

DECISION OF THE GOVERNING BOARD

On the request for the Commission's agreement for derogation from implementing rules to the staff regulations

N° 4/2024

THE GOVERNING BOARD,

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

Having regard to the Staff Regulations of Officials of the European Union (hereinafter 'Staff Regulations') and the Conditions of Employment of Other Servants of the European Union (hereinafter 'CEOS'), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68¹ as last amended, and in particular to Article 110(2), third subparagraph of the Staff Regulations,

Having regard to Council Regulation (EU) No 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014² and in particular Article 17(2), point (h), and Article 17(4) thereof,

Having regard to Communication C(2014)6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 3.3. B) thereof,

After consulting the Staff Committee,

Whereas:

- 1) Pursuant Article 110(2) of the Staff Regulations implementing rules adopted by the Commission to give effect to the Staff Regulations shall apply by analogy to the Joint Undertakings to that end, the Commission informs the Joint Undertakings of any such implementing rule without delay after adoption.
- 2) On the 22.12.2023 the Commission informed the Joint Undertakings on the adoption of Commission Decision C(202)8630 of 12.12.2023 on the prevention of and fight against psychological and sexual harassment, and repealing Decision C(2006) 1624/3.
- 3) This communication triggered the nine-month deadline for agencies to decide if they will apply the rules by analogy or request a derogation.

¹ OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013, OJ L 287, 29.10.2013, p.15.

² OJL 427, 30.11.2021, p. 17-119.

- 4) EU-RAIL considers that Commission's Decision C(2023)8630 is not suitable to apply by analogy to the Joint Undertaking. Therefore, it is appropriate to request a derogation not to apply these rules by analogy and to adopt different rules.
- 5) The Agencies Standing Working Party (SWP) has informed the Joint Undertakings that in coordination with the Commission, a specific model decision adapted to agencies will be developed and which will better suit the needs of the Joint Undertakings.
- 6) Pursuant to Article 110(2) of the Staff Regulations and guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the Joint Undertakings, the Governing Board must empower the Executive Director to request the Commission's agreement for derogation.

HAS DECIDED AS FOLLOWS:

Article 1

With a view to adopting different implementing rules, the Acting Executive Director of the Europe's Rail Joint Undertaking is hereby empowered to request the Commission's agreement on the non-application by analogy of Commission's Decision C(2023)8630, pending the finalisation of a model decision on this matter for Joint Undertakings.

Article 2

This decision shall take effect on the day following that of its adoption.

Done at Brussels, 9 April 2024.

For the Governing Board

Magda KOPCZYNSKA
The Chairperson

Annex: Commission Decision C(2023)8630 of 12.12.2023 on the prevention of and fight against psychological and sexual harassment, and repealing Decision C(2006) 1624/3