



DECISION OF THE GOVERNING BOARD

On Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work

N° 17/2016

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, and in particular Article 110(2) of the Staff Regulations;

Having regard to Council Regulation (EU) No 642/2014 of 16 June 2014 establishing the Shift2Rail Joint Undertaking², and in particular Article 6 (3) thereof,

Having regard to the 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 Shift2Rail Joint Undertaking and in particular Article 8 thereof,

Having regard to the fact that the staff Committee of the Shift2Rail Joint Undertaking, which is to be consulted pursuant to article 110(2) of the Staff Regulations, has not yet been constituted and it is therefore impossible at present to comply with the requirements of that provision, the staff of Shift2Rail Joint Undertaking has been informed of the present implementing provisions,

Whereas:

- (1) It is necessary to adopt implementing rules for giving effect to the Staff Regulations;
- (2) The Commission informed the JU in written on 12 January 2016, of the adoption on 8 January 2016 of the Commission Decision C(2015)9720 on the implementation of part-time work in Commission Departments;

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) In application of Article 110(2) of the Staff Regulations, the above-mentioned Decision shall apply by analogy to the agencies either nine months after the date of its adoption or by decision of the Governing Board, at an earlier date;
- (4) It is considered appropriate to ensure a timely entry into force and application to the Shift2Rail Joint Undertaking staff of the framework concerning part-time work;
- (5) For the sake of clarity and legal certainty, the Commission Decision on part-time work C(2013)9046 final of 16 December 2013 should not apply any longer at the Shift2Rail Joint Undertaking;

By written procedure HAS DECIDED AS FOLLOWS:

Article 1

The Commission Decision C(2015)9720 of 8 January 2016 on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work in Commission Departments as annexed to the present Decision shall apply by analogy to the staff of the Shift2Rail Joint Undertaking.

Article 2

Commission Decision on part-time work C(2013)9046 final of 16 December 2013 shall not apply any longer at the Shift2Rail Joint Undertaking.

Article 3

This Decision shall enter into force on the day following that of their adoption.

Done at Brussels, on 12 September 2016

For the Governing Board



Henrik HOLOLEI

The Chairperson

Annex: Commission Decision C(2015)9720 of 8 January 2016 on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work in the Commission departments.



Brussels, 8.1.2016
C(2015) 9720 final

COMMISSION DECISION

of 8.1.2016

**on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time
work**

COMMISSION DECISION

of 8.1.2016

on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (CEOS), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 55a of the Staff Regulations and Annex IVa thereto, applicable to other servants pursuant to Articles 16 and 91 of the CEOS,

Whereas:

- (1) The Commission Decision of 15 April 2014 on working time [C(2014) 2502], which has been in force since 1 June 2014, contains provisions which affect the rules relating to part-time work.
- (2) The new provisions require amendments to the Commission Decision of 16 December 2013 on Article 55a and Annex IVa to the Staff Regulations concerning part-time work [C(2013) 9046 final], which has been in force since 1 January 2014.
- (3) Greater flexibility is introduced in the part-time arrangements in keeping with the launch of the Fit@work initiative, the Commission's health and well-being programme.
- (4) The assignment of duties to staff working part-time must take account of the fact that they work on a part-time basis.
- (5) The allocation of any resources required to cover for absences resulting from part-time work is governed by the Commission's policy on the replacement of absent staff.
- (6) The application of Article 55a(2)(d) of the Staff Regulations, which has been in force since 1 January 2014, has revealed a demand for the option of working on a 95 % part-time basis with application of the pro rata calculation of remuneration provided for in the first two paragraphs of Article 3 of Annex IVa to the Staff Regulations.
- (7) More flexible application of the provisions on special part-time work (time credits) requires the introduction of a new provision allowing officials benefiting from this arrangement to use the days or half-days acquired over a period of 12 months.
- (8) In the interests of clarity, examples should be given of cases where it might be duly justified, as provided for in the fourth paragraph of Article 1 of Annex IVa to the Staff Regulations, for a new period of part-time work not to start on the first day of a month.
- (9) For reasons of clarity and legal certainty, Decision C(2013) 9046 final of 16 December 2013 should be replaced by this Decision,

¹ OJ L 56, 4.3.1968, p. 1.

