



SHIFT2RAIL JOINT UNDERTAKING

DECISION OF THE GOVERNING BOARD

delegating the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority empowered to conclude contracts of employment to the Executive Director of the Shift2Rail Joint Undertaking

N° 11/2015

THE GOVERNING BOARD OF THE SHIFT2RAIL JOINT UNDERTAKING,

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, and in particular to Articles 2 (1), 110 (2) of the Staff Regulations and Article 6 of the CEOS,

Having regard to Council Regulation (EU) No 642/2014 of 16 June 2014 establishing the Shift2Rail Joint Undertaking², and in particular Article 6 thereof,

Having regard to the Rules of Procedure of the Governing Board,

Having regard to the agreement of the European Commission pursuant to Article 110 (2) of the Staff Regulations [reference number of the Commission's Decision] of [date],

Having regard to the fact that the Staff Committee of the Shift2Rail Joint Undertaking, which is to be consulted pursuant to Article 110 (2) of the Staff Regulations, has not yet been constituted – and it is therefore impossible at 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,

Whereas:

- (1) By virtue of the first subparagraph of Article 6(2) of Council Regulation (EU) No 642/2014, the powers of the appointing authority and the authority empowered to conclude contracts of employment are conferred on the Governing Board of the Joint Undertaking.

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 Council Regulations (EU) No 642/2014 of 16 June 2014 establishing the Shift2Rail Joint Undertaking (OJ L 177, 17.06.2014, p.9).

- (2) The second subparagraph of Article 6(2) of Council Regulation (EU) No 642/2014 provides that the Governing Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a decision delegating the relevant powers of the appointing authority and the authority empowered to conclude contracts of employment to the Executive Director of the Joint Undertaking and defining the conditions under which this delegation of powers can be suspended.
- (3) Pursuant to the sixth subparagraph of Article 110 (2) of the Staff Regulations, the Management Board, or the equivalent body referred to in the act establishing an agency, shall adopt the implementing rules to the Staff Regulations and the CEOS.
- (4) Decisions on the daily management of the Joint Undertaking, and in particular decisions in individual staff matters need to be taken at the most appropriate level.
- (5) The Executive Director manages the Joint Undertaking and is in particular responsible for the day-to-day administration of the Joint Undertaking.
- (6) It is therefore necessary to adopt a decision delegating the relevant competences in the area of staff management to the Executive Director,

HAS DECIDED AS FOLLOWS:

Article 1- Scope

The present Decision concerns the exercise of the powers of the appointing authority and the authority empowered to conclude contracts of employment in respect of the staff of the Joint Undertaking, except the Executive Director of the Joint Undertaking.

Article 2

1. The powers conferred by the Staff Regulations on the appointing authority and by the CEOS on the authority empowered to conclude contracts of employment are delegated to the Executive Director of the Joint Undertaking, except the adoption of implementing rules to give effect to the Staff Regulations and the CEOS.
2. These powers are conferred on the Executive Director of the Joint Undertaking without prejudice to other competences of the Governing Board as provided in Council Regulation (EU) No 642/2014.
3. Decisions on selection, engagement, extension of contract, termination of contract and reclassification of the Accounting Officer shall be subject to approval by the Governing Board, in accordance with Article 22(1) of the Financial Rules.
4. The powers referred to in paragraph 1 concerning Article 90(2) of the Staff Regulations are exercised by the Governing Board when the contested decision was taken at the level of the Executive Director.

Article 3

1. The Executive Director may sub-delegate the powers referred to in Article 1 to a member of temporary staff by reference to appropriate criteria, such as their function group, position, and job assignment, which they hold in the Joint Undertaking.
2. Agents to whom powers are sub-delegated under paragraph 1 may be designated by their position in the Joint Undertaking or *ad personam*.
3. Sub-delegations shall be brought to the attention of the staff in a suitable form.
4. If a person to whom powers have been conferred under Article 2 or under paragraph 1 of this Article is unable to act, those powers shall be exercised in accordance with the rules on deputising set out in the Joint Undertaking's internal rules.

Article 4

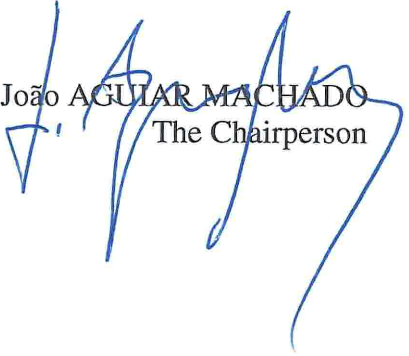
In exceptional cases, the Governing Board may decide to temporarily suspend the delegation of appointing authority powers to the Executive Director granted by this Decision and exercise itself these powers or delegate them to one of the Governing Board members or to a staff member of the Joint Undertaking other than the Executive Director. These powers may then be sub-delegated as necessary, in which case Article 3 shall apply *mutatis mutandis*. The suspension shall be decided in accordance with the following provisions:

- a. before adopting a decision on suspension the Governing Board shall carefully consider any possible impacts on the functioning of the Joint Undertaking. The suspension shall be limited to the duration and extent necessary to achieve its objective;
- b. the decision on suspension shall be taken according to the voting rules of the Governing Board provided for in Council Regulation (EU) No 642/2014;
- c. the decision on suspension shall be communicated to the Executive Director in writing and shall clearly define the powers being the subject of suspension, the exact duration of the suspension and any conditions thereto;
- d. the decision on suspension shall automatically suspend any related sub-delegation, unless explicitly stated otherwise in the decision;
- e. the decision on suspension shall specify who shall exercise the relevant powers during the period of suspension;
- f. the decision on suspension shall be brought to the attention of staff in a suitable form.

Article 5

1. This Decision shall take effect on the day following that of its adoption.
2. At the same time this Decision shall be brought to the attention of the staff in a suitable form.

Done at Brussels, on 16 July 2015


João AGUIAR MACHADO
The Chairperson