

EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

Provisional Rules of Procedure of the European Union Agency for Fundamental Rights

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Provisional Rules of Procedure of the European Union Agency for Fundamental Rights

These Provisional Rules of Procedure shall remain in force until such time as the Management Board of the European Union Agency for Fundamental Rights adopts the definitive Rules of Procedure of the Agency in accordance with Article 12(6)(g) of Council Regulation (EC) No 168/2007 of 15 February 2007 (hereinafter referred to as “the Regulation”).

I MANAGEMENT BOARD

TITLE 1 - ELECTIONS

ARTICLE 1

Chair and Vice-Chair of the Management Board

1. The Chair and the Vice-Chair shall be elected from amongst the full members at the first meeting of the Management Board following the appointment of its members. The presence of at least two thirds of the appointed members of the Management Board or alternates shall constitute the quorum for the election, if at the time of the meeting less than 23 members have been appointed. Once more than 23 members have been appointed, the presence of at least two thirds of the members of the Management Board or alternates (i.e. 20) shall be required for the quorum.
2. The Chair of the Management Board shall be elected by secret ballot. The election proceedings shall be chaired by a representative of the European Commission. The procedure shall be as follows:
 - a) The names of those persons wishing to stand as candidates shall be notified before the meeting to the person chairing the election proceedings or announced at the meeting. A member may declare his or her candidacy in his or her own name or be proposed by another member.
 - b) If there is only one candidate, that candidate shall be declared elected, except if a member of the Management Board requires a vote.
 - c) If there is more than one candidate, a ballot shall be held as described below.
 - d) Any candidate receiving at least two thirds of all votes according to Article 12, paragraph 8 of the Regulation, shall be declared elected. If no candidate receives two thirds of all votes according to Article 12, paragraph 8 of the Regulation, a second ballot shall be held. If no candidate receives two thirds of all votes according to Article 12, paragraph 8 of the Regulation, all candidates other than the two receiving the largest numbers of votes shall be eliminated and a third ballot shall be held.
 - e) If the two candidates receive an equal amount of votes, lots shall be drawn.
 - f) A candidate may withdraw at any stage of the procedure.
 - g) Any abstention shall be deemed equivalent of a vote legally cast.
 - h) A vote shall be deemed to be spoiled, at the decision of the person chairing the meeting, if it does not indicate the designated candidate beyond reasonable doubt.

3. The same procedure shall apply, *mutatis mutandis*, to the election of the Vice-Chair and in the consecutive elections of the two members of the Executive Board not appointed *ex officio* under Article 12, paragraph 5 and Article 13, paragraph 1 of the Regulation establishing the European Union Agency for Fundamental Rights (hereinafter referred to as “the Agency”). These elections shall be chaired by the Chair of the Management Board.
4. In accordance with Article 12, paragraph 5 of the Regulation, the Chair and Vice-Chair of the Management Board as well as the two members of the Management Board elected to sit on the Executive Board, shall serve for a two-and-a-half year term, which may be renewed once.
5. In the event of the resignation of the Chair or his or her inability to serve for any other reason, a new Chair shall be elected for the remainder of his or her term of office. The same conditions shall apply to the Vice-Chair and to the two elected members of the Executive Board referred to in Article 3, paragraph 1.

TITLE 2 – MEETINGS OF THE MANAGEMENT BOARD

ARTICLE 2

Convening of the meetings of the Management Board

1. Pursuant to Article 12, paragraph 9 of the Regulation, the Chair shall convene the Management Board twice a year. The Chair shall also convene extraordinary meetings on his or her own initiative or at the request of at least one third of the members of the Management Board. As a general rule, the meetings shall be scheduled having due regard to decisions necessary for the functioning of the Agency, such as the need to adopt the budget, the Annual Reports and the work programme for the following year, and the need to approve the accounts and give discharge to the Director.
2. Each time a meeting is convened, the Chair shall notify the members of the date of the meeting at least twenty days before it is due to take place. At the same time, the Chair shall forward to the members and alternate members the draft agenda and any preparatory documents. The Director shall ensure that the Chair receives all preparatory documents a reasonable period in advance.
3. Each of the decisions necessary to the functioning of the Agency, such as the need to adopt the budget, the Annual Reports and the work programme for the following year, and the need to approve the accounts and give discharge to the Director, shall constitute a separate item on the agenda.
4. If at least one third of the members of the Management Board ask that a meeting of the Management Board be convened, the Chair shall ensure that such a meeting is held, barring exceptional circumstances, within a period of one month pursuant to the procedure laid down in paragraphs 2 and 3.

