

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

## CHAPTER IV

### GENERAL PROVISIONS

#### *Article 28*

##### **Staff**

- 1 The Staff Regulations and the rules adopted by agreement between the institutions of the Union for giving effect to the Staff Regulations shall apply to the staff of the Agency, including the Executive Director.
- 2 For the purpose of implementing the Staff Regulations, the Agency shall be considered an agency within the meaning of Article 1a(2) of the Staff Regulations of Officials.
- 3 The staff of the Agency shall consist of officials, temporary staff and contract staff. The Management Board shall, on an annual basis, give its consent in the case of contracts that the Executive Director plans to renew where, following renewal, those contracts would be of an indefinite period pursuant to the Conditions of Employment of Other Servants.
- 4 The Agency shall not recruit interim staff to perform what are deemed to be sensitive financial duties.
- 5 The Commission and the Member States may second officials or national experts to the Agency on a temporary basis. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the Agency.
- 6 Without prejudice to Article 17 of the Staff Regulations of Officials, the Agency shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality.
- 7 The Management Board shall, in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations of Officials.

#### *Article 29*

##### **Public interest**

The members of the Management Board, the Executive Director, the Deputy Executive Director and the members of the Advisory Groups shall undertake to act in the public interest. For that purpose, they shall issue an annual, written, public statement of commitment which shall be published on the Agency's website.

The list of members of the Management Board and of members of the Advisory Groups shall be published on the Agency's website.

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### Article 30

#### **Headquarters Agreement and agreements concerning the technical sites**

1 The necessary arrangements concerning the accommodation to be provided for the Agency in the host Member States and the facilities to be made available by those Member States, together with the specific rules applicable in the host Member States to the members of the Management Board, to the Executive Director, to the other members of staff of the Agency and to the members of their families, shall be laid down in a Headquarters Agreement concerning the seat of the Agency and in agreements concerning the technical sites. Such agreements shall be concluded between the Agency and the host Member States, following approval by the Management Board.

2 The Agency's host Member States shall provide the necessary conditions to ensure the proper functioning of the Agency, including, inter alia, multilingual, European-oriented schooling and appropriate transport connections.

### Article 31

#### **Privileges and immunities**

The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency.

### Article 32

#### **Liability**

1 The contractual liability of the Agency shall be governed by the law applicable to the contract in question.

2 The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.

3 In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.

4 The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for the damage referred to in paragraph 3.

5 The personal liability of the Agency's staff towards the Agency shall be governed by the provisions laid down in the Staff Regulations of Officials or Conditions of Employment of Other Servants applicable to them.

### Article 33

#### **Language arrangements**

1 Council Regulation No 1<sup>(4)</sup> shall apply to the Agency.

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2 Without prejudice to decisions taken pursuant to Article 342 TFEU, the single programming document referred to in point (r) of Article 19(1) and the annual activity report referred to in point (t) of Article 19(1) shall be produced in all official languages of the institutions of the Union.

3 The Management Board may adopt a decision on working languages without prejudice to the obligations set out in paragraphs 1 and 2.

4 The translation services necessary for the activities of the Agency shall be provided by the Translation Centre for the Bodies of the European Union.

#### *Article 34*

### **Transparency and communication**

1 Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.

2 On the basis of a proposal by the Executive Director, the Management Board shall adopt the detailed rules for applying Regulation (EC) No 1049/2001 without delay.

3 Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the European Ombudsman or of an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 TFEU respectively.

4 The Agency shall communicate in accordance with the Union legal acts governing the development, establishment, operation and use of large-scale IT-systems and may engage in communication activities on its own initiative within its field of competence. The Agency shall ensure, in particular, that in addition to the publications specified in points (r), (t), (ii), (jj), (kk) and (ll) of Article 19(1) and Article 47(9), the public and any interested party are promptly given objective, accurate, reliable comprehensive and easily understandable information with regard to its work. The allocation of resources to communication activities shall not be detrimental to the effective exercise of the Agency's tasks as referred to in Articles 3 to 16. Communication activities shall be carried out in accordance with the relevant communication and dissemination plans adopted by the Management Board.

5 Any natural or legal person shall be entitled to address written correspondence to the Agency in any of the official languages of the Union. The person concerned shall have the right to receive an answer in the same language.

#### *Article 35*

### **Data protection**

1 The processing of personal data by the Agency shall be subject to Regulation (EU) 2018/1725.

2 The Management Board shall adopt measures for the application of Regulation (EU) 2018/1725 by the Agency, including measures concerning the data protection officer. Those measures shall be adopted after consulting the European Data Protection Supervisor.

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### Article 36

#### **Purposes of processing personal data**

- 1 The Agency may process personal data only for the following purposes:
  - a where necessary for the performance of its tasks related to the operational management of large-scale IT systems entrusted to it under Union law;
  - b where necessary for its administrative tasks.
- 2 Where the Agency processes personal data for the purpose referred to in point (a) of paragraph 1 of this Article, Regulation (EU) 2018/1725 shall apply without prejudice to the specific provisions concerning data protection and data security of the Union legal acts governing the development, establishment, operation and use of the systems.