HAS DECIDED AS FOLLOWS:

Article 1 - General provisions

Any official² may seek authorisation to work part-time under the conditions laid down in Article 55(a) and in Annex IVa of the Staff Regulations.

Article 2 – Standard part-time work

- (1) Authorisation for standard part-time work may be granted for a minimum renewable period of one month and a maximum of three years³ on a basis of 50, 60, 62.5⁴, 70, 75, 80, 90 or 95 % of the standard working week. Officials shall be entitled, during the period for which part-time work is authorised, to a percentage of their remuneration corresponding to the percentage of the normal time worked.
- (2) Subject to the conditions referred to in the fourth indent of Article 4(5) of this Decision, the authorisation for standard part-time work may also be granted at a rate of 95 % of the normal working week without applying the pro rata calculation of the remuneration provided for in the first two paragraphs of Article 3 of Annex IVa to the Staff Regulations.
- (3) Standard part-time work applies on a weekly basis without prejudice to the rules on flexitime.
- (4) The number of hours to be worked per day shall be specified in advance and may not exceed 10 hours. A break of at least 20 minutes shall be included if the working day is longer than five hours.

Article 3 – Special part-time work (time credits)

- (1) Part-time work may also be authorised in the form of time credits. In this case officials shall be paid as if they were working half time and shall be entitled under the special arrangements to 10.5 full days or 21 half days of leave for each of the months on half-time pay. For each time credits application, an official may be authorised to be paid half-time (and obtain the corresponding credits) for one month or two months at most. In a given year, however, the number of days acquired in the form of time credits may not exceed the equivalent of 42 days.
- (2) The period of validity of the (half-)days thus acquired shall be 12 months from the starting date of the part-time work approved by the official's line manager when the request for time credits was made and recorded in the computer program.
- (3) The number of (half-)days acquired in this way may not exceed half of the working days in a given month.

² The word 'official' also refers to staff covered by the CEOS, Articles 16 and 91 of which make the provisions in the Staff Regulations on part-time work applicable by analogy. Any reference to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice-versa, unless the content clearly indicates otherwise.

³ Subject to the cases referred to in Articles 15 and 55a(2)(g) of the Staff Regulations.

⁴ A 25-hour working week (five five-hour days).

Article 4 – Application for part-time work

- (1) Officials wishing to work part-time shall apply for authorisation in writing through their line manager(s) to the Appointing Authority or to the authority empowered to conclude contracts of employment (AHCC)⁵.
- (2) The application for part-time work shall specify the reason for the request, the type of part-time work requested and, where appropriate, the percentage referred to in Article 2(1), the period of part-time work and the number of hours per day. A specific form must be used for applications under Article 2(2) of this Decision.
- (3) According to the fourth paragraph of Article 1 of Annex IVa to the Staff Regulations, any period of part-time work shall start on the first day of a month, except in duly justified cases where it immediately follows a period of maternity, parental or family leave. In the event of an application for renewal in such cases, a new period of part-time work may start on a day other than the first day of the month so that it immediately follows a preceding period of part-time work. Similarly, one period of part-time work must follow on immediately after another where the two periods would otherwise be separated only by public holidays.
- (4) The line manager(s) shall issue an opinion on the request before forwarding it to the Appointing Authority.
- (5) Applications for authorisation to work part time may not be refused or postponed if the reason for the request is:
 - to care for a dependent child under the age of 9;
 - to care for a dependent child aged between 9 and 12, if the reduction in working time is no more than 20 % of normal working time;
 - to care for a dependent child until he or she reaches the age of 14 when the official is a single parent;
 - in cases of serious hardship, to care for a dependent child until he or she reaches the age of 14 if the reduction in working time is no more than 5 % of normal working time. In the above cases the pro rata calculation of the remuneration provided for in the first two paragraphs of Article 3 of Annex IVa to the Staff Regulations shall not apply.