5. In the absence of the Chair, his or her duties shall be performed by the Vice-Chair. In the absence of both the Chair and the Vice-Chair, their duties shall be performed by one of the elected members of the Executive Board. In the absence of the Chair, the Vice-Chair and both the elected members of the Executive Board, their duties shall be performed by the oldest member(s) present.

ARTICLE 3

Venue

1. The meetings of the Management Board shall be held at the seat of the Agency, established in Vienna in the Republic of Austria.
2. The Executive Board may decide to make an exception to the general rule specified in paragraph 1 above in order to make it easier to organise a meeting. The Executive Board shall give reasons for its decision in such cases.

ARTICLE 4

Working languages

1. The Community languages selected for the proceedings of the Management Board shall be English and French.
2. The working languages referred to in paragraph 1 shall be used for the presentation of the preparatory documents and minutes of meetings.
3. The working languages referred to in paragraph 1 shall be used at the meetings of the Management Board and of the Executive Board. Interpreting services from/to English and French shall be arranged accordingly.
4. In case some Board members would not be able to follow and participate in the meeting in English or French, personal interpretation shall be provided.

ARTICLE 5

Agenda

1. The Management Board shall adopt the agenda at the start of the meeting. This agenda shall comprise the items appearing in the draft agenda referred to in Article 2, paragraph 2, and any other item proposed, pursuant to paragraphs 2 and 3 of the present article, by one or more members.
2. Any request, by one or more members of the Management Board, to have an item added to the agenda shall state the reasons on which it is based and shall be submitted in writing to the Chair at least two weeks before the date of the meeting. The Chair shall forthwith notify the other members of any requests of this type. If received out of time, the request shall be treated as a proposal within the meaning of paragraph 4.

3. However, urgent matters may, in exceptional circumstances to be determined at the discretion of the Chair, be raised at the start of the meeting by one or more members of the Management Board.
4. During a meeting, any member may propose that an item be added to the agenda of the next meeting.

ARTICLE 6

Attendance at meetings

1. The members of the Management Board shall inform the Director of whether they intend to attend the meeting in person or be represented by their alternates.
2. Pursuant to Article 15, paragraph 5 of the Regulation, the Director shall attend the meetings of the Management Board without voting rights. Depending on the requirements of the agenda, the following persons may be invited to attend the meetings: the Financial Controller, when the Management Board is considering financial matters, and members of the staff of the Agency, at the discretion of the Director in agreement with the Chair.
3. At the invitation of the Executive Board, persons especially qualified in the matters to be considered under certain items of the agenda may be invited to attend the meetings of the Management Board while those items on the agenda are being discussed.
4. The Chairperson or Vice-Chairperson of the Scientific Committee and the Director of the European Institute for Gender Equality may attend the meetings of the Management Board as observers. The Directors of other relevant Community agencies and Union bodies as well as of other international bodies mentioned in Articles 8 and 9 of the Regulation may also attend as observers when invited by the Executive Board.
5. The Agency shall appoint a specialist company to take responsibility for making the necessary reservations for the travel and accommodation of the members of the Management Board attending the meetings of the Management Board. This company shall also organize the taxi service from or to the airport or station from or to the hotel or place of the meeting. Travelling expenses shall be paid based on the cost of the economy class air fare (PEX or APEX tariff if possible) or first class rail fare (incl. sleeper). The Agency shall pay these travelling and accommodation expenses, so that in normal circumstances no reimbursements of the members of the Management Board will be necessary. The alternate members shall be paid for their travel and accommodation expenses only when they deputise for the full members, even if only for part of the meeting. However, if the Executive Board decides that the attendance of the alternate members at a particular meeting is necessary, the Agency shall pay the expenses referred to above. The arrangements for the application of this paragraph are described in the Annex I.

