



DECISION OF THE GOVERNING BOARD OF THE SMART NETWORKS AND SERVICES JOINT UNDERTAKING No 07/2021

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 ('Staff Regulations') and the Conditions of Employment of Other Servants ('CEOS') of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 110(2) of the Staff Regulations,

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

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.

WHEREAS

- (1) On 26 September 2014 Communication C(2014) 6543 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, was adopted.
- (2) On 10 January 2022, the Commission informed the Smart Networks and Services Joint Undertaking that it had adopted Decision of 5 April 2019 amending Commission Decision C(2004)1597/6 on the maximum duration for the recourse to non-permanent staff in the Commission services C(2019)2548³. The amendment limits the scope of the Decision by excluding time served as seconded national experts from the calculation of the seven-year maximum duration spent working in the Commission services.
- (3) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 2 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.
- (4) 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.
- (5) 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, as well as the unique category of contract staff employed in the Agency, namely those referred to in Article 3(a) of the CEOS, they do not fall under the scope of this Commission Decision. Therefore, this Commission Decision is not adapted to the actual situation of the Smart Networks and Services Joint Undertaking.
- (6) Taking into account the different structure of the staff employed in agencies from that of the Commission, on 26 May 2016 the Commission gave agencies its *ex ante* agreement to the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services (C(2016)2421).
- (7) Commission Decision C(2019)2548 does not introduce a modification that could make applicable to the Smart Networks and Services Joint Undertaking the Decision on the maximum duration for the recourse to non-permanent staff in the Commission services.
- (8) Therefore, the Commission Decision C(2019)2548 should not apply to the Smart Networks and Services Joint Undertaking,

HAS DECIDED AS FOLLOWS:

³ Amended by Commission Decisions C(2011)7071 of 5 October 2011 and C(2013)9028 of 16 December 2013.

Article 1

Commission Decision of 5 April 2019 amending 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 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 15 December 2021

For the Governing Board

Pearse O'Donohue

The Interim Chair