A 'serious hardship' in this context exists where exceptional and duly justified family circumstances require the official to spend more time with the dependent child compared to normal circumstances and when the official is in a difficult financial situation.

The Directorate-General for Human Resources acting as the Appointing Authority, after an assessment by the Commission's social service, shall in principle grant the entitlement for an initial period of six months, which shall be renewable.

The part-time work arrangement shall come to an end when the child turns 14 or the serious hardship no longer exists. Moreover, if both parents are

⁵ For the purposes of this Decision, references to the Appointing Authority shall be deemed also to refer to the AHCC.

employed in the service of the Union, only one shall be entitled to such reduction in accordance with this arrangement;

- to care for a seriously ill or handicapped spouse, relative in the ascending line, relative in the descending line, brother or sister.

- (6) Where part-time working is requested under Article 55a(2)(f) and (g) of the Staff Regulations in order to take part in further training or, because the person concerned has reached the age of 58, during the last three years before retirement, authorisation may be refused or postponed only in exceptional circumstances and for overriding and clearly specified reasons relating to the interest of the service.

The Appointing Authority shall send its decision refusing or postponing part-time work to the person concerned or their line manager(s).

- (7) In the case referred to in Article 55a(g) of the Staff Regulations, officials aged over 58 authorised to work half-time in preparation for retirement and who benefit from the provisions of Article 4 of Annex IVa to the Staff Regulations, shall be obliged, at the end of their period of part-time work (maximum three years), either to retire or to repay the amount exceeding 50 % of the basic salary received during the period of half-time work.

Article 5 – Implementation

- (1) The number of hours worked per day under the standard part-time work arrangement shall be reduced evenly on a weekly basis. If the person concerned makes a reasoned request to this effect, the Appointing Authority may authorise different weekly working hours, provided that this arrangement is compatible with the interests of the service. In this case the working week may not be less than three days and the working day may not be less than three hours.
- (2) By way of exception, and solely in order to ensure the smooth running of the service and the performance of specific tasks, the Appointing Authority may, at the request of the service only and in agreement with the person concerned, authorise a work schedule covering two consecutive weeks, with absence alternating with presence in the office on a pro rata basis according to the part-time work arrangement chosen. In this case, the person shall not be absent from the office for an uninterrupted period of more than five consecutive working days.
- (3) In the case of special part-time work arrangements (time credits), the half-days or days acquired shall be made available to the official in the computer program for up to 12 months starting as from the date set in accordance with Article 3(2) of this Decision. It is for the person concerned to submit a request to use the time credits at the appropriate time, in agreement with their line manager, taking into account the interest of the service. However, officials are obliged to use at least half a day of time credit during the first month in which they are paid on a half-time basis.
- (4) The line manager of an official authorised to work part-time shall make the required adjustments to his or her workload.
- (5) The authorisation granted by the Appointing Authority shall specify the type of part-time work, its start date and duration, and the daily work schedule. The working hours per day or the different weekly working hours shall apply to the entire period for which the authorisation has been granted.

- (6) In the case of special time credits arrangements, the days or half-days agreed beforehand on a given date may be amended before the relevant date with the express agreement of the line manager.
- (7) Part-time work shall be authorised only in the cases referred to in Article 4(5) of this Decision during an official's probationary period under Article 34 of the Staff Regulations⁶.
- (8) Sick leave shall not have the effect of cancelling or interrupting a decision authorising part-time work. The arrangements laid down in this Decision shall remain in force unless they are cancelled by the Appointing Authority under Article 8 of this Decision.
- (9) The Commission's policy for the replacement of absent staff, which is aimed at establishing an effective replacement mechanism for units seriously affected by absences caused by part-time work, shall lay down the rules on allocating 'replacement appropriations'. The actual use of these appropriations is the responsibility of each Directorate-General.

