

MANAGEMENT BOARD DECISION 4/2021 of 18 January 2021

establishing specific rules to facilitate the storage of weapons, including firearms and non-lethal weapons, ammunition and other equipment owned by the Agency in secured facilities and their transportation

THE MANAGEMENT BOARD

Having regard to the European Border and Coast Guard Regulation¹ (hereinafter the “Regulation”), and in particular Article 55(5)(c) thereof,

Whereas:

- (1) The European Border and Coast Guard standing corps (hereinafter ‘the standing corps’) should gradually reach the strategic target of a capacity of 10,000 operational staff with executive powers, where applicable, to effectively support Member States² in their efforts to implement the European integrated border management at their external borders, including by reinforcement of operational activities in the field of border control, fighting cross-border crime and terrorism and to step up the effective and sustainable return of irregular migrants.
- (2) The standing corps is to be composed of four categories of operational staff including statutory staff of the standing corps (category 1 staff)³ who are authorised by the Executive Director to carry and use weapons⁴ for the purpose of performing operational tasks that require use of force.
- (3) The Agency may acquire technical equipment including weapons, ammunition and other equipment.
- (4) In accordance with Article 55(5)(c) of the Regulation, the Management Board, on the basis of a proposal from the Executive Director, establishes specific rules to facilitate the storage of weapons, ammunition and other equipment in secured facilities and their transportation to the operational areas.

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 For the purpose of this Decision, the term “Member States” includes also the States participating in the relevant development of the Schengen acquis within the meaning of the Treaty on the Functioning of the European Union and its Protocol (No 19) on the Schengen acquis integrated into the framework of the European Union.

³ Article 54(1)(a) of the Regulation.

⁴ Management Board Decision adopting rules for the Executive Director to authorise statutory staff to carry and use weapons, including on mandatory cooperation with the competent national authorities, and ensuring that the conditions for issuing such authorisations continue to be met by statutory staff.

HAS DECIDED AS FOLLOWS:

Article 1

Adoption of the specific rules to facilitate the storage of weapons, including firearms and non-lethal weapons, ammunition and other equipment owned by the Agency in secured facilities and their transportation

The specific rules to facilitate the storage of weapons, including firearms and non-lethal weapons, ammunition and other equipment owned by the Agency in secured facilities and their transportation (hereinafter “the Rules”), as set out in the Annex to this Decision, are hereby adopted.

Article 2

Entry into force

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

Done by written procedure, 18 January 2021.

For the Management Board

[signed]

Marko Gašperlin
Chairperson

Annex:

Specific rules to facilitate the storage of weapons, including firearms and non-lethal weapons, ammunition and other equipment owned by the Agency in secured facilities and their transportation (‘the Rules’)

Specific rules to facilitate the storage of weapons, including firearms and non-lethal weapons, ammunition and other equipment owned by the Agency in secured facilities and their transportation ('the Rules')

CHAPTER I

General provisions

Article 1

Purpose

1. The purpose of the Rules is to facilitate the storage of weapons, including firearms and non-lethal weapons, ammunition and other equipment, owned by the Agency, in secured facilities, including during off-duty periods, as well as to facilitate their transportation.
2. The Rules lay down the procedures for the measures facilitating the registration, information management, transportation, maintenance and disposal of weapons including firearms and non-lethal weapons, ammunition and other equipment, owned by the Agency.

Article 2

Definitions

For the purpose of the Rules, the following definitions apply:

1. "ammunition" means an assembled cartridge containing projectiles, gunpowder and incendiary mixtures owned by the Agency which are carried and used by the statutory staff of the standing corps for the purposes of performing their functions or ensuring self-defence;
2. "central storage" means the secure storage of the Agency where the weapons, ammunition and other equipment owned by the Agency are stored if not allocated to operational or training activities;
3. "circulation" means any change of the person to whom specific weapons, ammunition and other equipment owned by the Agency are assigned and/or any change of the place where the weapons, ammunition and other equipment owned by the Agency are stored;
4. "decentralised storage facilities" means secure facilities to store the Agency's weapons, ammunition and other equipment in the operational areas or in locations other than the central storage;
5. "firearms" means any portable barrelled weapon that expels, or is designed to expel a shot, bullet or projectile by the action of combustible propellant provided by the Agency to its authorised staff and which is authorised by the Executive Director to be carried and used by the statutory staff of the standing corps for the purposes of performing their functions or ensuring self-defence;
6. "non-lethal weapons" means batons and lachrymatory agents, provided by the Agency to its authorised staff which are authorised by the Executive Director to be carried and used by the statutory staff of the standing corps for the purposes of performing their functions or ensuring self-defence;
7. "other equipment" means any item of the personal equipment set other than firearms or non-lethal weapons authorised by the Executive Director to be carried and used by the statutory staff of the standing corps for the purpose of performing their functions or ensuring self-defence.

