

Procedure and practical arrangements for the appointment of the Executive Director

64th meeting of the Management Board 15 December 2021

Proposal

The members of the Management Board (MB) are invited:

- to agree on the procedure and practical arrangements for the appointment process of the future Executive Director, as put forward by the MB preparatory group for the selection and appointment of the Executive Director and
- hold a first exchange of views about the requirements for the interim Executive Director.

Background

The last day in office of the current Executive Director (ED), Bjorn HANSEN, will be 31 March 2022¹. The European Commission consulted the Management Board (MB) on a draft vacancy notice in July 2021, which the MB approved in August 2021². The Commission afterwards published the vacancy notice in the Official Journal of the EU, and it was further advertised in other periodicals, on internet sites and on social media (deadline for applications by 19 November 2021)³. The Commission will provide an update on the process in the Board meeting.

The Commission will next conduct the pre-selection phase, i.e., the process for preparing a list of suitable candidates. This includes the examination of all applications by the Commission's pre-selection panel, the establishment of a list of candidates who are considered to have the best profile for the post and inviting the most suitable candidates for an interview at Commission level. The MB appointed an observer and a report will be provided after the conclusion of this phase.

In the subsequent phase of the procedure, successful applications are submitted for a further assessment to the Commission's Consultative Committee on Appointments (CCA), an advisory body for senior management posts which includes an assessment by a specialised recruitment office. On the basis of the CCA recommendations, the Commission will adopt a decision establishing the final list of the most qualified candidates for the post, after an interview with the responsible Commissioner(s). This list is afterwards submitted to the MB. The above-described process takes in general ca. 7-8 months. The Commission is dealing with this file as a matter of urgency.

Once the Commission submits the list of the most qualified candidates, it is the responsibility of the MB to carry out the appointment process in an independent manner, on the basis of the criteria in the REACH Regulation (Article 84): "*The ED shall be appointed on the grounds of merit and documented administrative and management skill, as well as his relevant experience in the fields of chemical safety or regulation. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.*"

¹ MB/27/2021.

² MB/WP/02/2021.

³ COM/2021/20069, Official Journal 2021/C 418 A/01 – 15/10/2021

Finally, before being formally appointed, the candidate nominated by the MB will be invited to make a statement before the European Parliament and to answer questions from its Members.

Rationale

The MB should make its own arrangements for ensuring a solid appraisal of the candidates included in the Commission list. The Agency's founding regulation provides, both the selection criteria to be applied by the MB to the future ED and the majority needed to select the jobholder. By contrast, it does neither define how the assessment of the candidates against the selection criteria should be organised nor does it lay down the details of the voting procedure or the procedure to follow for the interim arrangements. The MB is hereby invited to take the necessary decisions to fill these gaps. The proposal was prepared by the MB preparatory group for the selection and appointment of the Executive Director during its meeting of 26 November 2021.

Considering the estimated duration of the selection and appointment process, the MB should also put in place the necessary arrangements for the interim period falling between 1 April 2022 and the first day in office of a new ED.

Interim arrangements

In order to perform essential duties as legal representative of ECHA, the duties under the Financial and Staff Regulations, and ensure the continuity of all the Agency's tasks and operations, the MB should appoint an interim ED. Considering all timelines until a new Executive Director effectively starts the mandate, it can be expected that this period will last for at least ca six months, starting on 1 April 2022.

The Chair announced his intention to call an extraordinary MB meeting in January 2022 to take this appointment decision, to allow the designated person to prepare for the role and ensure proper handover from the current ED. The decision should be prepared by the preparatory group for the selection and appointment of the future Executive Director (ED preparatory group)⁴. The Secretariat will provide an overview of practices for interim ED appointments of peer agencies for this meeting.

Scheduling the interviews with the candidates

To keep the interim time-period between two executive directors as short as possible, the MB should proceed to assessing the candidates on the Commission's list as a matter of urgency. After submission of the Commission's list, the Chair should schedule the item for the next ordinary Board meeting. In case the time before the next ordinary meeting is long (i.e., more than two to four weeks), the Chair, in consultation with the interim ED, should consider calling for an extraordinary meeting.