Article 6 - Election or appointment to public office

Officials elected or appointed to public office and authorised by the Appointing Authority to discharge their duties on a part-time basis as provided for in Article 15 of the Staff Regulations⁷, shall undertake standard part-time work. The Appointing Authority shall determine the percentage of standard weekly hours to be worked. The duration of the authorisation shall correspond to the official's term of office. Thus, if the term is cut short, the part-time work arrangement authorised for this purpose shall be ended.

Article 7 – Parental leave and family leave

Under Articles 42a and 42b of the Staff Regulations⁸, an official on parental leave or on family leave who is taking such leave on a half-time basis shall undertake standard part-time work, the weekly working hours being 50 % of the normal working week. In exceptional cases and in accordance with the conditions laid down in Article 5(2) of this Decision, a work schedule based on two consecutive weeks, with absence alternating with presence in the office on a pro rata basis according to the part-time work arrangement chosen, may be authorised by the Appointing Authority in agreement with the person concerned. In this case, the person shall not be absent from the office for an uninterrupted period of more than five consecutive working days.

Article 8 - Joint Committee on Part-time Work

- (1) Without prejudice to the subsequent creation of a joint committee dedicated to welfare issues and working conditions under the terms of Article 4 of the Commission Decision of 15 July 2005 on improving social dialogue in the Commission through Joint Committees or any amendment thereto, the Joint Committee on Part-Time Work shall operate as described below.
- (2) The Joint Committee on Part-time Work shall consist of three officials appointed by the Director-General of DG Human Resources and Security (DG HR) or, in the case of

⁶ The probationary periods of temporary and contract staff whose contracts are concluded for a duration of at least one year are covered, respectively, by Articles 14 and 84 of the CEOS.

officials of the Joint Research Centre, by the Director-General of the Centre, and two officials appointed by the relevant local section of the Staff Committee.

- (3) The Committee shall be chaired by one of the officials appointed by the Director-General of DG HR or, in the case of the Joint Research Centre, by one of the officials appointed by the Director-General of the Centre. The Chair shall not have a vote.
- (4) The Joint Committee shall examine any refusal to authorise part-time work or postponement of its starting date if the matter is referred to it by the person concerned. The Committee may ask the Appointing Authority to reconsider the case.

Article 9 – Withdrawal of authorisation to work part time

- (1) Notwithstanding the possibility of requesting the withdrawal of the authorisation to work part time provided for in the first paragraph of Article 2 of Annex IVa to the Staff Regulations, officials may request withdrawal of the authorisation with retroactive effect due to illness. In such cases, authorisation for standard part-time working may be withdrawn with effect from the first day of illness as attested by a medical certificate. The original medical certificate shall be sent to the Medical Service as soon as possible after the first day on which the person was unfit for work and no later than the fifth calendar day of absence, as evidenced by the postmark. However, the date of withdrawal may not be before the first day of the month in which the request for withdrawal was sent to the Appointing Authority.
- (2) Where officials are unable to request the withdrawal of the authorisation to work part-time themselves, their consent shall be assumed and the withdrawal made on their behalf by the leave manager (GECO) in their DG, acting on a special, detailed decision by the Appointing Authority.
- (3) Where the request for withdrawal is made on the grounds of maternity leave or adoption leave, it may be granted retroactively for the full duration of that leave if the request was made before the end of the leave.

Article 10 - Leave entitlement

Annual leave entitlements for an official authorised to work part time shall be governed by the Commission Decision introducing implementing provisions on leave.

Article 11 – Monitoring implementation

DG HR shall be responsible for monitoring the implementation of this Decision within the Commission. DG HR shall in particular monitor the possible correlation between part-time working and career development in order to avoid any inequality of treatment, particularly in the context of appraisal and promotion.

⁷ Applicable by analogy to temporary and contract staff on the basis of Articles 11 and 81 of the CEOS, respectively.

⁸ Applicable by analogy to temporary and contract staff on the basis of Articles 16 and 91 of the CEOS, respectively.

Article 12 – Entry into force

The Commission Decision of 16 December 2013 on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work [C(2013) 9046 final] is repealed.

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

Done at Brussels, 8.1.2016

For the Commission
Kristalina GEORGIEVA
Vice-President