

## NOTE TO THE MANAGEMENT BOARD

### **Adoption by analogy of European Commission Decision on the implementation of telework**

#### **1. Background**

Under Article 110 of the Staff Regulations ('SR'), EFSA lays down staff-related implementing rules ('IRs') according to one of the following modalities:

- adoption by analogy of European Commission ('EC') IRs (general principle);
- adoption of IRs based on Agency Model rules, when available, to ensure common implementation of the SR across all agencies;
- adoption of IRs derogating from EC IRs in case EFSA requires IRs which are specifically adapted to its own reality;
- opt-out from EC IRs which are not relevant for staff management at EFSA.

The decision-making power remains with the Management Board, on the basis of proposals of the Executive Director and following consultation with the Staff Committee.

An overview of IRs adopted so far by EFSA is provided in the Annex to the present note.

#### **2. For adoption by analogy - Commission Decision on implementation of telework**

Teleworking is a method of organising and carrying out work outside the workplace with the help of information and communication technologies. It helps to achieve a more productive, result-oriented working environment that is conducive to a positive work-life balance.

EFSA has been implementing telework arrangements since a while. There are two types of telework i) structural teleworking which alternates regular period of telework with periods of work at the workplace, which are established by a teleworking agreement between EFSA and the "teleworker"; ii) occasional teleworking which can be granted to accommodate work circumstances involving one-off tasks that can be better carried out outside the office and may also be used in case of specific personal or family problems, transportation and mobility issues.

Staff members have the right to request to telework; in assessing these requests, EFSA takes into account the interest of the service in the specific circumstances. As a rule, all activities are suitable for teleworking, with the exception of tasks which require physical presence at the workplace.

To regulate teleworking, EFSA is currently applying by analogy Commission Decision C(2009)10224 of 18 December 2009 concerning the implementation of teleworking in Commission departments from 2010 to 2015, as amended by Commission Decision C(2013)9045 of 16 December 2013. The latter expired at the Commission on 31 December 2015.

On 5 January 2016, the Commission informed EFSA about the adoption, on 17 December 2015, of new Commission Decision C(2015)9151 on the implementation of telework in Commission Departments (enclosed).

Compared to the previous Decision, the new framework increases from 30 to 60 the maximum days of occasional telework which can be granted per year.

Following the assessment carried out by EFSA services and the positive opinion of the Staff Committee, **it is proposed that the Management Board adopts by analogy Commission Decision C(2015)9151 on the implementation of telework**. A draft decision for this purpose is attached to the present note.

### 3. Updates on the 'work programme'

Negotiations are on-going within the Standing Working Party ('SWP') and the EC (for Agency Model rules and agencies opts-out) or directly with the European Commission (for EFSA requests of derogations) on a number of fields. According to the timeline communicated by the SWP/EC, EFSA indicatively expects to be ready to adopt IRs according to the following programme:

#### Second half of 2016

- Agency Model rules on:
  - Promotion of officials
  - Reclassification of CA 3a
  - Reclassification of TA 2f
  - Working Time
  - Setting up of Staff Committee
  - Opt-out from EC IRs for recourse to non-permanent staff (7 years rule)
- Amended/new EC IRs
  - Part-time

#### First half of 2017

- Agency Model rules on:
  - Administrative inquiries and Disciplinary proceedings
  - Temporary occupation of management positions (Article 7(2)SR)
  - Prevention of Harassment
  - Opt-out from IRs for Annex X of the SR (staff working in third countries delegations)
  - Learning and development
- Amended/new EC IRs
  - Appraisal of middle management
  - Outside activities
- EFSA individual derogation
  - Types of posts and posts titles

#### Uncertain timeline

- Engagement and use of contract staff
- Whistleblowing policy
- Middle management
- Adviser function