8. “registration of firearms” means an individual record of the firearms in particular by type, make, model, calibre and serial number with the purpose of unambiguously identifying the firearm, owned by the Agency. Depending on the applicable legal basis, the record can be made either in the Agency’s data-filing system, or in the register of the competent authority of the Member State where the central storage is located, or in both;
9. “transportation of weapons and ammunition” means any organised movement of the Agency’s weapons and ammunition from one place to another for e.g. operational purposes, training or maintenance;
10. “weapons” means firearms and non-lethal weapons, owned by the Agency, which the Executive Director decides are to be carried and used by the statutory staff of the standing corps for the purposes of performing their functions or ensuring self-defence.

Article 3

Issuing weapons to the statutory staff of the standing corps

Weapons shall only be issued to the statutory staff of the standing corps on the basis of a prior authorisation granted by the Executive Director in accordance with rules adopted pursuant to Article 55(5)(b) of the Regulation.

CHAPTER II

Registration of firearms

Article 4

Registration of firearms, ammunition and other equipment

1. The Agency shall ensure that all firearms and ammunition are registered in compliance with the procedures laid down in the national law of the Member State where the central storage is established.
2. After registration of firearms, ammunition or other equipment, their related data is to be recorded in the files of the Agency’s Weapons and Ammunition Registry for weapons, ammunition and other equipment, as well as in the EU financial management system - ABAC⁵ to ensure transparency and auditing in line with the Agency’s financial framework⁶.

CHAPTER III

Storage

Article 5

Central storage

1. The central storage is a single point of delivery of the Agency’s firearms, ammunition and other equipment to the Agency from the provider. It is to serve as a main source for the supply of weapons, ammunition and other equipment to the decentralised storage facilities, as well as to the statutory staff of the standing corps.
2. The central storage is to be established in accordance with the requirements of the relevant national legal framework of the Member State where the central storage is established. The Executive Director may decide to increase the level of the requirements with additional and higher standards, provided that they are not in conflict with the applicable national law of the Member State concerned.

⁵ ABAC - Accrual Based Accounting System, which means an IT based EU accounting system taking into consideration internationally accepted standards for the public sector – the IPSAS (i.e. International Public Sector Accounting Standards).

⁶ Management Board Decision 19/2019 of 23 July 2019 adopting the Frontex Financial Regulation.

3. The central storage may be established in a Member State upon agreement between the Agency and the respective authorities of the Member State concerned.
4. The establishment of the central storage may be implemented either by using a Member State's resources and facilities, or facilities which may be owned or leased by the Agency.

Article 6

Decentralised storage facilities

1. Decentralised storage facilities are established to cater for the operational needs, including storage of weapons, ammunition and other equipment between the shifts and are to ensure availability of the Agency's weapons, ammunition and other equipment.
2. Decentralised storage facilities are to be established in accordance with the requirements of the relevant national legal framework of the respective Member State.
3. The establishment of decentralised storage facilities in Third Countries is to be in full compliance with the requirements of the relevant national legal framework of the respective Third Country. The Executive Director may decide to increase the level of the requirements with additional and higher standards, provided that they are not in conflict with the applicable national law.
4. The establishment of decentralised storage facilities for the Agency's weapons, ammunition and other equipment is to be implemented either by using the Member State's or Third Country's resources and facilities, or the facilities which may be owned or leased by the Agency.
5. The conditions related to the establishment and management of decentralised storage facilities of the Agency's weapons, ammunition and other equipment, based on the Rules, are to be included in the agreements concluded between the Agency and the national authorities of Member States and Third Countries, where the decentralised storages are to be established.⁷
6. Decentralised storage facilities are to be established based on the same principles as the central storage. The Weapons and Ammunition Registry of the decentralised storage facilities covers their respective stockpiles of the Agency's weapons, ammunition and other equipment. This sub-inventory system is to be designed as a sub-system and integrated into the one established at the level of the central storage.
7. The data to be recorded in the Weapons and Ammunition Registry of the decentralised storage facilities established in the Third Country, including personal data of the staff to whom the Agency's weapons, ammunition and other equipment is allocated shall be processed by the Agency only for the proper execution of the inventory tasks and in line with Regulation (EU) 2018/1725⁸.
8. The processing of personal data by the Agency referred to in paragraph 7 excludes any transfer of personal data to any Third Country.