Preparation of the interviews

The Chair should then send a letter to the candidates, inviting them for an interview with the MB. The shortlisted candidates should also be asked to supply, in due course before the interview, with a *curriculum vitae* as well as with a motivation letter and other relevant supporting material, in particular a declaration relating to their interests that might be considered prejudicial to their independence. This material should enable the MB to assess their candidature in terms of merits, skills and experience needed, and to verify the compliance with the ECHA eligibility criteria⁵.

The ED preparatory group should prepare the interviews. They prepare a list of standard questions and a summary of the candidates' experience regarding the criteria in the REACH

⁴ Appointed in June 2021 (ref. MB/M/03/2021) and composed of Paul KRAJNIK, Kristin SCHREIBER, Alojz GRABNER, Claudia DUMITRU, Marco MENSINK and Stefan SCHEUER.

⁵ [ECHA Procedure for the Prevention and Management of potential Conflicts of Interest, MB/06/2021 final, Annex 2.](#)

Regulation⁶. The preparatory group will also prepare the choreography of the interviews, that is, the order of questions and which Board members would ask the questions.

General running of the appointment meeting

The appointment will require a physical Board meeting. All efforts will be made to ensure this, unless public health measures prevent it. The meeting may take place at the Agency's seat or in a central European location. In case absolutely necessary, the meeting could be organised in a hybrid or remote setting, using secure connection.

Based on experience, the Secretariat estimates that two half days meeting days will be required for appointing the ED. The 1st day would be devoted to the interviews, first discussion and to the first round(s) of voting; the 2nd day to continued discussions and the continuation of voting, as necessary.

Only MB members and EEA/EFTA observers will be invited to (that part of) the meeting. Board members will be strongly encouraged to participate in the meeting in person. In case a member is absolutely prevented from attending, they may nominate a person of trust and provide a proxy to another member with voting rights. There shall be no additional representatives allowed to the meeting (except for the observer in the Pre-selection process).

From the Secretariat, there will be the interim ED, the Heads of the Legal and HR Services, the Head of the Unit Governance, Strategy and Relations, the Secretary of the MB and a notetaker to assist the vote, record the meeting and assist with the online connection if necessary. In case they have a conflict of interest, these staff members would not be present. In any event, they do not participate in the discussions on the candidates.

Organisation of the interviews

First the MB should hear a report from the observer to the Commission Pre-selection Panel.

Candidates will then be heard in alphabetical order of surnames. Each candidate should be offered 5 minutes to present themselves. This should be followed by questions and answers, as designed by the preparatory group and starting with the prepared standard questions put to the candidates by the members of the preparatory group (30 min). Afterwards, members will be given the opportunity to ask additional - short - questions related to the candidates' presentation and/or answers given to the standard questions (10 min). At the end, each candidate will be invited to make a closing statement (5 min). Buffer time (30 min) will be provided between the interviews for members to make personal notes and for the Secretariat to invite the other candidates to the meeting room or establish the online connection.

Vote(s) on the selection of the candidate

The Board may after the interviews have a general discussion.

In the meantime, practical arrangements will take place, to organise the voting on the candidates after this discussion. It is suggested to apply the provisions of the MB Rules of Procedure on the election of the Board's chairpersons⁷ by analogy, with some adjustments.

The procedure should be as follows:

- Announcement of proxies
- Voting by secret ballot (Members write the name of the preferred candidate on a ballot paper handed out by the Secretariat. Blank ballots count as abstention).

⁶ The preparatory group could invite members to submit suggestions confidentially. The final questions will only be shared with other Board members shortly before the interviews.

⁷ Article 2 of MB/33/2020.

Plan B (in case of a hybrid or remote meeting): Voting by secure online tool, guaranteeing secret vote and one vote per member (yet allowing for proxies). Members vote for the preferred candidate in a secure online tool. A separate option is provided for abstention. Voting will require logging in to ECAS (the same procedure as for login to S-CIRCABC, used for MB document distribution). Members will receive training in using the online tool prior to the meeting.