## **Annex:**

### **European Commission IRs adopted by analogy**

- Commission Decision of 16.12.2013 laying down general provisions giving effect to Article 8 of Annex VII to the Staff Regulations C(2013) 8987;
- Commission Decision of 16.12.2013 repealing Commission Decision of 28.4.2004 adopting General implementing provisions on the early retirement of officials and temporary agents without reduction of pension rights (C(2004) 1588 final/5) C(2013) 9039;
- Commission Decision of 16.12.2013 laying down general implementing provisions concerning the criteria applicable to classification in step on appointment or engagement C(2013) 8970;
- Commission Decision of 16.12.2013 on general implementing provisions on granting the education allowance (Article 3 of Annex VII to the Staff Regulations) C(2013) 8971;
- Commission Decision of 16.12.2013 on leave C(2013) 9051;
- Commission Decision of 16.12.2013 on maternity leave and maternity pay for women whose maternity leave begins before the end of their contract (Articles 17 and 91 of CEOS) C(2013) 9020;
- Commission Decision of 16.12.2013 on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work C(2013) 9046;
- Commission Decision of 16.12.2013 laying down general implementing provisions to Article 7 (4) of Annex VII to the Staff Regulations on determining the place of origin C(2013) 8982;
- Commission Decision of 16.12.2013 on reimbursements due to officials assigned to non-member countries C(2013) 8990;
- Commission Decision of 18 December 2009 concerning the implementation of teleworking in Commission departments from 2010 to 2015 C(2009)10224 as amended by Commission Decision C(2013) 9045 of 16 December 2013<sup>1</sup>;
- Commission Decision of 16.12.2013 on outside activities and assignments C(2013) 9037;
- Commission Decision of 16.12.2013 on General Implementing Provisions on removal expenses (Article 9 of Annex VII to the Staff Regulations) C(2013) 9040;
- Commission Decision of 16.12.2013 on rules for the implementation of housing policy in EU delegations C(2013) 8965,
- Commission Decision of 16.12.2013 on the living conditions allowance and the additional allowance referred to in Article 10 of Annex X to the Staff Regulations C(2013) 9032;
- Commission Decision of 16.12.2013 on home leave for officials, temporary agents and contract agents posted in third countries (second paragraph of Article 7 Annex V to the Staff Regulations) C(2013) 9035;

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<sup>1</sup> This Decision will cease to apply to EFSA as of the entry into force of the new Commission Decision C(2015)9151 on the implementation of telework in Commission Departments, which the Management Board is proposed to adopt by analogy through the draft decision attached to the present note.

- Commission Decision of 16.12.2013 on management of rest leaves pursuant to Article 8 of Annex X to the Staff Regulations C(2013) 9027.

**IRs adopted based on Model agency rules**

- Decision of the MB laying down general implementing provisions on the procedure governing the engagement and use of temporary staff under (2)(f) of the CEOS
- Decision of the MB laying down general provisions for implementing Article 43 of the SR and implementing the first paragraph of Article 44 of the SR for officials and temporary staff<sup>2</sup>;
- Decision of the MB laying down general provisions for implementing Article 87 (1) of the CEOS and implementing the first paragraph of Article 44 of the SR.
- Decision of the MB on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union<sup>3</sup>.

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<sup>2</sup> It replaces Commission Decision of 16.12.2013 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations C(2013) 8985, initially adopted by analogy by Decision of the Management Board of 26 June 2014 concerning the adoption of implementing provisions of the Staff Regulations by analogy (mb 26 06 14).

<sup>3</sup> It replaces Commission Decision of 16.12.2013 on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union C(2013) 9054, initially adopted by analogy by Decision of the Management Board of 26 June 2014 concerning the adoption of implementing provisions of the Staff Regulations by analogy (mb 26 06 14).



Brussels, 17.12.2015  
C(2015) 9151 final

**COMMISSION DECISION**

**of 17.12.2015**

**on the implementation of telework in Commission Departments**

## COMMISSION DECISION

of 17.12.2015

### on the implementation of telework in Commission Departments

THE EUROPEAN COMMISSION,

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

Having regard to the Staff Regulations of Officials ( the "Staff Regulations") and the Conditions of Employment of Other Servants of the European Union (the "CEOS"), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968<sup>1</sup>, and in particular Article 1(e)(1) of the Staff Regulations and Articles 10 and 80 of the CEOS,

Having regard to Commission Decision C(2009)10224 of 18 December 2009 concerning the implementation of teleworking in Commission departments from 2010 to 2015, expiring on 31 December 2015, as amended by Commission Decision C(2013)9045 of 16.12.2013 ("the previous Decision"),

Having assessed the implementation of the previous Decision,

After consultation of the Joint Committee on Equal Opportunities (COPEC),

Whereas:

