable, at the end of the appeal procedure or possible extension of the probationary period, the AACC shall decide on the action to be taken, namely

the establishment, extension of the probationary period pursuant to Article 1(2), or dismissal of the probationer. In the case of extension of the probationary period or dismissal, the AACC shall decide after hearing the probationer.

2. Should dismissal be recommended, the report shall be transmitted immediately by the ERA Management Board to the Commission. The probationer may be dismissed only upon a decision of the Management Board in accordance with Article 51(1)(k) of the Founding Regulation.

The Reporting Panel and, if applicable, the appeal assessor, shall be excluded from the decision referred to in paragraph 1.

### **Article 7 - Management allowance**

1. The management allowance is paid after the probationer's capacity to fulfil his/her management functions satisfactorily has been confirmed in the report referred to in Article 3.

2. The management allowance is paid when the report referred to in Article 3 has been closed. It is paid retroactively as from the date of appointment of the probationer.

## **TITLE II**

### **Annual Appraisal**

#### **Article 8 – Scope**

1. The Executive Director of the ERA is hereinafter referred to as 'the jobholder'.

Every year an appraisal report shall be drawn up regarding the jobholder by the actors defined in Article 9. The appraisal report shall cover the reference period from 1 January to 31 December of the preceding year, provided that the jobholder was in active employment for a continuous period of at least one month during the reference period.

2. The objective of the annual appraisal is to assess the ability, efficiency, and the conduct in the service of the jobholder<sup>5</sup> and whether the performance level of the jobholder has been satisfactory.

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<sup>5</sup> Pursuant to Article 43 of the SR applicable by virtue of Article 15(3) of the CEOS  
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3. For the first appraisal exercise after engagement, the annual appraisal report concerns the period which is not covered by the probationary period report referred to under Article 14 of the CEOS.

### **Article 9 – Tasks of the various actors**

1. The Reporting Panel shall carry out an appraisal of the jobholder. After the dialogue held in accordance with Article 12(3), the Reporting Panel shall draw up a report and sign it.

2. In case of an appeal, the appeal assessor makes the final decision on the report of the jobholder after consultation of the Management Board.

### **Article 10 – Designation of the reporting officers and the appeal assessor**

1. The Reporting Panel shall be composed of [two or three] members of the ERA Management Board. One of the reporting officers shall represent the European Commission. The members of the Reporting Panel cannot be designated to any other functions within the appraisal procedure of the ERA Executive Director.

2. The appeal assessor shall be the Chair of the Management Board.

### **Article 11 - Content and form of the annual appraisal report**

1. The annual appraisal report shall appreciate, according to the criteria defined therein, the ability, efficiency, and conduct in the service of the jobholder. That report shall state whether or not the performance level of the jobholder has been satisfactory.

2. Without prejudice to paragraph 1, the content and the form of the annual appraisal report can, if necessary, be amended by decision of the Management Board on a proposal from the Reporting Panel.

### **Article 12- Annual appraisal procedure**

1. The annual appraisal takes place, to the extent possible, in the beginning of the year following the reference period.

2. The jobholder establishes, within ten working days after the Reporting Panel's request, a self-assessment which is incorporated into the annual appraisal report.

3. At the latest ten working days after the self-assessment is communicated by the jobholder, the Reporting Panel and the jobholder hold a formal dialogue. If the jobholder fails to establish or finalise his/her self-

assessment within the required time, the Reporting Panel can decide to hold the dialogue when the deadline referred to in paragraph 2 has expired.

The dialogue shall include the following elements:

a) the Reporting Panel shall examine the jobholder's efficiency based on the fulfilment of the objectives as set out in accordance with point b), and for the first time, with Article 4, and the carrying out of the implementation of the ERA work plan, the abilities demonstrated and the conduct in the service of the jobholder for the reference period, having particular regard to rights and obligations determined in Title II of the Staff Regulations, applicable to temporary agents by virtue of Article 11 of the CEOS.

b) the jobholder and the Reporting Panel shall set the objectives for the following reference period and, if necessary, a training plan which takes into account the objectives linked to the ERA work plan and the personal development goals.

4. At the latest ten working days after the formal dialogue, the Reporting Panel shall draw up an annual appraisal report as defined in Article 11.

5. The appraisal report shall be notified in writing to the jobholder.

6. The jobholder shall have five working days from the day the appraisal report has been notified to him/her, to accept the report without making any comments, accept it after adding comments in its appropriate section, or refuse the report by justifying the reason for the refusal in the appropriate section. If the report is accepted by the jobholder, the report is closed. A report is deemed to be accepted in case of absence of reaction of the jobholder within the set deadline.

7. The closed report shall be transmitted to the chairperson of the ERA Management Board for information.

### **Article 13 – Carryover**

1. A carryover shall consist of drawing up an appraisal report the content of which is identical to the preceding annual appraisal report. A carryover must be agreed between the jobholder and the Reporting Panel. In that case, the procedure set out in Article 12 shall not apply, except for the dialogue specified in paragraph 3 thereof which shall apply *mutatis mutandis*.

2. The carryover shall be authorised if there has been no significant change in the abilities, efficiency and conduct in the service of the jobholder. An annual appraisal report may not be carried over more than once.

## Article 14 - Appeal procedure

1. The jobholder's reasoned refusal to accept the report in accordance with Article 12(6) shall automatically entail referral of the matter to the appeal assessor. The jobholder may withdraw his/her reasoned refusal to accept the report at any time before it is closed.
2. Upon request by the jobholder expressed in his/her reasoned refusal to accept the report, which is transmitted to the appeal assessor, the latter shall give his/her opinion to the jobholder within five working days as from the date of the reasoned refusal.
3. After consultation with the Management Board, the appeal assessor shall confirm or amend the report. When the appeal assessor departs from the opinion of the Management Board, he/she shall justify his/her decision. The Reporting Panel shall be excluded from these consultations.
4. The report is then closed and communicated to the jobholder and to the Management Board.

## Article 15 - Time limits

1. The time limits referred to in Article 12 which concern the jobholder shall be calculated only from the time when the relevant decision has been notified to him/her or, at the latest, when the latter, acting as a diligent agent, may be expected to be aware of the content of that decision and the reasons for it.
2. These time limits shall be suspended, however, if and for as long as the jobholder is unable to access the decision concerned.

## Article 16 – Final provisions

1. The Decision 151/10.2008 concerning the appraisal for the Executive Director is repealed.
2. This decision shall take effect on the day following that of its adoption.

For the Management Board,

Paloma IRIBAS FORCAT  
The Chairwoman