



DECISION OF THE GOVERNING BOARD OF THE SMART NETWORKS AND SERVICES JOINT UNDERTAKING No 06/2021

on the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services

THE GOVERNING BOARD,

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

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 ('CEOS'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹,

Having regard to Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe (hereinafter "Single Basic Act")²,

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 C(2019) 6929 final of 25 September 2019,

Having regard to the fact that the Staff Committee of the Smart Networks and Services Joint Undertaking, which is to be consulted pursuant to Article 110(2) of the Staff Regulations, has not yet been constituted because the Smart Networks and Services Joint Undertaking does not have staff yet, it is impossible at the present to comply with the requirements of that provision. The Staff Committee will be invited to give its opinion on the relevant implementing rules when it has been constituted and due consideration will be given to its opinion. It is urgent and indispensable that the Smart Networks and Services Joint Undertaking adopts implementing rules on the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services

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.

² OJ L 427, 30.11.2021, p. 17.

to start functioning. The Governing Board is entitled in such circumstances to approve the rules forthwith,

WHEREAS

- 1) On 10 January 2022, the Commission informed the Smart Networks and Services Joint Undertaking that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004³ on the maximum duration for the recourse to non-permanent staff in the Commission services, hereinafter ‘Commission Decision C(2013)9028’.
- 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 Smart Networks and Services Joint Undertaking. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.
- 3) In the Smart Networks and Services Joint Undertaking, 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 Smart Networks and Services Joint Undertaking, temporary agents referred to in Article 2(a) of the CEOS are exclusively the Executive Director. 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 Smart Networks and Services Joint Undertaking's reality.
- 5) Taking into account the way the Smart Networks and Services Joint Undertaking 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 Smart Networks and Services Joint Undertaking.
- 7) Commission Decision C(2013)9028 should not therefore apply to the Smart Networks and Services Joint Undertaking,

HAS DECIDED AS FOLLOWS:

³ Commission Decision C(2004)1597/6 of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services, as amended by Commission Decision C(2011)7071 of 5 October 2011.

Article 1

Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004⁴ on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to the Smart Networks and Services Joint Undertaking.

Article 2

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

Done at Brussels, on 15th December 2021

For the Governing Board

Pearse O'Donohue

The Interim Chair

⁴ See footnote 2.