



Protection level **LIMITED BASIC**

**2020-049**

**From:** Chairman of the Management Board

**To:** Management Board

**Subject** Decision on delegation of powers to the Executive Director to make non-substantial amendments to the Annual Work Programmes (according to Article 32(3) of the Agency's Financial Rules)

eu-LISA **LIMITED BASIC**



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# Decision on delegation of powers to the Executive Director to make non-substantial amendments to the Annual Work Programmes (according to Article 32(3) of the Agency's Financial Rules)

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- Not to be released outside of the information stakeholders.
- Not for publication.

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# 1. Background

Article 32(3) of the Agency's Financial Rules<sup>1</sup> (hereinafter referred to as the 'AFR') indicates that:

- Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial work programme, in accordance with the provisions of the constituent act<sup>2</sup>.
- The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Authorising Officer of eu-LISA<sup>3</sup>.

# 2. Objectives

The Management Board, in order to introduce a measure of flexibility required for the optimal functioning of the Agency, with the objective of allowing it to respond in an efficient and timely manner to operational changes occurring during the year, delegates to the Executive Director of eu-LISA the power to implement non-substantial amendments to the adopted annual work programme(s) as part of the Single Programming Documents of the Agency. This delegation is subject to the following criteria:

## 1. Qualitative aspects

Non-substantial changes do not significantly affect the nature of the annual work programme operational activities and neither its objectives. The qualitative changes shall not have a quantitative effect beyond the boundaries established by the section 2 on Quantitative aspects below and should have no impact on the adopted budget for operational expenditures<sup>4</sup> of the Agency.

1.1 Examples of non-substantial changes subject to verification of financial impact in accordance to Article 2.2:

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<sup>1</sup> Decision of the Management Board No 2019-198 establishing the Financial Rules of eu-LISA.

<sup>2</sup> According to Article 2 of the AFR, the constituent act means Regulation (EU) 2018/1726 of the European Union and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011.

<sup>3</sup> In accordance with Article 39(1) of the AFR, the Executive Director of eu-LISA shall perform the duties of Authorising Officer.

<sup>4</sup> Financial estimates listed in Budgetary Title 3 "operational expenditures"

- Adding studies and/or impact assessments to activities already foreseen by the annual work programme or by the multiannual work programme and without financial impact in accordance with Article 2.2 of this decision;
- Amending the scope, the objectives, the outcomes and the implementation period of an activity<sup>5</sup>, when such act does not change the nature of the activity and sufficient justification is provided (e.g. better use of resources, changes in the operational environment, urgent needs of resources for other critical tasks or political priorities, force majeure, etc.);
- Postponing an activity with up to two (2) years (without substantial financial impact in line with Article 2.2 of this decision), in case sufficient justification is provided (e.g. better use of resources, changes in the operational environment, urgent needs of resources for other critical tasks or political priorities, force majeure, etc.);
- Adding a new activity in the annual work programme that has already been envisaged to be implemented in the multiannual work programme in a later year and without financial impact in accordance with Article 2.2 of this decision.

#### 1.2 Examples of substantial changes:

- Insertion of a new activity of a different scope or nature than those already included in the original work programme;
- Complete suppression of an activity originally included in the work programme;
- New activities related to tasks not foreseen by Articles 3 to 14 of the Regulation (EU) 2018/1726 (hereinafter referred to as the “Establishing Regulation”);
- Introduction of pilot projects, proofs of concept and testing activities as per Article 15 of the Establishing Regulation.

#### 2. Quantitative aspects<sup>7</sup>

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<sup>5</sup> The start date (contracting date) has to fall within the budgetary year of the Financing Decision.

<sup>6</sup> Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99-137).

<sup>7</sup> Without prejudice to the procedures for budgetary transfers foreseen by Article 26 and Article 27 of the AFR.

Non-substantial changes affecting operational activities, having a budgetary effect, may not exceed 20% of the budget of the commitment appropriations under Title 3 ('Operational expenditure') indicated in the annual work programme, as originally adopted or subsequently amended. The 20% limit is intended to be cumulative, so that for each change added to any previous one during the same financial year. In case of changes resulting in a budgetary transfer internal only to Title 3, the value of the positive operation is considered<sup>8</sup>.

### 3. Formal decision

Any non-substantial change shall be formalised in an Executive Director's Decision. The amended annual work programme shall be transmitted to the Management Board for information.

### 4. Informing the Management Board

A summary of the non-substantial changes shall be included in the Agency's annual activity report.

## 3. Decision of the Management Board

Proposed decision:

***The Management Board decides to delegate the power to make non-substantial amendments to the annual work programmes to the Authorizing Officer of the Agency, based on the criteria presented in the document 2020-049, and asks the Authorising Officer to inform the Board without delay about any amendment of the annual work programmes.***

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<sup>8</sup> E.g.: annual working programme (AWP) activity n. 1 concerning system A, after concluding the procurement procedure, will cost x million(s) EUR less than initially foreseen; at the same time AWP activity n. 99 concerning system B, due to an unforeseen capacity increase, requires an additional x million(s) euro. The internal Title 3 budgetary transfer would be of -1 million for system A, and + 1 million for system B. For the purpose of the 20% threshold calculation, only the positive operation (+x million) would be considered.