

MANAGEMENT BOARD DECISION 2/2020 of 4 January 2020

authorising the Executive Director to request the agreement of the European Commission for the non-application of general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings

THE MANAGEMENT BOARD

Having regard to the European Border and Coast Guard Regulation¹, and in particular Article 100(2)(t) thereof,

Having regard to the Staff Regulations of Officials ('Staff Regulations')² and the Conditions of Employment of Other Servants ('CEOS') of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and in particular Articles 2(3) and 30 of Annex IX of the Staff Regulations,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations of 14 June 2018³,

After consulting the Staff Committee and having received its response on 11 September 2019,

Whereas:

- (1) Pursuant to Article 100(2)(t) of the European Border and Coast Guard Regulation, the Management Board shall adopt the appropriate implementing rules for giving effect to the Staff Regulations and CEOS in accordance with Article 110(2) of the Staff Regulations. This power of the Management Board is confirmed by Article 2(1) of Management Board Decision No 26/2016⁴;
- (2) Pursuant to the second paragraph of Article 110(2) of the Staff Regulations, implementing rules adopted by the European Commission to give effect to the Staff Regulations shall apply by analogy to EU agencies and enter into force nine months after their entry into force at the Commission, or nine months after the date on which the Commission has informed the agencies of the adoption of these rules (whichever is later);
- (3) Should an agency wish to derogate or not apply by analogy any of the Commission implementing rules to the Staff Regulations, it is required to submit its justified request to the Commission before the expiry of the nine month period;

¹ Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p. 1).

² Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

³ Commission Decision C(2018) 3870.

⁴ Management Board Decision No 26/2016 of 6 October 2016 delegating the powers conferred by the Staff Regulations of Officials 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 to the Executive Director of the European Border and Coast Guard Agency.

- (4) Frontex does not wish to apply by analogy the implementing rules for Articles 2(3) and 30 of Annex IX of the Staff Regulations (Commission Decision C(2019) 4231 of 12.6.2019);
- (5) By Decision C(2018) 3870 of 14.06.2018, the Commission has given its agreement pursuant to Article 110(2) of the Staff Regulations, to the adoption by Frontex of its implementing rules to the Staff Regulations and to the CEOS regarding the conduct of administrative inquiries and disciplinary procedures;
- (6) Frontex requires to apply its own general implementing provisions on the conduct of administrative inquiries and disciplinary procedures adopted by Management Board Decision 26/2018 of 25 October 2018. Those provisions would take into account the specifics of Frontex and its staff;
- (7) The staff committee was consulted on 11 September 2019.

HAS DECIDED AS FOLLOWS:

Article 1 **Authorisation**

The Executive Director is hereby authorised to request the agreement of the Commission to the non-application of the general implementing provisions for Articles 2(3) and 30 of Annex IX of the Staff Regulations (Commission Decision C(2019) 4231 of 12.6.2019).

Article 2 **Entry into force**

This decision enters into force on the day following the date of its adoption.

Done by written procedure, 4 January 2020.

For the Management Board

[signed]
Marko Gašperlin
Chairperson

