

DECISION OF THE GOVERNING BOARD

On the establishment of an Appeals Committee to handle complaints under Article 90(2) of the Staff Regulations against decisions of the Executive Director of EU-RAIL

N° 15/2024

THE GOVERNING BOARD OF THE EU-RAIL JOINT UNDERTAKING, (hereafter referred as “EU-RAIL”)

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union (the “Staff Regulations”) and the Conditions of Employment of Other Servants of the European Union (the “CEOS”), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 2 of the Staff Regulations and Article 6 of the CEOS,

Having regard to Council Regulation (EU) No 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe², and in particular Article 17(2), points (h) and (v), Article 17(4) and Article 37(1) thereof,

Having regard to the Governing Board Decision n° 11/2015 delegating the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Servants of the European Union on the authority empowered to conclude contracts of employment to the Executive Director of the Shift2Rail Joint Undertaking, that continues to apply to the Executive Director of EU-RAIL in accordance with Governing Board decision n° 02-2021³,

Having regard to the Rules of the Procedure of the Governing Board of EU-RAIL⁴.

Whereas:

- (1) In accordance with Article 17(2)-point (h) of Regulation (EU) No 2021/2085 the powers conferred on the Appointing Authority and the Authority Empowered to Conclude a Contract of Employment (the “appointing authority powers”) are exercised by the governing board;
- (2) In accordance with Article 17(4) of Regulation (EU) No 2021/2085 and Governing Board Decision n° 11/2015, the appointing authority powers have been delegated to the EU-RAIL Executive Director;
- (3) Notwithstanding the above, in accordance with Article 2(4) of Governing Board Decision n° 11/2015, the governing board shall exercise the appointing authority powers

¹ OJ L 56, 4.3.1968, p.1 Current consolidated version: [01/01/2024](#)

² OJ L 427, 30.11.2021, p. 17–119, as amended by Council Regulation (EU) 2023/1782 of 25 July 2023 (OJ L 229, 18.9.2023, p. 55–62).

³ https://rail-research.europa.eu/wp-content/uploads/2021/12/GB-Decision_02-2021_Omnibus_Annex_list.pdf

⁴ <https://rail-research.europa.eu/wp-content/uploads/2022/01/GB-Decision-01-2021.pdf>

concerning Article 90(2) of the Staff Regulations when the contested decision was taken at the level of the Executive Director or by another staff member deputising the Executive Director in accordance with the rules on deputising of EU-RAIL⁵;

- (4) Individual staff matters, including complaints lodged under Article 90(2) of the Staff Regulations, should be treated with urgency, with the outmost confidentiality and in accordance with the personal data protection framework applicable to the EU-RAIL, namely Regulation 2018/1725⁶;
- (5) For reasons of expediency and flexibility, it is appropriate to establish an Appeals Committee to exercise the relevant appointing authority powers on behalf the Governing Board, enabling the swift handling of Article 90(2) complaints, with due regard to the requirements of confidentiality and personal data protection

HAS ADOPTED THIS DECISION:

Article 1
Establishment

An Appeals Committee is hereby established to deal with complaints submitted under Article 90(2) of the Staff Regulations against decisions taken at the level of the Executive Director of the EU-RAIL.

Article 2
Composition

1. The Appeals Committee shall be composed of two (2) members appointed by the Governing Board from amongst its membership:
 - One member representing the European Commission and
 - One member representing the members other than the Union (“Private Members”). The Private Member’s representative shall act as Chair of the Appeals Committee.
2. The Governing Board shall appoint one alternate for each member of the Appeals Committee, nominated from amongst its membership and in accordance with paragraph 1. The alternate shall replace the member of the Appeals Committee, including the Chair, in the event that a member is unable to act.

Article 3
Term of office

1. The term of office of a member or alternate member of the Appeals Committee shall end on the date on which their membership in the Governing Board ends, in accordance

⁵ https://rail-research.europa.eu/wp-content/uploads/2024/02/GB-Decision_02-24_Deputising_rules.pdf

⁶ 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. 39–98.

with the Rules of the Procedure of the Governing Board, or on the date on which the Governing Board decides on their replacement, whichever is earlier.

2. If one of the members of the Appeals Committee is prevented from exercising their functions (e.g. due to a conflict of interest), the member must be replaced for that particular case by the appointed alternate or, in absence of an appointed alternate, by an *ad hoc* member appointed by the Governing Board from amongst its membership.

Article 4 *Role and functioning*


1. The Appeals Committee shall exercise the following function on behalf the Governing Board: to exercise the appointing authority powers concerning Article 90(2) of the Staff Regulations when the contested decision was taken at the level of the Executive Director of EU-RAIL.
2. The Appeals Committee shall make decisions by consensus. If a consensus cannot be reached, the Appeals Committee shall address the appeal to the Governing Board that shall decide in accordance with its rules of the procedure.
3. Decisions can be taken at a meeting or by written procedure. Meetings of the Appeals Committee, if necessary, shall take place at the premises of EU-RAIL, via audio conference, video conference or other remote means of communication.
4. The Chair of the Appeals Committee shall sign the decision of the Appeals Committee and shall forward to the Executive Director of EU-Rail, who shall forward it to the person concerned.
5. The Chair of the Appeals Committee shall provide information on the exercise of this tasks to the Governing Board, with due regard to confidentiality and protection of personal data. The information provided to the Governing Board shall be depersonalised to the extent possible.

Article 5 *Entry into force*

This decision shall enter into force on the day following its adoption.

Done at Brussels, on 10 October 2024.

For the Governing Board



Magda KOPCZYNSKA
The Chairperson