- Two tellers, acting under the supervision of the Chair, will be designated among the members without voting rights to assist in the counting of the vote.

Plan B: (in case of a hybrid or remote meeting): The tellers will receive an introduction to the voting tool prior to the meeting. During the meeting, they will have access to the screen of the Secretariat to observe the conduct of the vote and verify the outcome.

- In the first ballot, the candidate who receives at least two-thirds majority (i.e., at least 22 votes) of all members with voting rights is selected.
- If none of the candidates receives a two-thirds majority, further rounds will be held. At each round, the candidate with the lowest number of votes will be withdrawn. When it is not possible to determine the candidate with the lowest number of votes due to equality, there will be a special ballot to determine the remaining candidate. This process will continue until the last two candidates have been determined.
- A maximum of three voting rounds will then run with two candidates until one receives two-thirds favourable votes of the Management Board members with voting rights. Between these rounds, breaks will allow for discussion among the members.
- Should none of the two candidates receive 22 favourable votes in these three rounds, the MB will either postpone the decision to a next meeting, or – if the number of abstentions would not allow any candidate to achieve 22, to cancel the recruitment process and ask the Commission to restart it.

Appointment process

The candidate will be informed of the outcome of the vote and their acceptance will be sought. The formal appointment of the successful candidate is subject to their prior appearance before the European Parliament (EP).

The Executive Director-designate will be contacted by the MB Secretariat to make the arrangements necessary for the Parliamentary hearing⁸.

The EP will after the hearing write to the Agency, informing of its findings. On receipt of this letter, the Executive Director-designate will undertake a medical examination, in case this is required prior to a formal offer of employment as ECHA staff member.

Assuming a positive conclusion of the steps above, the ED's employment contract with ECHA will afterwards be signed by the Chair⁹. The new ED will be in office as soon as possible after that date.

Integrity of the procedure

ECHA's Procedure for the Prevention and Management of potential Conflicts of Interest should be respected throughout the procedure. Any Management Board member who is or has been a candidate in the procedure shall declare this and abstain from the decision making on the present procedure, and also not participate otherwise in the preparations of the interviews.

⁸ Committee for Environment Public Health and Food Safety.

⁹ Depending on the timing of the process, the Management Board will either authorise its Chair in a meeting to sign the employment contract, or be asked to adopt a delegation to the Chair for this purpose in written procedure.

Any member who will be listed for interviews at Management Board level may only attend their interview and will not be able to participate in the meeting, nor will they be able to give a proxy to another member.

Board members are obliged and reminded to respect confidentiality, which means not to disclose any sensitive information about the procedure to others. They should be mindful of this obligation, also when communicating with staff in their national authorities / organisations or staff of the ECHA Secretariat.

This follows from the provisions of the REACH Regulation¹⁰, the rules on conflict of interest¹¹ and the MB Code of Conduct¹², which Board members sign and accept when taking up their role.

Alternative options

The proposed procedures and practical arrangements can be modified within the limits of the provisions of the REACH Regulation and other applicable rules, such as ECHA's procedure for the Prevention and Management of potential Conflicts of Interest.

Drawbacks

The process applied should ensure that the best candidate for the post can be appointed by the Management Board as quickly as possible. At the same time, the Management Board should ensure a high degree of transparency and integrity of the process.

The public health measures related to the Covid pandemic may require the MB to appoint the new ED in a hybrid or remote setting, which may cause difficulties in conducting the interviews, voting or achieving the necessary majority of votes. All preparations will be made to minimise these risks and ensure a smooth and safe procedure. Nevertheless, the cooperation of all Board members will be required, for instance, to familiarise themselves with the necessary tools and allow sufficient time for testing and login.

Attachment:

- Annex: Extracts from the REACH Regulation and the Staff Regulations

For questions: mb-secretariat@echa.europa.eu

¹⁰ Articles 82 and 88.

