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DECISION n°172

of the Management Board of the European Union Agency for Railways on the implementation of the Framework for Learning and Development

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR RAILWAYS,

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

Having regard to the Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004¹ (hereinafter referred to as “the Agency Regulation”);

Having regard to the Staff Regulations of Officials of the European Union (Staff Regulations) and the Conditions of Employment of Other Servants of the European Union (the CEOS), laid down originally by Council Regulation (EEC, Euratom, ECSC) No 259/68², and in particular Article 24a and 57 of the Staff Regulations and Articles 11, 16 and 81 and 91 of the CEOS;

Having regard to the 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 2.B thereof;

Having regard to the agreement of the European Commission pursuant to Article 110 § 2 of the Staff Regulations C(2017) 5308 of 25 July 2017,

After consulting the Agency Staff Committee,

WHEREAS

- 1) On 8 July 2016, the Commission informed the Agency that it adopted Decision C(2016)3828 on the implementation of the learning and development strategy of the European Commission, Decision C(2016)3855 on training on the own initiative of the member of staff and Decision C(2016)3827 repealing existing rules on learning and development, all adopted on 24 June 2016;
- 2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 1 shall apply by analogy to the Agency. By way of derogation, an agency may request the Commission’s agreement to the non-application of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission;

¹. OJ L 138, 26.5.2016, p. 1-43.

². OJ L 56, 4.3.1968, p. 1.

- 3) Agencies differ from the Commission, thus Commission Decisions C(2016)3828 and C(2016)3855 should be adjusted in order to take into account the peculiarities of the Agencies. Those adjustments concern in particular the actors involved in the implementation of the learning and development strategy, the specific provisions as regards the training on the own initiative of the staff member, namely number of days granted as a special leave and the amount of a financial support from the Agency;
- 4) Commission Decision C(2016)3827 is not suitable to apply to the Agency since the Agency does not apply the Commission previous rules on learning and development, as repealed by Decision C(2016)3827;
- 5) On 24 June 2016, the Director-General for Human Resources and Security of the Commission adopted rules on access to training, in implementation of the learning and development strategy of the European Commission. These rules have not been communicated to the agencies under the procedure of Article 110(2) of the Staff Regulations, as they are not the Commission implementing rules in the meaning of the Staff Regulations. However, the Agency intends to adopt similar rules in order to provide clear guidance to managers and staff regarding access to training;
- 6) Pursuant to Article 45(2) of the Staff Regulations, as well as Articles 54 and 85 of the CEOS, the Agency shall, for staff members concerned by the requirement to demonstrate the ability to work in a third language, facilitate access to training to the applicants who require it;
- 7) For the Agency to respond to changes in tasks and technology, to be more effective at achieving its goals and to be a knowledgeable, skilled, flexible and networked organisation serving Europe, it should adopt its learning and development policy that should be tailored to its own needs and priorities;
- 8) The practical implementation of the Agency Policy should be delegated to the Resources and Support Unit, in particular the HR Sector;
- 9) Staff learn from experience and from colleagues as well as from training and therefore the Agencies should seek to ensure that on-the-job learning is effective, in addition to classroom or other forms of training;
- 10) Managers have a key role in promoting an environment which supports on-the-job learning, collaborative working and knowledge-sharing and to help their staff to learn;
- 11) In order to provide clear guidance to managers and staff, it is necessary to adopt rules on access to training, in particular, with respect to the need for prior and explicit approval of the hierarchical superior and confirmation of participation in training. It is necessary to define in a clear and objective manner the criteria upon which special leave can be granted for training on the initiative of the staff member and the partial reimbursement of the registration cost;
- 12) The Commission amended Commission Decision C(2013)9051 final of 16 December 2013 on Leave, which applies by analogy at the Agency, to take into account the specific rules on granting of special leave to attend training on the staff member's own initiative;
- 13) It is therefore necessary to adopt a decision on the implementation of a learning and development policy within the Agency;

- 14) In the interest of clarity and legal certainty, ERA's Training Policy of 10 June 2010 is hereby repealed,

HAS DECIDED AS FOLLOWS:

Chapter I – The Agency Learning and Development Policy

Article 1 – Adoption

The Head of Agency, as referred to in Act establishing the Agency shall adopt a learning and development policy ("the Agency Policy").

