

European Union Agency for Cybersecurity

DECISION No MB/2019/13 of the Management Board of the European Union Agency for Cybersecurity (ENISA) delegating the relevant appointing authority powers to the Executive Director

THE MANAGEMENT BOARD OF EUROPEAN UNION AGENCY FOR CYBERSECURITY (ENISA)

Having regard to the Staff Regulations of Officials ('Staff Regulations') 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 to Articles 2(1), 110(2) of the Staff Regulations and Article 6 of the CEOS;

Having regard to Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act)² hereinafter referred to as the Agency Regulation, and in particular Article 15(1)(l) and Article 15 (2) thereof;

Having regard to the Rules of Procedures of ENISA, and in particular Article 9 thereof;

Having regard to the Commission Decision giving its agreement pursuant to Article 110(2) of the Staff Regulations C(2019)7820 final of 30.10.2019.

After consulting the Staff Committee,

Whereas:

- (1) By virtue of Article 15(1)(l) of the Agency Regulation, the powers of the appointing authority and the authority empowered to conclude contracts of employment are conferred on the Management Board of the Agency.
- (2) Pursuant to Article 15(2) of the Agency Regulation the Management Board adopts, in accordance with Article 110(2) of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the CEOS delegating the relevant appointing authority powers to the Executive Director of the Agency and defining the conditions under which that delegation of powers can be suspended. The Executive Director is authorised to sub-delegate those powers and should inform the Management Board of such sub-delegations.

¹OJ 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.

² OJ L 151, 7.6.2019, p. 15–69

- (3) Pursuant to Article 15 (3) of the Agency Regulation, where exceptional circumstances so require, the Management Board may decide to suspend temporarily the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.
- (4) Pursuant to the sixth subparagraph of Article 110(2) of the Staff Regulations and Article 15 (1)(m) of the Agency Regulation, the Management Board is to adopt, in agreement with the Commission, the implementing rules for giving effect to the Staff Regulations and the CEOS,
- (5) Decisions on the daily management of the Agency, and in particular decisions in individual staff matters should be taken at the most appropriate level.
- (6) The Executive Director manages the Agency and should be, in particular, responsible for the day-to-day administration of the Agency.
- (7) On the basis of Service Level Agreements, certain appointing authority powers of a technical nature could be sub-delegated by the Executive Director to Commission services, in particular the Commission Paymaster's Office or DG Human Resources and Security, notably when those services are not available within the Agency.
- (8) It is therefore necessary to adopt a decision delegating the relevant competences in the area of staff management to the Executive Director,

HAS DECIDED AS FOLLOWS:

Article 1

This Decision concerns the exercise of the powers of the appointing authority and the authority empowered to conclude contracts of employment in respect of the staff of the Agency, except:

- a) the Executive Director
- b) the appointment of the accounting officer

Article 2

1. The powers conferred by the Staff Regulations on the appointing authority and by the CEOS on the authority empowered to conclude contracts of employment shall be delegated to the Executive Director of the Agency, except for the adoption of the implementing rules to give effect to the Staff Regulations and the CEOS.
2. The powers referred to in paragraph 1 are conferred on the Executive Director without prejudice to other competences of the Management Board as provided for in the Agency Regulation.
3. Decisions on extension of contract, termination of contract, appraisal and reclassification of the ENISA accounting officer, shall be subject to the approval by the Management Board.
4. The powers referred to in paragraph 1 concerning Article 90(2) of the Staff Regulations are exercised by the Management Board when the contested decision was taken at the level of the Executive Director.

Article 3

1. The Executive Director may sub-delegate, by way of a formal decision, the powers referred to in Article 1 to a member of temporary staff by reference to appropriate criteria, such as their function group, position and job assignment, which they hold in the Agency. In such case, the Executive Director may not exercise him- or herself the power, unless he or she has taken back the sub-delegation by way of a formal decision.
2. The Executive Director shall inform the Management Board of such sub-delegations.
3. Agents to whom powers are sub-delegated under paragraph 1 may be designated by their position in the Agency or *ad personam*.
4. Sub-delegations shall be brought to the attention of the staff in a suitable form.
5. Where a person to whom powers have been conferred pursuant to Article 2 or paragraph 1 of this Article is unable to act, those powers shall be exercised in accordance with the rules on deputising set out in the Agency's internal rules.
6. The Executive Director, may sub-delegate the relevant powers referred to in Article 1 to the services of the Commission. The sub-delegation shall be carried out in writing and brought to the attention of the staff.

Article 4

1. Where exceptional circumstances so require, the Management Board may, by way of a decision, suspend temporarily the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director. The delegate shall report to the Management Board on the exercise of such a delegation.
2. The powers referred to in paragraph 1 may then be sub-delegated as necessary, in which case Article 3 shall apply *mutatis mutandis*.
3. The suspension shall be decided in accordance with the following provisions:
 - a. before adopting a decision on suspension the Management Board shall carefully consider any possible impacts on the functioning of the Agency. The suspension shall be limited to the duration and extent necessary to achieve its objective;
 - b. the decision on suspension shall be taken according to the voting rules of the Management Board provided for in the Agency Regulation;
 - c. the decision on suspension shall be communicated to the Executive Director in writing and shall clearly define the powers being suspended, the exact duration of the suspension and any conditions thereto;
 - d. the decision on suspension shall automatically suspend any related sub-delegation, unless explicitly stated otherwise in the decision;
 - e. the decision on suspension shall specify who shall exercise the relevant powers during the period of suspension;
 - f. the decision on suspension shall be brought to the attention of staff in a suitable form.



Article 5

1. The ENISA's Decision MB/2013/20 WP 17 December 2013 Delegating the powers of appointing authority and authority empowered to conclude contracts of employment to the Executive Director of the Agency is repealed.
2. This Decision shall enter into force as of the 27th June 2019 which was the day the Cybersecurity Act came into force. It shall be brought to the attention of the staff.

Done in Athens on 21 November 2019.

For the Management Board of ENISA

[signed]

Jean - Baptiste Demaison
Chair of the Management Board of ENISA