

**DECISION No 15/2019**

**OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR  
THE COOPERATION OF ENERGY REGULATORS**

**of 26 September 2019**

**on the request for non-application by analogy from the Implementing Rules to the Staff  
Regulations**

THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR THE  
COOPERATION OF ENERGY REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators<sup>1</sup>, and, in particular, Article 19(1)(i) 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,

After having consulted the Staff Committee of the Agency,

Whereas:

- 1) On 17 June 2019, the Commission informed the Directors of EU Agencies and Joint Undertakings that it adopted the following implementing rules to Staff Regulations: Commission Decision C(2019) 4231 of 12 June 2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings.
- 2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in recital (1) herein shall apply by analogy to agencies nine months after their entry into force at the Commission, or nine months after the date on which the Commission informed the agencies of the adoption these rules, whichever is later. By way of derogation, after consulting its Staff Committee and having received the Commission's agreement, an agency may decide not to apply certain Commission rules (opt-out), to adopt rules which are different from those of the Commission or to adopt rules on subjects other than those covered by the rules adopted by the Commission.
- 2) The Standing Working Party has informed the European Union Agency for the Cooperation of Energy Regulators (hereinafter 'the Agency') that it is in the process of developing a model decision from the implementing rules referred to in recital (1) herein.

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<sup>1</sup> OJ L 158, 14.06.2019, p. 22

- 3) The Agency consulted the Staff Committee and received on 25 July 2019 a favourable opinion on the opportunity for the Agency to request the Commission's agreement on the non-application by analogy of the Implementing Rules referred to in recital (1) herein.
- 4) Due to the specific governance of the Agency, which differ from that of the Commission, and given the conditions in the Service Level Agreement in place with DG HR, the implementing rules specified in recital (1) herein are not adapted to the Agency's reality.
- 5) Taking into account the way the Agency operates, it is appropriate to request the non-application by analogy of these rules and to consider applying the model decision currently being developed by the Commission in cooperation with the Standing Working Party.
- 6) The Director of the Agency should therefore be empowered to request the Commission's agreement to the non-application by analogy of the Implementing Rules specified in recital (1) herein,

HAS ADOPTED THIS DECISION:

#### **Article 1**

The Director of the Agency is hereby authorised to request the agreement of the Commission for the non-application by analogy of the Implementing Rules to the Staff Regulation, as specified in Annex I to this Decision.

#### **Article 2**

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

Done at Ljubljana, 26 September 2019

*For the Administrative Board*

*The Vice-Chair*

*Dr. J. PENKER*

*Annex I*

Nb.	<u>Title</u>	<u>Reference</u>
1	“Commission Decision C(2019) 4231 of 12 June 2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings”	C(2019) 4231