Article 2 – Implementation

The implementation of the Agency Policy shall be delegated to the Resources and Support Unit, in particular the HR Sector which may publish further an IMS document which may include detailed provisions and practical procedures for the application of working time provisions in the field of training, as provided for under Article 9 (2) of the Commission Decision C(2014) 2502 of 15 April 2014 on Working time as applied by analogy by the Agency (Decision n°130 of the Administrative Board of the European Railway Agency on Working Time) as from 01.04.2016.

Article 3 - Consultation

The Units and the Staff Committee should be consulted on the implementation of the Agency Policy.

Article 4 – Modification of the Commission's Decision on Leave

Article 2 of the Commission's Decision C(2016) 3855 on training on the own initiative of the member of staff³ shall apply by analogy to the Agency.

Chapter II – Rules on access to training organised or paid for, or both, by the Agency

Article 5 – Subject matter and scope

1. This Chapter defines the training for which an explicit approval is required prior to attendance and the criteria for granting that approval.
2. This Chapter applies to training organised or paid for, or both, by the Agency.

Article 6 – Definitions

1. For the purpose of this Chapter, the following definitions shall apply:
 - a) 'On-the-job learning' means learning which takes place while carrying out duties which form part of the job description and may include, for example, learning from direct experience, from colleagues, from knowledge-sharing and from information on-line or in printed material.
 - b) 'Training' means all learning activities which take place outside the exercise of the standard duties of the job and may include, for example:

³. Article 2 provides the following: "Point II.b.11 of the Annex to the Commission' Decision of 16 December 2013 on leave C(2013) 9051 final shall be removed".

- (i) participating in classroom training, e-learning, workshops, speaker events or conferences inside or outside the Agency;
- (ii) following blended learning modules;
- (iii) study visits;
- (iv) coaching.

Article 7 – Administrative choice between on-the-job learning and training

1. The hierarchical superior shall decide whether the learning activity is on-the-job learning or training⁴. In case of doubt the hierarchical superior shall take the decision, consulting his or her own hierarchy or staff of the HR Sector, or both, as appropriate.

Article 8 – Prior and explicit approval

1. Training shall be subject to prior and explicit approval of the hierarchical superior] if:
 - (a) it is primarily undertaken during working time or
 - (b) it has a direct or indirect financial cost for the Agency.
2. Where training requires prior and explicit approval from the hierarchical superior, the hierarchical superior may, except in case of language training, grant approval only if the training is:
 - (a) necessary for the current job as defined in particular by the job description or the objectives;
 - (b) necessary for future professional development.

Time spent in such training shall be credited in the balance of working time.

When granting approval, the hierarchical superior shall specify whether the training falls under point (a) or point (b). If the training request does not fall in either of those two categories the hierarchical superior] shall refuse it.

3. In the particular case of language training, by derogation from paragraph 2, prior and explicit approval may be granted by the hierarchical superior if the training is:
 - (a) essential for Article 45(2) of the Staff Regulations as well as Articles 54 and 85 of the CEOS, namely demonstration of the third language;
 - (b) necessary for the current job, as defined in particular by the job description or the objectives, or concerns an official language of the host country / of the place of employment which is necessary for integration in the host country and is an official language of the EU;
 - (c) necessary for the work and objectives of the Agency;
 - (d) necessary for future professional development.

When granting approval the hierarchical superior shall specify whether the training falls under any of points (a) to (d). If the training request does not fall in any of those four categories the hierarchical superior shall refuse it.