¹¹ [ECHA Procedure for the Prevention and Management of potential Conflicts of Interest, MB/06/2021 final.](#)

¹² MB/52/2019 final. The Code of Conduct sets out the ethical conventions to be followed during and after MB members' mandate.

*REACH Regulation (EC) No 1907/2006***Article 83: Duties and powers of the Executive Director**

1. The Agency shall be managed by its Executive Director, who shall perform his duties in the interests of the Community, and independently of any specific interests.
2. The Executive Director shall be the legal representative of the Agency. He shall be responsible for:
 - (a) the day-to-day administration of the Agency;
 - (b) managing all the Agency resources necessary for carrying out its tasks;
 - (c) ensuring that the time-limits laid down in Community legislation for the adoption of opinions by the Agency are complied with;
 - (d) ensuring appropriate and timely coordination between the Committees and the Forum;
 - (e) concluding and managing necessary contracts with service providers;
 - (f) the preparation of the statement of revenue and expenditure and the implementation of the budget of the Agency pursuant to Articles 96 and 97;
 - (g) all staff matters;
 - (h) providing the secretariat for the Management Board;
 - (i) preparing draft opinions of the Management Board concerning the proposed rules of procedure of the Committees and of the Forum;
 - (j) making arrangements, upon request from the Management Board, for the execution of any further function(s) (within the remit of Article 77) allotted to the Agency by delegation from the Commission;
 - (k) establishing and maintaining a regular dialogue with the European Parliament;
 - (l) determining the terms and conditions for use of software packages;
 - (m) rectifying a decision made by the Agency following an appeal and after consulting the Chairman of the Board of Appeal.
3. Each year, the Executive Director shall submit the following to the Management Board for approval:
 - (a) a draft report covering the activities of the Agency in the previous year, including information about the number of registration dossiers received, the number of substances evaluated, the number of applications for authorisation received, the number of proposals for restriction received by the Agency and opined upon, the time taken for completion of the associated procedures, and the substances authorised, dossiers rejected, substances restricted; complaints received and the action taken; an overview of the activities of the Forum;
 - (b) a draft work-programme for the coming year;
 - (c) the draft annual accounts;
 - (d) the draft forecast budget for the coming year;
 - (e) a draft multiannual work programme.

The Executive Director shall, following approval by the Management Board, forward the work programme for the coming year and the multiannual work

programme to the Member States, the European Parliament, the Council and the Commission, and shall have them published.

The Executive Director shall, following approval by the Management Board, forward the Agency's general report to the Member States, the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Court of Auditors, and shall have it published.

Article 84: Appointment of the Executive Director

1. The Executive Director of the Agency shall be appointed by the Management Board on the basis of a list of candidates proposed by the Commission following a call for expressions of interest published in the *Official Journal of the European Union* and in other periodicals or on Internet sites.

The Executive Director shall be appointed on the grounds of merit and documented administrative and management skills, as well as his relevant experience in the fields of chemical safety or regulation. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

Power to dismiss the Executive Director shall lie with the Management Board, in accordance with the same procedure.

Before being appointed, the candidate selected by the Management Board shall be invited as soon as possible to make a statement before the European Parliament and to answer questions from Members of Parliament.

2. The term of the office of the Executive Director shall be five years. It may be prolonged by the Management Board once for another period of up to five years.

Staff Regulation No 31 (EEC), 11 (EAEC)

Article 7

2. An official may be called upon to occupy temporarily a post in a grade in his function group which is higher than his substantive grade. From the beginning of the fourth month of such temporary posting, he shall receive a differential allowance equal to the difference between the remuneration carried by his substantive grade and step, and the remuneration he would receive in respect of the step at which he would be classified if he were appointed to the grade of his temporary posting.

The duration of a temporary posting shall not exceed one year, except where, directly or indirectly, the posting is to replace an official who is seconded to another post in the interests of the service, called up for military service or absent on protracted sick leave.