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DECISION n° 220

of the Management Board of the European Union Agency for Railways on the opt-out of Commission Decision C(2019) 4231 dd. 12.6.2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR RAILWAYS,

Having regard to the Regulation (EU) N° 2016/796 of the European Parliament and the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004¹ (hereinafter called "the Regulation"),

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 259/68², and in particular to Articles 49, 50, 50a and 119 of the CEOS,

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 2.B thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations,

After consulting the Agency Staff Committee,

WHEREAS

1) On 17.06.2019, the Commission notified the Agency it adopted Commission Decision C(2019) 4231 dd. 12.6.2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings.

However, Agencies were informed the Standing Working Party had assessed the above-mentioned decision and had concluded that a model decision for Agencies submitted for ex-ante agreement of the Commission would be necessary as this Commission Decision could not be suitable to apply by analogy to Agencies.

¹ OJ L 138 26.5.2016, p. 1-43

² OJ L 56, 4.3.1968, p.1.

- 2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules 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.
- 3) A specific model decision on the conduct of administrative inquiries and disciplinary proceedings will be drafted for agencies with a view to authorise derogations from the application by analogy of the aforementioned Commission's rule.
- 4) Pending the Commission's agreement on the model decision referred to in recital 4, it is necessary to request for the Commission's agreement for derogation from the application by analogy of the Commission's rules under recital 3.

HAS DECIDED AS FOLLOWS:***Article 1***

In view of adopting the ex-ante agreed model decision for Agencies when ready, the Agency shall opt-out from the Commission Decision C(2019) 4231 dd. 12.6.2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary procedures.

Article 2

This Decision shall take effect on the day following its adoption. It will be published on the Agency website.

Done at Valenciennes, on 16-12-2019

For the Management Board

Clio LIÉGEOIS
The Chairwoman