- (1) Teleworking is part of a modernising trend in organisations which focuses on result-based management and objective-driven performance to increase efficiency of operations. It allows greater flexibility for work organisation and a better work-life balance of staff by increasing autonomy and making better use of new information technology.
- (2) As Appointing Authority, the Director General defines in the Directorate General the teleworking policy in accordance with the present decision. The Director General shall delegate the power to implement this teleworking policy.
- (3) Teleworking requires teleworkers to be autonomous, to have a sense of responsibility, to be well-organised and to meet deadlines. For the line manager, it means implementing objective-based management as well as developing efficient remote management of teleworkers.
- (4) To avoid potential risks such as difficulties with the integration of teleworkers in teams or problems with document security or IT equipment, the consequences of teleworking for work organisation within the service and the method of evaluating the performance of teleworkers must be given due consideration.
- (5) Given the expiry of the previous decision on 31 December 2015, a new Decision should be adopted and introduce modifications which are necessary or desirable on the basis of the past six years of experience with teleworking.

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<sup>1</sup> OJ L 56, 4.3.1968, p. 1

HAS DECIDED AS FOLLOWS:

*Article 1*

Aim, definition and scope of application

- (1) A teleworking scheme is instituted within the Commission.
- (2) Teleworking is a method of organising and carrying out work outside the workplace<sup>2</sup> with the help of information and communication technologies. It aims to help the Commission achieve a more productive, result-oriented working environment, that is conducive to a positive work-life balance. Additionally, it has a beneficial impact on the environment by limiting commuting and improves the business-continuity of the Institution.
- (3) The Director-General is the Appointing Authority responsible for the definition of the teleworking policy in the Directorate-General in accordance with the present decision. The Director General shall delegate the power to implement this teleworking policy to the line management. The latter shall implement it in accordance with the present decision under the supervision of the senior management.
- (4) On a voluntary basis, every staff member<sup>3</sup> has the right to request to telework. In assessing the request, the Appointing Authority shall take into account the interest of the service in the specific circumstances. This includes the benefits that teleworking can bring to the service by increasing performance, of the organisation as a whole and to the staff member concerned.
- (5) As knowledge-based activities, tasks carried out by Commission staff are as a rule suitable for teleworking. Tasks which require physical presence at the workplace are, however, unsuitable for teleworking, in particular shift work, receiving the public, working as a driver, catering, mail distribution, interpretation, technical and logistical support to conferences and meetings, crisis management and response operations, security work, child care and medical services.
- (6) This Decision does not concern staff working outside the workplace in the context of flexible working-time arrangements under Commission Decision C (2014) 2502 of 15 April 2014 on Working Time.
- (7) The Decision shall apply to all Commission staff covered by the Staff Regulations or by the Conditions of Employment of Other Servants (CEOS) regardless of function group or grade. It shall also apply to seconded national experts (SNEs) and local agents working in the Representations of the European Commission in the Member States.
- (8) By derogation from paragraph 7, the teleworking arrangements of Commission officials, temporary agents, contract agents, SNEs and local agents working in EU delegations shall be determined by the European External Action Service in close cooperation with the Commission, as provided for in Commission Decision C(2013)3288 of 4 June 2013 on the exercise of powers conferred by the Staff

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<sup>2</sup> In the application of this decision, working outside the workplace primarily refers to working at home. By extension, the workplace includes any workplace where staff attends meetings or is sent on mission.

<sup>3</sup> Any reference in this Decision 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 context clearly indicates otherwise.

Regulations on the appointing authority (AA) and by the CEOS on the Authority Empowered to Conclude Contracts of Employment (AECC)<sup>4</sup>.

## *Article 2*

### General provisions

- (1) There are two types of teleworking: structural and occasional teleworking.
- (2) All the provisions of the Staff Regulations and the CEOS or, where applicable, the provisions on SNEs<sup>5</sup>, apply to teleworkers.
- (3) Under the time-accounting arrangements, a teleworking day will count as a standard 8 hour day, and half a day as 4 hours<sup>6</sup>. No hours worked in excess of 4 respectively 8 hours shall be recorded during telework.
- (4) Teleworkers shall comply with the rules on leave and absences. If the teleworker does not work the number of hours required in the teleworking agreement as defined in Article 3(1) below, he shall take annual leave or flexitime compensation in the same way as if he had been working at the workplace on that particular day.
- (5) Except in the cases described in Article 4(5) and 4(6), teleworkers may be called upon at any time to return to the office, at their own expense, for urgent reasons relating to the interests of the service.
- (6) Teleworkers must agree with their line manager which days they will be in the office to suit the service needs and priorities. The minimum period of teleworking is half a day, taken as a single block.
- (7) Teleworkers shall organise their work schedule during their teleworking day so as to comply with service needs. Teleworkers shall be contactable at least during core hours, in conformity with Commission Decision C(2014)2502 of 15 April 2014 on working time.
- (8) Teleworkers shall agree on their usual place of work with their line manager and shall inform him of any changes.
- (9) By virtue of his delegated powers, the line manager concludes the teleworking agreement referred to in Article 3(1) with the teleworker and agrees with the occasional teleworking in accordance with Article 4(4). The competent service in charge of Human Resources is informed of these arrangements via the dedicated IT tool. To facilitate the implementation of teleworking, managers are required to use the technology and management tools necessary for remote communication and management. As appropriate, they must therefore follow the relevant Commission training provided on these subjects.