### Article 37

#### **Security rules on the protection of classified information and sensitive non-classified information**

- 1 The Agency shall adopt its own security rules based on the principles and rules laid down in the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, including, inter alia, provisions for the exchange with third states, processing and storage of such information as set out in Commission Decisions (EU, Euratom) 2015/443<sup>(2)</sup> and 2015/444<sup>(3)</sup>. Any administrative arrangement on the exchange of classified information with the relevant authorities of a third state or, in the absence of such arrangement, any exceptional ad hoc release of EUCI to such authorities shall have received the Commission's prior approval.
- 2 The Management Board shall adopt the security rules referred to in paragraph 1 of this Article following approval by the Commission. The Agency may take all necessary measures to facilitate the exchange of information relevant to its tasks with the Commission and the Member States and, where appropriate, the relevant Union agencies. The Agency shall develop and operate an information system capable of exchanging classified information with the Commission, the Member States and relevant Union agencies in accordance with Decision (EU, Euratom) 2015/444. The Management Board shall, pursuant to Article 2 and point (z) of Article 19(1) of this Regulation, decide on the Agency's internal structure necessary to comply with the appropriate security principles.

### Article 38

#### **Security of the Agency**

- 1 The Agency shall be responsible for the security and the maintenance of order within the buildings, premises and land used by it. The Agency shall apply the security principles and relevant provisions of the Union legal acts governing the development, establishment, operation and use of large-scale IT systems.
- 2 The host Member States shall take all effective and adequate measures to maintain order and security in the immediate vicinity of the buildings, premises and land used by the Agency and shall provide the Agency with the appropriate protection in accordance with the Headquarters Agreement concerning the seat of the Agency and the agreements concerning the

technical and backup sites, whilst guaranteeing the free access of persons authorised by the Agency to those buildings, premises and land.

#### *Article 39*

### **Evaluation**

1 By 12 December 2023, and every five years thereafter, the Commission, after consulting the Management Board, shall evaluate, in accordance with the Commission's guidelines, the performance of the Agency in relation to its objectives, mandate, locations and tasks. That evaluation shall also include an examination of the implementation of this Regulation and the way and extent to which the Agency effectively contributes to the operational management of large-scale IT systems and to the establishment of a coordinated, cost-effective and coherent IT environment at Union level in the area of freedom, security and justice. That evaluation shall, in particular, assess the possible need to modify the mandate of the Agency and the financial implications of any such modification. The Management Board may issue recommendations regarding amendments to this Regulation to the Commission.

2 Where the Commission considers that the continuation of the Agency is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed.

3 The Commission shall report to the European Parliament, to the Council and to the Management Board on the findings of the evaluation referred to in paragraph 1. The findings of the evaluation shall be made public.

#### *Article 40*

### **Administrative inquiries**

The activities of the Agency shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 TFEU.

#### *Article 41*

### **Cooperation with Union institutions, bodies, offices and agencies**

1 The Agency shall cooperate with the Commission, with other Union institutions and with other Union bodies, offices and agencies, in particular those established in the area of freedom, security and justice, and in particular the European Union Agency for Fundamental Rights, in matters covered by this Regulation, in order to achieve, inter alia, coordination and financial savings, to avoid duplication and to promote synergy and complementarity as regards their respective activities.

2 The Agency shall cooperate with the Commission within the framework of a working arrangement laying down operational working methods.

3 The Agency shall consult and follow the recommendations of the European Network and Information Security Agency regarding network and information security, where appropriate.

4 Cooperation with Union bodies, offices and agencies shall take place within the framework of working arrangements. The Management Board shall authorise such working

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arrangements, taking into account the opinion of the Commission. Where the Agency does not follow the Commission's opinion, it shall justify its reasons. Such working arrangements may provide for the sharing of services between agencies, where appropriate, either by proximity of locations or by policy area within the limits of the respective mandates and without prejudice to their core tasks. Such working arrangements may establish a mechanism for cost recovery.

5 Union institutions, bodies, offices and agencies shall use information received from the Agency only within the limits of their competences and insofar as they respect fundamental rights, including data protection requirements. Onward transmission or other communication of personal data processed by the Agency to Union institutions, bodies, offices or agencies shall be subject to specific working arrangements regarding the exchange of personal data and subject to the prior approval by the European Data Protection Supervisor. Any transfer of personal data by the Agency shall be in accordance with Articles 35 and 36. As regards the handling of classified information, such working arrangements shall provide that the Union institution, body, office or agency concerned comply with security rules and standards equivalent to those applied by the Agency.

#### *Article 42*

### **Participation by countries associated with the implementation, application and development of the Schengen *acquis* and with Dublin- and Eurodac-related measures**

1 The Agency shall be open to the participation of countries that have entered into agreements with the Union on their association with the implementation, application and development of the Schengen *acquis* and with Dublin- and Eurodac-related measures.

2 Under the relevant provisions of the agreements referred to in paragraph 1, arrangements shall be made specifying, in particular, the nature and extent of, and the detailed rules for, the participation of countries as referred to in paragraph 1 in the work of the Agency, including provisions on financial contributions, staff and voting rights.

#### *Article 43*

### **Cooperation with international organisations and other relevant entities**

1 Where so provided by a Union legal act, in so far as it is necessary for the performance of its tasks, the Agency may, by means of the conclusion of working arrangements, establish and maintain relations with international organisations and their subordinate bodies, governed by public international law, or other relevant entities or bodies, which are set up by, or on the basis of, an agreement between two or more countries.

2 In accordance with paragraph 1, working arrangements may be concluded specifying, in particular, the scope, nature, purpose and extent of such cooperation. Such working arrangements may be concluded only with the authorisation of the Management Board after having received the Commission's prior approval.

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- (1) Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community ([OJ 17, 6.10.1958, p. 385](#)).
- (2) Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission ([OJ L 72, 17.3.2015, p. 41](#)).
- (3) Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information ([OJ L 72, 17.3.2015, p. 53](#)).

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