

DECISION No 19/2022
OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR
THE COOPERATION OF ENERGY REGULATORS
of 15 December 2022
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 Regulators¹, and, in particular, Article 19(1)(i) thereof,

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 259/68², and in particular Article 110(2) thereof,

Having regard to Commission Decision C(2022) 1788 final of 24 March 2022 on working time and hybrid working,

After consulting the Staff Committee on 29 November 2022,

Whereas:

- 1) On 24 March 2022, the Commission informed the Directors of EU Agencies and Joint Undertakings that it adopted the following implementing rules giving effect to the Staff Regulations: Commission Decision C(2022) 1788 of 24 March 2022 on working time and hybrid working (hereinafter 'the Implementing rules').
- 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 of 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.
- 3) 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.

¹ OJ L 158, 14.06.2019, p. 22.

² 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.

- 4) The Agency consulted the Staff Committee and on 29 November 2022 received 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.
- 5) Due to the specific circumstances of the Agency, which differ from that of the Commission, the Implementing rules specified in recital (1) herein, especially the provisions on teleworking outside the place of employment, are not adapted to the Agency's reality.
- 6) The Agency has liaised closely with the Staff Committee to assess the risks of implementing a too restrictive regime, including undertaking surveys among staff members and candidates to selection procedures; the results show that flexible teleworking conditions is one of the most important aspects to attract and retain highly qualified workforce, as well as to guarantee diversity and a better work-life balance. This is paramount to ensure the effective implementation of the Agency's mandate.
- 7) In light of the above-mentioned considerations, it is appropriate to request the non-application by analogy of Commission Decision on working time and hybrid working and to consider either adopting the model decision currently being developed by the Commission in cooperation with the Standing Working Party, or adopting separate rules.
- 8) 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 Regulations, as specified in Annex I to this Decision.

Article 2

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

Done at Ljubljana, 15 December 2022

For the Administrative Board

The Chair
M. THIOLLIÈRE

Annex I

Nb.	<u>Title</u>	<u>Reference</u>
1	“Commission Decision C(2022) 1788 final of 24 March 2022 on working time and hybrid working”	C(2022) 1788