

Making the railway system
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DECISION n° 142

of the Management Board of the European Union Agency for Railways on the non-application of the 'Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services'

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 Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (CEOS), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹,

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 Railways² (hereinafter referred to as "the Agency") and repealing Regulation (EC) No 881/2004 (hereinafter called "the Regulation"),

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 December 2013, the Commission informed the Agency that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services, hereinafter 'Commission Decision C(2013)9028'.

¹ OJ L 56, 4.3.1968, p. 1.

² OJ L 138 26.5.2016, p. 1-43

- 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.
- 3) In the Agency, all temporary staff other than those referred to in Article 2(a) of the CEOS are those referred to in Article 2(f) of the CEOS and all contract staff are the ones referred to in Article 3(a) of the CEOS.
- 4) In the Agency, temporary agents referred to in Article 2(a) of the CEOS is exclusively the head of the Agency. As regards the majority of temporary staff in the Agency, namely those referred to in Article 2(f) of the CEOS, they do not fall under the scope of Commission Decision C(2013)9028. The same applies to the unique category of contract staff employed in the Agency, namely those referred to in Article 3(a) of the CEOS. Commission Decision C(2013)9028 is therefore not adapted to the Agency's reality.
- 5) Taking into account the way the Agency operates, it is not appropriate to set a maximum duration of recourse to non-permanent staff, because such a rule could be detrimental to the functioning of the Agency.
- 6) The Commission has given its ex ante agreement to the non-application of Decision C(2013)9028 to the Agency.
- 7) Commission Decision C(2013)9028 should not therefore apply to the Agency,

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

The 'Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services' shall not apply to the Agency.

Article 2

This Decision shall take effect on the day following its adoption.

Done at Valenciennes, on 31-08-2016
For the Management Board

The Chairperson
Mats ANDERSSON

Annex: Commission Decision C(2016)2421