



DECISION OF THE GOVERNING BOARD

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

N° 23/2016

THE GOVERNING BOARD OF THE SHIFT2RAIL JOINT UNDERTAKING (hereinafter the "S2R JU"),

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) No 642/2014 of 16 June 2014 establishing the S2R JU², and in particular Article 6 (3) thereof,

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 rules of procedure of the Governing Board of S2R JU and in particular Article 8,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2016) 2421 on giving agencies an 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 of 26 May 2016,

After informing the staff,

Whereas:

- 1) On 13 February 2015, the Commission informed S2R JU 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 S2R JU. By way of derogation, an

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 177, 17.06.2014, p.9.

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.

agency may request the Commission's agreement to the non-application of certain implementing rules.

- 3) In S2R JU, 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 all contract staff are the ones referred to in Article 3(a) of the CEOS.
- 4) In S2R JU, temporary agent referred to in Article 2(a) of the CEOS is exclusively the head of the Joint Undertaking. As regards the majority of temporary staff in the Joint Undertaking, 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 Joint Undertaking, namely those referred to in Article 3(a) of the CEOS. Commission Decision C(2013)9028 is therefore not adapted to S2R JU 's reality.
- 5) Taking into account the way S2R JU 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 Joint Undertaking.
- 6) The Commission has given its ex ante agreement to the non-application of Decision C(2013)9028 to S2R JU.
- 7) Commission Decision C(2013)9028 should not therefore apply to S2R JU.

HAS DECIDED AS FOLLOWS:

Article 1

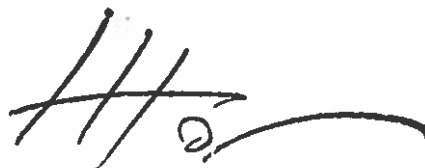
Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004⁴ on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to S2R JU.

Article 2

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

Done at Brussels, on 25 October 2016

For the Governing Board,



Henrik HOLOLEI

The Chairperson

⁴ See footnote 2.