

Making the railway system  
work better for society.

## DECISION n°152

*of the Management Board of the European Union Agency for Railways on the opt-out from the application by analogy of Commission Decisions C(2016) 3214 of 7.6.2016, C(2016) 3288 of 15.6.2016, C(2016) 3827, C(2016) 3828 and C(2016) 3855 of 24.6.2016*

### **THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR RAILWAYS,**

Having regard to the Regulation (EU) N° 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<sup>1</sup> (hereinafter “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 259/68<sup>2</sup>, and in particular Articles 2, 4, 5, 7 and 29 thereof (for the Decisions on middle management staff and the function of adviser) and Articles 24a and 57 of the Staff Regulations and Annex V thereto and Articles 11, 16, 81 and 91 of the CEOS (for the Decisions on the Learning and Development),

Having regard to the Commission Decision C(2013) 8979 of 16 December 2013 on types of post and post titles applicable by analogy,

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 08.07.2016, the Commission notified the Agency that it adopted the Commission Decision C(2016) 3214 of 7.6.2016, the Commission Decision C(2016) 3288 of 15.6.2016 and Commission Decisions C(2016) 3827, C(2016) 3828, C(2016) 3855 of 24.6.2016.

---

<sup>1</sup>. OJ L 138, 26.5.2016, p. 1-43.

<sup>2</sup>. OJ L 56, 4.3.1968, p. 1.

The Agencies were informed that the Standing Working Party had assessed the above-mentioned decisions and had concluded that model decisions for Agencies submitted for ex-ante agreement from the Commission would be necessary as these Commission Decisions could not apply by analogy to Agencies.

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) On 16.01.2017 the Commission (DG HR) confirmed that the Standing Working Party is preparing model decisions which will be submitted for ex-ante agreement of the Commission and which take into account the specificities of Agencies. Once the Commission gives the agreement to the model decisions, Agencies will be able to adopt implementing rules based on those models.

4) In a formal letter (Ref. Ares(2017)1006750) of 24.02.2017, the Commission advised to request opt-outs from the application by analogy of the above-mentioned decisions, before the expiry of 9 months as from the date of the notification of the decision, in view of adopting ex-ante agreed model decisions for Agencies.

#### **HAS DECIDED AS FOLLOWS:**

##### ***Article 1***

In view of adopting ex-ante agreed model decisions for Agencies when available, the Agency shall opt-out from the application by analogy of the following Commission Decisions:

1. Commission Decision C(2016) 3214 of 7.6.2016 on the function of adviser,
2. Commission Decision C(2016) 3288 of 15.6.2016 on middle-management staff (incl. Annex),
3. Commission Decisions C(2016) 3827, C(2016) 3828, C(2016) 3855 of 24.6.2016 on Learning and Development.

##### ***Article 2***

The present decision shall enter into force on the day following that of its adoption. It will be published on the Agency website.

Done at Valenciennes, on 03-04-2017

For the Management Board

The Chairperson  
Mats ANDERSSON