Article 7

Security of storage

1. The central storage and the decentralised storage facilities shall be subject to safety and security requirements laid down under the relevant national legal framework of the Member State or Third Country where the storage facilities are established. The Agency may apply additional or stricter requirements.

⁷ Management Board Decision No 7/2019 of 14 May 2019 on the adoption of the model agreement establishing the terms that govern the use, the secured facilities and storage of equipment.

⁸ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

2. The Agency shall carry out risk assessment of every storage facility in accordance with the requirements of the Member State or Third Country concerned. The risk assessment for weapon storage facilities provided by the national authorities of a Member State or a Third Country shall take into consideration the security measures applied and implemented by the relevant Member State or Third Country, unless other agreements are concluded between the Agency and the competent authorities of the country concerned.
3. The central storage and the decentralised storage facilities for the Agency's service weapons, ammunition and other equipment is to be protected 24/7 by physical and technical protection measures, and personnel, appointed in accordance to the national legislation of country where the storage facilities are established. An effective perimeter of security infrastructure is to be established.
4. Access to these facilities is to be controlled 24/7 by the personnel appointed by a decision of the Executive Director and shall be restricted to authorised personnel only. Other persons granted temporary access to the storage have to be accompanied by authorised personnel during the entire visit in the storage.

CHAPTER IV

Inventory management

Article 8

Weapons and Ammunition Registry

1. The Weapons and Ammunition Registry ensures the identification and traceability of the registered Agency's weapons, ammunition and other equipment.
2. In order to ensure identification of the Agency's weapons, the Weapons and Ammunition Registry includes the possibility to register any modification performed on the weapons resulting in a change of their category or subcategory, including the authorised deactivation and disposal of weapons.
3. In order to ensure traceability of the Agency's weapons, the Weapons and Ammunition Registry includes the possibility to record all movements of the Agency's weapons, ammunition and other equipment, including storage data, assignment to persons, collection, possession and retrieval.
4. The Weapons and Ammunition Registry shall include necessary information to enable effective ammunition management.
5. For the purpose of national administrative, civil and criminal proceedings, the retention period of records in the Weapons and Ammunition Registry adheres to the rules and conditions stated in the national legislation of the Member State, where the Agency's weapons are registered.

Article 9

Data on the Agency's weapons and ammunition markings

1. The Agency's weapons initially received from the provider are to have clear, irremovable, permanent and unique markings, as required by the national legislation of the Member State where the Agency's weapons are registered.
2. The ammunition initially received from the provider is accepted based on the markings on the packages. The ammunition unpacked to be provided for training purposes or for the use by the statutory staff of the standing corps is further stored and counted.
3. The markings and data referred to in paragraphs 1 and 2 are to be introduced in the data-filing systems for the Agency's weapons, ammunition and other equipment to ensure their traceability and identification and to facilitate their movement.

CHAPTER V

Transportation of the Agency's weapons, ammunition and other equipment

Article 10

Standards for transportation

1. For the transport of the Agency's weapons, ammunition and other equipment, the standards applied by the Agency should closely follow the requirements laid down in Directive 2009/43/EC⁹, and the relevant international legal framework.
2. Personnel appointed by decision of the Executive Director shall organise the transportation of the Agency's weapons, ammunition and other equipment. Transfer of the Agency's weapons, ammunition and other equipment is implemented through the border crossing points.
3. Personnel appointed by decision of the Executive Director must always adhere to the national legal framework of the countries of shipment, transit and the final destination when planning and implementing transportation of the Agency's weapons, ammunition and other equipment.

Article 11

Secure freight transport

The Executive Director shall take measures to ensure the secure freight transportation of the Agency's weapons, ammunition and other equipment, as part of the effective supply chain to the operational area, as well as between the different storage locations.

CHAPTER VI

Miscellaneous provisions

Article 12

Firearms, ammunition and authorising documents no longer in possession of responsible staff

In the event that the Agency's firearm, ammunition or a document authorising the carrying and use of weapons is no longer in possession of the responsible staff, the event shall be immediately reported, in line with the provisions of a relevant Executive Director's Decision.

Article 13

Agreements with national authorities

The agreements which may be concluded between the Agency and the national authorities of Member States and Third Countries where central storage or decentralised storage facilities are established for the Agency's weapons, ammunition and other equipment, shall refer to the Rules.

⁹ Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).