

Moving Europe towards a sustainable and safe railway system without frontiers.

DECISION n° 350

of the Management Board of the European Union Agency for Railways on the request for the Commission agreement for derogation from implementing rules to the staff regulations, in particular from 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

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR RAILWAYS,

Having regard to

- the Treaty on the Functioning of the European Union;
- 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;
- 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 881/2004
- 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 agencies to that end, the Commission informs the agencies of any such implementing rule without delay after adoption.*
- 2) *On 22.12.2023 the Commission informed the agencies 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.*

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.

¡Error! No se encuentra el origen de la referencia.

- 3) *This communication triggered the nine-month deadline for agencies to decide if they will apply the rules by analogy or request a derogation;*
- 4) *The ERA considers that Commission's Decision C(2023)8630 is not suitable to apply by analogy to the Agency, mainly because of its different internal structure. 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 agencies 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 agencies;*
- 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 agencies, the Management 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 rules, the Executive Director of the Agency 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 agencies.

Article 2

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

For the Management Board

Paloma IRIBAS FORCAT
The Chairwoman

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