TITLE 4 – DECISIONS OF THE MANAGEMENT BOARD

ARTICLE 7

Organisation of proceedings

1. The presence of at least two third of the members of the Management Board or alternates (i.e. 20) shall constitute the quorum for the proceedings and decisions of the Management Board. However, as long as less than 23 members have been appointed in accordance with Article 29, paragraph 2(b) of the Regulation, the presence of at least two third of the appointed members of the Management Board or alternates shall constitute the quorum.
2. The Chair shall direct the proceedings, giving priority to members who wish to raise a point of order or preliminary question.
3. If the Chair or one of the members challenges the admissibility of a motion tabled by a member during the proceedings, that motion shall be put to the vote. The content of the motion in question may be discussed only with the consent of the majority, pursuant to Article 8.
4. If the Chair considers that a motion may disrupt the proceedings, he/she shall put it to the vote immediately, without discussion.
5. The Management Board may form working groups responsible for dealing with certain specific matters, on the basis of appropriate terms of reference which it shall define. The duration and procedures for the activities of such working groups shall be determined in accordance with the cost containment principle.

ARTICLE 8

Adoption of decisions

1. In accordance with Article 12, paragraphs 5, 6 and 8 of the Regulation and without prejudice to Article 29 paragraph 2 of the Regulation, the Management Board shall adopt its decisions by a simple majority of the votes cast. However, regarding decisions involving:
 - (a) the election of the Chair, the Vice-Chair and the two members of the Executive Board,
 - (b) the adoption of the Agency's Annual Work Programme,
 - (c) the adoption of the Agency's Annual Reports,
 - (d) the appointment and, if necessary, the dismissal of the Agency's Director,
 - (e) the adoption of the Agency's annual draft and final budgets,
 - (f) the exercising of the powers laid down in Article 24, paragraph 2 of the Regulation in respect of the Director and the disciplinary authority over the Director,
 - (g) the adoption of the Agency's rules of procedure,
 - (h) the appointment and the revoking of the members of the Scientific Committee,

- (i) the establishing that a member or an alternate member of the Management Board no longer meets the criteria of independence, a two-third majority of all members shall be required. As regards decisions involving the language arrangements of the Agency, referred to in Article 25, paragraph 2 of the Regulation, the Management Board shall act by unanimity.
2. Motions to exclude or defer a decision or refer an issue to the Management Board for consideration shall be put to the vote before the substance of the issue is considered.
3. A motion addressing several issues shall be divided into several parts, where necessary.
4. When several motions have been tabled on the same question, the widest-ranging motion shall be put to the vote first. If amendments are proposed, the amendment departing farthest from the basic text shall be put to the vote first. The final vote shall be taken on the version of the text resulting from the previous votes. In the event of any doubt as to the order of priority, a decision shall be made by the Chair.

ARTICLE 9

Voting procedures

1. The vote shall be taken by show of hands, or by roll call in the event of disputes arising during the show-of-hands procedure.
2. By way of derogation from paragraph 1, the vote shall be taken by secret ballot at the instigation of the Chair or if so requested by one third of the members, or if the issue addressed relates to an individual.
3. The results of the votes shall be placed on record for each decision adopted by the Management Board. The views expressed by the minority shall likewise be placed on record if so requested.
4. The Chair may give a member leave to make a brief statement of the reasons for his or her vote, at the request of the member in question. Any member may also request that his or her explanation of his or her vote be placed on record.

ARTICLE 10

Written procedure

1. On a proposal by the Executive Board, the Management Board may also adopt decisions by a written procedure in case of urgent business that is essential for the functioning of the Agency. The proposal for a written procedure shall be considered to be accepted provided there is no objection by any member of the Management Board within seven calendar days.
2. The decisions shall be deemed to have been adopted by the Management Board if a two-thirds majority of the members enter no objection within the period mentioned

in paragraph 1. The objections from the members of the Management Board may be communicated by email.

3. The Director shall notify all members forthwith of the outcome of the written procedure.

ARTICLE 11

Closure of meetings

1. The Chair shall propose that the meeting be closed when he or she considers that all members have had the opportunity to express an opinion. The members may likewise propose that the meeting be closed.
2. Any member wishing to speak on the subject of closure shall have priority.
3. Any motion to declare the meeting closed shall be put to the vote.

ARTICLE 12

Minutes of meetings and recording of decisions

1. Every meeting of the Management Board shall be recorded in minutes, which shall include:
 - (a) the attendance list;
 - (b) the record of the proceedings;
 - (c) the decisions adopted or rejected, together with the reason for the decision, the result of each vote and the comments made by the members of the Management Board in explanation of their votes. The decisions shall be placed on record separately, arranged in chronological order for ease of reference.
2. The Director shall be responsible for compiling the draft minutes and collecting the decisions.
3. A copy of the draft minutes shall be sent to each member within a period that shall not normally exceed four weeks after the meeting, and shall be submitted for approval at the next meeting.
4. Motions to amend the draft minutes shall be submitted in writing to the Chair, no later than the time of the opening of the meeting at which the minutes are to be adopted.
5. The minutes shall be deemed to have been adopted when they have been signed by the Chair.