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<sup>4</sup> Decision C(2013)3288 of 4 June 2013 on the exercise of powers conferred by the Staff Regulations on the AA and by the Conditions of Employment of Other Servants on the AECC as amended by Decision C(2013)9056 of 16 December 2013, by Decision (2014)2534 of 16 April 2014 and by Decision C(2014)9864 of 16 December 2014.

<sup>5</sup> Decision C(2008) 6866 Final of 12.11.2008 laying down rules on the secondment of national experts and national experts in professional training as amended by Commission Decision C(2010) 544 and Commission Decision C(2014) 5680.

<sup>6</sup> However, for those authorised to work on a part-time basis, time-accounting applies on a pro rata basis, as defined by the relevant part-time work pattern chosen.



### *Article 3*

#### Structural teleworking

- (1) Structural teleworking alternates regular periods of telework with periods of work at the workplace, which are established by mutual agreement between the line manager and the teleworker. This type of teleworking requires the conclusion of a "teleworking agreement" between the teleworker and his line manager in the dedicated IT tool.
- (2) Structural teleworking following a one-week cycle pattern requires a minimum teleworking time of half a day per working week. It is limited to a maximum of two and a half days per working week, amounting to 20 hours (i.e. 50% of the 40-hour working week).
- (3) Structural teleworking following a two-week cycle pattern requires a minimum teleworking time of two half days (possibly in a row) and is limited to a maximum amount of time of three days and two days, or vice-versa, in the two respective weeks.
- (4) The minimum weekly presence in the office provided for in the above paragraphs applies even when teleworking is combined with part-time work.
- (5) The teleworking agreement shall specify the days on which the teleworker is to be in the office, as the case may be according to a one-week or two-week cycle, to suit the service's needs and priorities. It shall set out the arrangements for maintaining contact with the department and specify the usual teleworking location. The agreement shall set out the teleworker's and the manager's duties in relation to the professional objectives to be achieved. It shall include a reference to the basic regulatory provisions, such as the conditions under which teleworking may be terminated, recommendations on safety and ergonomics, guidelines on the use of equipment and precautions against damage and theft.
- (6) A trial period shall be applied in the case of first-time teleworkers, which may be of up to four months.
- (7) The agreement is normally concluded for maximum one year and may be renewed. It shall be notified to the competent service in charge of Human Resources for information.
- (8) If the teleworker changes post, even within the same service, the agreement shall be reviewed.
- (9) During a transitional period, all structural teleworking agreements concluded on the basis of the previous Decision and which expire in the course of 2016, shall be valid until their termination date, without prejudice to termination on other grounds pursuant to Article 5.

### *Article 4*

#### Occasional teleworking

- (1) Occasional teleworking allows staff to telework, on a temporary basis, for a maximum of 60 working days per calendar year.
- (2) Occasional teleworking may be used to accommodate work circumstances involving one-off tasks that can be better carried out outside the office, such as focussing on projects that demand specific concentration. Occasional telework may also be used in

case of specific personal or family problems, transportation and mobility issues (e.g. strikes).

- (3) Weekly presence in the office may not, in principle, be less than two and a half days per working week, which amount to 20 hours (i.e. 50% of 40 hours working week). By derogation, occasional teleworking may be granted in individual cases for a period of consecutive days which exceeds two and a half days per working week. In that case, the responsible Human Resources department shall be informed.
- (4) To undertake occasional teleworking, staff members shall make a request to their line managers. The latter shall, in principle approve it, unless the teleworking adversely affects the interests of the service. Approval by the line manager must be given in the dedicated IT tool.
- (5) At the request of a service or department which raises duly justified reasons, DG HR is empowered to allow occasional telework for longer periods than the ones mentioned in Article 4(1) and (3) for all or part of a service or department. In cases of force majeure, DG HR is also empowered, after consultation of the concerned service, to request staff members to telework.
- (6) Upon the staff member's request and upon recommendation of his treating doctor, occasional teleworking may be granted even beyond the 60-day limit per calendar year, if a staff member has temporarily lost his mobility but is still able to work outside the work place; the period granted must be necessary for recovering the ability to return to the workplace.