4. When deciding on the training request, the hierarchical superior shall, in addition to the criteria laid down in paragraph 2 and paragraph 3, take into account the timing and the cost-benefit of the training.

⁴. In cases where the learning activity is considered to be a combination of training and on-the-job learning provisions of this Decision regarding training shall apply.

5. Where a learning management system exists in the Agency and requests are made using the system, approvals and refusals shall also be made using that system. In other cases, replies to written requests shall be made in writing. Negative decisions shall be justified and transmitted to the HR Sector.

Article 9 – Language training in the personal interests of the staff member and in the interest of multilingualism

In the interest of multilingualism and when it is also in the personal interests of the staff member, participation in language training may be authorised by the hierarchical superior even if it does not meet the criteria set out in Article 8, paragraph 3. In such cases the following conditions shall be fulfilled:

- (1) participation may only be offered when the additional costs are negligible;
- (2) training may be followed during core hours if the hierarchical superior agrees pursuant to Article 4.2 (a) of Commission Decision C(2014) 2502 of 15 April 2014 on Working time as applied by analogy by the Agency (Decision n°130 of the Administrative Board of the European Railway Agency on Working Time) as from date 01.04.2016.
- (3) time spent in such training as well as travelling to and from the course shall not be credited in the balance of working hours.

Article 10 – Confirmation of participation

1. In addition to the explicit prior approval of the hierarchical superior to participate in the training courses referred to in Articles 8 and 9, the following conditions shall be fulfilled:

- (a) the necessary budget shall be available; and
- (b) there shall be sufficient places available on the training course.

In the specific case of language training, priority shall be given to requests made in accordance with Article 8.3 (a), then to requests made in accordance with Article 8.3 (b), then to requests made in accordance with Article 8.3 (c), then to requests made in accordance with Article 8.3 (d), then to requests made in accordance with Article 9.

For other cases, priority shall be given to requests made in accordance with Article 8.2 (a).

2. Additional criteria may be set by the Resources and Support Unit, in particular the HR Sector, responsible for organising the course or managing the corresponding budget line to ensure the cost-effectiveness of the training. These criteria may concern in particular the profile of the population targeted by the training. Any such criteria shall be published in due time.

Chapter III – Training on the initiative of the staff member

Article 11 – Support for training on request of the staff member

1. The Agency may support training activities undertaken on the initiative of the staff member's if those activities:
 - (a) Are not organised by the Agency and
 - (b) Are financed by the staff member themselves, subject to the possibility of financial support under the conditions described below; and
 - (c) Take place during the free time of the staff member, subject to the possibility of obtaining special leave in compensation under the conditions described below.

These rules do not concern training organised and paid for in full by the Agency.

2. The Agency may support the activities referred to under point 1:

- (a) By granting special leave, determined as stipulated in Article 13 and/or;
- (b) By the partial reimbursement of enrolment fees, determined as stipulated in Article 13.

Article 12 – Eligible training activities

1. The only training activities deemed eligible within the meaning of this Chapter are those relating to the acquisition, perfecting or updating of professional knowledge or skills or an examination to test this knowledge or skills.
2. Activities eligible for financial support or support in the form of special leave must be in the interest of the service, i.e. they must meet at least one of the following criteria:
 - (a) be relevant to the duties performed by the person in his/her department;
 - (b) be relevant for career development at the Agency.

The training activity is not eligible if the person concerned has already participated in an identical or equivalent activity.

Article 13 – Conditions for granting special leave and/or financial support to attend training or take an examination on the staff member's own initiative

- 1.1 Staff members applying for special leave and/or financial support for training on their own initiative must submit a request at least one month before the deadline for registering for the training. Applications for special leave must specify the place, dates and times of the courses or examinations to be taken. Where training is spread over several years, one application should be made per year.
- 1.2. As regards special leave, the authority empowered to conclude contracts of employment (AACC), as regards a financial contribution, the authorising officer, shall decide on the request, taking into account the following criteria in particular:
 - a) the value of the training for the department or the Agency (see Article 12);
 - b) the absence of possible alternatives more relevant for the Agency, such as, for example, internal training;
 - c) the opinion of the hierarchical superior
 - d) the opinion of the HR Sector;
 - e) compliance with the deadlines for submission of the application;
 - f) the available budget (in relation to the request for financial support).