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ARTICLE 13

Confidentiality

1. The Management Board shall determine which proceedings are to be treated as confidential. This duty of confidentiality shall apply to the members of the Management Board and to any other person present at the meetings.
2. The Management Board may authorize the Chair and/or the Director to publicize certain decisions classified as confidential under paragraph 1. It may decide in what other form or by what other methods this information is to be disseminated.

II EXECUTIVE BOARD

ARTICLE 14

Responsibilities of the Executive Board

1. In accordance with Article 13, paragraphs 1 and 2 of the Regulation, the Executive Board shall assist the Management Board, prepare the decisions of the Management Board, assist and advise the Director of the Agency. The Executive Board shall be convened by the Chair whenever necessary and shall adopt its decisions by simple majority. The Chair shall inform the Management Board of the measures adopted by the Executive Board. The Executive Board shall present to the Management Board for ratification any measure adopted by the Executive Board between two meetings of the Management Board.
2. The Executive Board shall be chaired by the Chair or, in the event of the absence or unavailability of the Chair, by the Vice-Chair. In the event of the absence or unavailability of both the Chair and the Vice-Chair, the Executive Board shall be chaired by one of the two elected members of the Executive Board.
3. The Director shall adopt all measures necessary to ensure that the members of the Management Board are informed of the proceedings of the Executive Board, at least twenty days in advance of the meetings of the Management Board.

ARTICLE 15

Composition of the Executive Board

1. The Executive Board shall be composed of the Chair and Vice-Chair of the Management Board, one of the Commission representatives in the Management Board, and two members of the Management Board elected in accordance with the procedure specified in Article 1, paragraph 3. The person appointed by the Council of Europe in the Management Board may participate in the meetings of the Executive Board. The quorum for the Executive Board shall be four members.
2. Pursuant to Article 13, paragraph 3 of the Regulation, the Director shall attend the meetings of the Executive Board without voting rights. Depending upon the agenda, the following persons may be invited to attend the meetings: the Financial Controller, when the Executive Board is considering financial matters, and members of the staff of the Agency, at the discretion of the Director and in agreement with the Chair.
3. At the invitation of the Chair in consultation with the Director, persons especially qualified in the matters to be considered under certain items of the agenda may be invited by the Executive Board to attend the meetings of the Executive Board while those items on the agenda are being discussed.

ARTICLE 16

Functions of the Executive Board

1. The Executive Board shall meet when convened by the Chair. The Chair shall decide where the meetings of the Executive Board are to be held, in accordance with the principle of cost containment. If the meeting is not held at the seat of the Agency, the Chair shall give reasons for his or her decision.
2. The Chair shall prepare the draft agenda in consultation with the Director. The draft agenda shall be adopted by the Executive Board at the start of the meeting.
3. The Executive Board shall adopt decisions by a simple majority. In the event of a tied vote, the Chair shall have the casting vote.
4. The Director shall draw up the minutes of the meetings of the Executive Board. A copy of the draft minutes shall be sent to each member within a period that shall not normally exceed four weeks after the meeting, and shall be submitted for approval at the next meeting.
5. The members of the Executive Board shall be entitled to reimbursement of expenses incurred as a result of their attendance at the meetings of the Executive Board, on the terms laid down in Article 6, paragraph 5.
6. If the Chair, Vice-Chair or other member of the Executive Board of the Agency is invited to attend a conference in that capacity, and if the connection between the tasks of the Agency and the theme of the conference is clearly established and the member's attendance is in the nature of an exception, his or her travel and accommodation expenses shall be paid under the conditions specified in Article 6, paragraph 5.
7. In the absence of any specific statement to the contrary, the rules governing the procedures applicable to the Management Board shall also apply, *mutatis mutandis*, to the procedures of the Executive Board.