#### *Article 5*

##### Termination

- (1) A structural or occasional teleworking arrangement may be terminated at any time by the line manager, if the working conditions change or in the interest of the service (for example in the event of a change in the staff member's assignments or duties, when the staff member's performance is affected as a result of teleworking, or, in case of scarce teleworking capacity, when priority is given to another staff member). This is not affected by the appointment of a new line manager.
- (2) The line manager who approved the teleworking agreement, within the meaning of Article 3(1), terminates it ahead of time at the request of the teleworker.
- (3) The structural teleworker shall be notified at least one month before the termination takes effect. In exceptional circumstances related to the interest of the service, an immediate return to normal working conditions may be requested.
- (4) The decision to terminate the teleworking agreement before its term within the meaning of Article 3(7) shall indicate the reasons of termination and the date on which it takes effect.

#### *Article 6*

##### Training and career development

- (1) Teleworkers shall retain their entitlements to training as well as their career prospects. In particular, teleworking should not affect the individual's appraisals or assessments. Teleworkers' workload and performance indicators shall be the same as those of similar job holders working at the workplace.

- (2) The Commission shall provide teleworkers with information on ergonomics, document security, use of IT equipment, precautions to be taken against damage and theft and other subjects relating to teleworking. Management training will take into account the specifics of objective-based and remote management of teleworking staff.

#### *Article 7*

##### Health and safety

- (1) Teleworkers shall benefit from the same insurance against accident and occupational disease as staff working at the workplace. They shall take out the home insurance required by the law of the country in which the teleworking takes place. They are responsible for ensuring that their home and its electrical installation comply with the applicable health and safety regulations.
- (2) The teleworker's Directorate-General or service shall provide him with information on occupational health and safety, in particular the use of display screen equipment. Teleworkers shall regularly check the advice on ergonomics communicated to them by the Commission and ensure that they maintain an adequate level of compliance.
- (3) Teleworkers shall take all precautions necessary to safeguard the confidentiality of the information they handle while teleworking.

#### *Article 8*

##### Teleworking capacity

- (1) Directorates-General and services responsible for operational management shall optimise the use of tokens in their departments to make teleworking available as widely as possible to staff members.
- (2) Each Directorate-General or service shall determine a non-discriminatory allocation system, based on objective criteria that are relevant to the proper operation of the service.

#### *Article 9*

##### Equipment and technical support

- (1) Directorates-General and services shall continue to progressively provide teleworkers at least with a laptop computer to replace the standard Commission desktop PCs. This laptop will have to be used both in the office and when teleworking.
- (2) DG DIGIT shall set out by appropriate means the IT services provided to teleworkers according to types of access and the respective roles and responsibilities of DG DIGIT, the Information Resource Management (IRM) teams and teleworkers. The IT services provided to teleworkers may be adjusted according to users' needs, technological developments and available budget.
- (3) Teleworkers shall bear the cost of their internet subscription and of the communication charges incurred while teleworking, regardless of the chosen teleworking option or type of access. The cost of transferring calls from work telephones to teleworkers' private numbers shall, however, be borne by the Commission.

## *Article 10*

### Monitoring and evaluation

- (1) DG HR shall be responsible for monitoring effective implementation and compliance of this Decision within the Commission, in consultation with the COPEC 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 thereof. In particular, DG HR will monitor possible correlations between use of telework and career advancement to avoid situations of unequal treatment. At the latest five years after entry into force of this Decision, DG HR will report on the implementation of this Decision within the Commission on the basis of which, if appropriate, it will submit a proposal to amend this Decision.
- (2) DG HR will draw up a Guide for the Human Resources units in the Directorates-General and services indicating procedures and good practices to achieve of the objectives of this Decision.

## *Article 11*

### Entry into force

This Decision shall enter into force on the 1 January 2016.

Done at Brussels, 17.12.2015

*For the Commission*  
*Kristalina GEORGIEVA*  
*Vice-President*