

DECISION No 01/2018

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

of 6 February 2018

**on the request for opt-out (non-application) from the Implementing Rules to the Staff
Regulations**

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

Having regard to Regulation (EC) No 713/2009 of the European Parliament and of the
Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹,
and, in particular, Article 28(2) 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,

Having regard to Decision AB No 03/2010 of the Administrative Board of the Agency for the
Cooperation of Energy Regulators of 6 May 2010 on Rules of Procedure of the
Administrative Board, and, in particular, Article 9(2) thereof,

After having consulted the Staff Committee of the Agency,

Whereas:

- 1) On 20 October 2017, the Commission informed the Agency for the Cooperation of
Energy Regulators (hereinafter ‘the Agency’) that it adopted the following
implementing rules to Staff Regulations: Commission Decision on the general
provisions for implementing Article 79(2) of the Conditions of Employment of Other
Servants of the European Union, governing the conditions of employment of contract
staff employed by the Commission under the terms of Articles 3a and 3b thereof,
adopted on 16 October 2017, entering into force on 1 November 2017.
- 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

¹ OJ L 1/112, 14.8.2009, p.1.

(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 Agency that it is in the process of developing a model decision from the implementing rules referred to in recital (1) herein and recommended that the Agencies consider requesting an opt-out as soon as possible.
- 3) The Agency consulted the Staff Committee and received on 9 January 2018 a favourable opinion on the opportunity for the Agency to opt out from Commission's Implementing Rules referred to in recital (1) herein.
- 4) Due to specific needs of the Agency governing the conditions of employment of contract staff which differ from that of the Commission, the implementing rules specified in recital (1) herein are not adapted to the Agency's reality. Taking into account the way the Agency operates, it is appropriate to request an opt-out from these rules and consider the model decision currently being developed by the European Commission in cooperation with the Standing Working Party.
- 5) The Director of the Agency should therefore be empowered to request the Commission's agreement to the non-application 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 European Commission for the non-application of 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, 6 February 2018.

For the Administrative Board

The Chair

Dr. R. JORDAN

Annex I

Nb.	<u>Title</u>	<u>Reference</u>
1	“Commission Decision on the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants of the European Union, governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b thereof”	C(2017)6760