

Implementing Rules to the Staff Regulations

49th Meeting of the Management Board 22-23 March 2018

Proposal

The Secretariat proposes seven Implementing Rules, which can be categorised into three different groups, each requiring a different decision by the Management Board:

1. Implementing Rules for endorsement

This category contains two Implementing Rules that the Secretariat proposes to apply by analogy without any changes to their substance. Hence, the Management Board is requested to endorse their application by analogy.

2. Implementing Rules for adoption

In this category, there are three model decisions adopted specifically for the Agencies, in collaboration with the Standing Working Party¹. ECHA had initially opted-out of the respective Commission rules, as they did not cater sufficiently for the Agencies' specific needs. In addition, it is also proposed to put forward the ECHA-specific rules on the use and engagement of Temporary Agents for Management Board adoption.

3. Implementing Rules for opt-out

Finally, there is one Implementing Rule from which the Secretariat proposes to opt-out, following discussions at the Standing Working Party, as the Commission has agreed to provide specific rules for Agencies on this matter at a later stage.

Both the Secretariat's management and Staff Committee have been consulted on the respective Implementing Rules and agree with the proposals herein.

Background

In application of Article 110(2) of the Staff Regulations, Implementing Rules adopted by the Commission shall apply by analogy to ECHA either nine months after the date of the Commission notification or, by decision of the Management Board, at an earlier date. Alternatively, ECHA may request a Commission agreement either to adopt modified rules, or not to apply certain rules adopted by the Commission. Such requests for derogation should be submitted to the Commission within the above-mentioned nine months period. It is in the context of this legal background that ECHA needs to assess and decide whether (and when) to adopt the Commission rules by analogy or to opt-out from them.

¹ The Standing Working Party is the working group chaired by DG HR that comprises representatives of various EU Agencies that reviews Implementing Rules and decides whether application by analogy is feasible for Agencies or whether specific Agencies' rules are necessary.

Rationale

Based on prior work at the Standing Working Party and internal review, it is hereby recommended to categorise the IRs for decision into three separate groups, as follows:

1. Rules for endorsement (that is, applying the respective Commission rules by analogy once the nine months timeline after notification has passed):

a) *Commission Decision C(2016)7270 on final amending general provisions for staff appraisal*

The sole change to the current appraisal rules brought forward by this Implementing Rule is that, for Head of Units, there needs to be an explicit decision on whether their managerial performance was satisfactory. Following a discussion at the level of the Standing Working Party, DG HR clarified that the amending Decision also applies to Agencies that adopted a model decision on appraisal, as is the case for ECHA.

b) *Commission Decision C(2017)5323 on mission guide*

This decision constitutes an update to the mission guide, comprising various practical changes.

2. Rules for adoption

a) *Commission Decision C(2017)6772 model decision on learning and development*

After ECHA opted-out from the Commission Implementing Rule on learning and development in March 2017, the Standing Working Party drafted specific rules for the Agencies that provide a common framework for administrative arrangements with respect to learning and development. These rules are compatible with ECHA's learning and development framework and are, therefore, proposed for adoption.

b) *Commission Decision C(2017)5308 model decision on teleworking*

This Implementing Rule places the changes that ECHA adopted in February 2017 to its existing teleworking scheme into a more formalised structure. There are no changes to the substance of the current teleworking rules, which are widely availed of and perceived positively at ECHA, as evidenced by a survey undertaken in November 2017. Hence, it is proposed that this Implementing Rule should be adopted at ECHA.

c) *Commission Decision C(2017)7332 model decision on temporary posting*

This Implementing Rule provides for a common regulatory framework whenever a temporary managerial assignment becomes necessary. As it is specially drafted for the Agencies and fits ECHA's needs in this area, adoption is hereby proposed.

d) *ECHA TA 2(f) rules*

ECHA drafted its specific TA 2(f) rules, paying special attention to Members of the Board of Appeal, who are recruited for a maximum period of 10 years following a specific procedure, as defined in REACH. All other rules for ECHA staff employed at the Secretariat remain unchanged. The draft rules were already approved by the Management Board for Commission agreement by written procedure². As the Commission modified the rules slightly without, however, changing the contents, the final version is hereby again presented for adoption, in line with the established practice.

3. Rule for opt-out

a) *Commission Decision C(2017)6760 on conditions of employment of Contract Agents*

After a first round of consultations among the Agencies, the Standing Working Party agreed with DG HR that a model decision for Agencies would be needed for this policy area. It is, therefore, proposed to opt-out from this Implementing Rule so that ECHA can avail of the model decision for Agencies once adopted.

² MB/WP/01/2017.

Alternative options / Drawbacks

Implementing rules aim at ensuring a consistent and coherent application of the Staff Regulations and Conditions of Employment of Other Servants throughout the EU Institutions, Bodies and Agencies. Unless the Standing Working Party, together with DG HR, advises that specific rules for the Agencies' needs are necessary, there is no risk in applying these rules at ECHA.

The Secretariat and its Staff Committee were consulted in the drafting of the specific Agency rules that are proposed for adoption herein and contributed to their finalisation. Therefore, the IRs proposed for adoption reflect ECHA's needs without any drawbacks. Finally, with respect to the opt-out from the Commission rules on Contract Agents, this will enable ECHA to avail from the Agencies' specific rules on this topic, should these fit better the needs of the service once they are finalised. Therefore, there are no risks to drawbacks involved in the opt-out.

Attachments:

1. Implementing Rules for endorsement

Annex 1: Commission Decision C(2016)7270 on final amending general provisions for staff appraisal

Annex 2a-b: Commission Decision C(2017)5323 on mission guide and annex I

2. Implementing Rules for adoption

Annex 3: Commission Decision C(2017)6772 model decision on learning and development

Annex 4: Commission Decision C(2017)5308 model decision on teleworking

Annex 5: Commission Decision C(2017)7332 model decision on temporary posting

Annex 6: Commission Decision C(2018)424 on ECHA TA 2(f) rules

3. Implementing Rules for opt-out

Annex 7a-d: Commission Decision C(2017)6760 on conditions of employment of Contract Agents and annexes I-III

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