Once the application has been approved, the person concerned is entitled to financial support and/or special leave for training on their own initiative, provided they can supply the supporting documents referred to in Article 13.3.2. The special leave is credited once these supporting documents have been provided. The special leave is granted to compensate for the staff member's participation in the course and/or *participation* in examinations, under the conditions laid down in Article 13.2.1. To obtain a financial contribution for attending external training on the staff member's own initiative, the staff member, once the training has been completed, must submit a request for partial reimbursement to the HR Sector in line with the conditions foreseen in Article 13.3.1.

Special leave for training is not granted for the *preparation* of theses, dissertations, examinations, courses or other.

- 2.1. *Calculation of special leave for participation in a training course on the staff member's own initiative and participation in examinations relating to this training*

The staff members attending a training activity on their own initiative may be granted special leave calculated as follows:

- (a) For classroom training, special leave of up to half the number of class hours;
- (b) For any face-to-face components of distance learning courses (including e-learning), special leave of *up to half* the number of hours of classroom training;
- (c) For distance learning courses (including e-learning) one day of special leave per examination or mandatory test passed on production of a certificate attesting to the fact.

In addition, the staff member may, in order to take part in examinations relating to training that meets the criteria set out in Articles 11 and 12 and 13.1.2, qualify for special leave up to the number of days (half or full days)] required to take part in the examination.

The hierarchical superior shall recommend to the AACC responsible for individual special leave, the appropriate number of days of special leave, bearing in mind the above rules and the interest of the agency.

The aggregation of periods of special leave granted under this Article may not exceed fifteen days per year. No travelling time can be granted for special leave. Special leave granted but not yet used at the end of the year is carried over automatically once to the following year.

2.2 To qualify for special leave to attend training, the staff member must present to the AACC responsible for individual special leave, at the end of the training or, for training activities spread over a number of years, at the end of each year, a statement showing the number of hours of participation in courses and examinations, issued by the educational establishment concerned.

3.1 To obtain a financial contribution for attending external training on the staff member's own initiative, for which approval has been given under 13.1.2 above, the staff member, once the training has been completed, must submit a request for partial reimbursement to the HR Sector using the appropriate form. The information specified in the form provided for this purpose, such as the programme, certificate of attendance or successful completion, registration fees and proof of payment should be attached to each request.

The request must reach the HR Sector no later than 3 months after the end of the training.

3.2 The Agency's financial contribution relates only to registration and examination fees under the conditions specified below, and excludes, in particular, travel expenses between the place of employment and the place where the training is held, and subsistence expenses.

Subject to the availability of funds, registration and examination fees relating to training followed on the staff member's own initiative in the interests of the service can be reimbursed by the Agency at a rate of 50%, up to a maximum of 1 000 EUR per year.

The amounts corresponding to the expenses to be reimbursed are paid into the account used for salary payments, following participation in the training, on the basis of the attendance certificate, a receipted invoice or any other proof of payment, and the other documents required in the form referred to in Article 13.3.1.

Article 14 – Justified refusal

A refusal to grant special leave or financial support for training on the applicant's own initiative must be substantiated and the applicant informed of the reason.

Chapter IV – Final provisions

Article 15

ERA's Training Policy of 10 June 2010 is hereby repealed.

Article 16

The Commission's Decisions C(2016)3828, C(2016)3855 and C(2016)3827 do not apply by analogy at the Agency unless otherwise stated in this decision.

Article 17

The present Decision shall take effect on the day following that of its adoption.

Done at Valenciennes, on 04-04-2018

For the Management Board

The Chairperson
Clio LIÉGEOIS