III SCIENTIFIC COMMITTEE

ARTICLE 17

Appointment of the members of Scientific Committee

1. In accordance with Article 14, paragraph 1 of the Regulation, the Management Board shall appoint the Scientific Committee, which will be composed of eleven independent persons, highly qualified in the field of fundamental rights.
2. The Management Board shall appoint the members of the Scientific Committee following a transparent call for applications and a selection procedure after having consulted the competent committee of the European Parliament. The Management Board shall ensure even geographical representation. The Management Board shall aim to achieve a balanced participation between women and men in the Scientific Committee.
3. The detailed conditions governing the appointment of the Scientific Committee are laid down in Annex 2.

IV IMPLEMENTATION

ARTICLE 18

Transitional arrangements

In accordance with Article 29, paragraph 1(c) of the Regulation, in the first meeting of the Management Board, after all appointments have been completed, the European Commission shall choose by lot 15 members of the Management Board, whose duties are to end, by derogation from Article 12, paragraph 4 of the Regulation, upon expiry of the first three years of their term of office.

ARTICLE 19

Entry into force

1. The present Provisional Rules of Procedure shall enter into force immediately and shall remain in force until such time as the Management Board of the European Union Agency for Fundamental Rights adopts the definitive Rules of Procedure of the Agency in accordance with Article 12, paragraph 6 (g) of the Regulation.

For the Management Board, the Chairperson

A handwritten signature in black ink, reading "Anastasia Crickley". The signature is written in a cursive style with a large, looped initial 'A'.

Done at Vienna, on 13 July 2007

Payment of expenses incurred by the members of the Management Board

- 1. Expenses incurred by the members of the Management Board attending the meetings of the Management Board and Executive Board:**
 - 1.1. The Director shall, in advance, send a signed invitation to members of the Management Board attending the meetings of the Board.
 - 1.2. The payment of air travel expenses is normally restricted to economy class (PEX or APEX if possible) or first class in the case of rail travel. If it is impossible to arrange an economy class flight, evidence to that effect must be supplied by the company responsible for organizing transport or by the travel agency.
 - 1.3. By way of derogation from the provisions of paragraph 1.2, the Agency may, as an exception, pay the cost of a first class or business class flight, if circumstances warrant it: this would be the case, in particular, for health reasons or if there are essential deadlines to be met. The member must make a written application, stating reasons. The Director shall decide on every request and consequently informs the firm responsible for the organisation in case of a positive decision
 - 1.4. Accommodation expenses will be paid by the Agency for the period necessary to allow the meeting to take place.
 - 1.5. Subsistence expenses will be paid by the Agency for the period necessary to allow the meeting to take place.
 - 1.6. The cost of travel by taxi or public transport between the airport or station and the place of accommodation or place of the meeting will be paid by the Agency on arrival/departure of the members attending the meeting.
 - 1.7. The alternate members shall be entitled to payment of travel, accommodation and subsistence expenses only when they are acting for the full members or when the Executive Board considers that the attendance of the alternate members at a particular meeting is necessary.
 - 1.8. For the purposes of paragraphs 1.1 to 1.7 above, the Director shall be responsible for ensuring compliance with the principle of cost containment and shall present an annual report to the Management Board on the changes in and structure of the expenses in question.

2. Expenses incurred by the members of the Management Board attending meetings other than those of the Management Board and Executive Board:

- 2.1. The Director shall, in advance, send a signed invitation indicating the purpose and date of the meeting and specifying that expenses will be reimbursed according to the following provisions.
- 2.2. Members of the Management Board representing the Agency at other meetings approved by the Agency shall be reimbursed *mutatis mutandis* in accordance to the Guide to missions for officials and other servants of the European Commission adopted by the Commission Decision of 7.04.2004 (Commission Decision C(2004)1313).
- 2.3. Reimbursement of accommodation and subsistence expenses and travel between the airport/station and place of accommodation shall be deemed to be covered by a flat-rate meeting allowance, the amount of which shall vary depending on the country in which the meeting takes place, in accordance with a scale defined annually by the Council of the European Union.
- 2.4. The Agency shall pay the additional expenses incurred by members of the Management Board who are required to remain away on a Saturday night when this extra period is necessary in order to qualify for a reduced fare tariff and a significant saving is achieved thereby. For example, members of the Board arriving on the Saturday preceding a meeting starting on a Monday (in order to stay beyond Saturday evening) may receive a daily allowance from Saturday onwards.
- 2.5. The provisions of paragraphs 1.3 and 1.8 above shall apply *mutatis mutandis*.