



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY
Directorate HR.E: Legal Affairs and Partnerships
Director

Brussels

File dealt with by K. Etxabe (tel +32 229 85896)

**NOTE TO THE ATTENTION OF
THE DIRECTORS OF THE EU DECENTRALISED AGENCIES
AND JOINT UNDERTAKINGS**

Subject: Information pursuant to Article 110(2) of the Staff Regulations

Reference: My note Ares(2016)6965618 of 14/12/2016

By note dated on 14 December 2016, agencies were informed of Commission Decision C(2016)7270 amending Decision C(2013)8985 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations.

As stated in my note, in application of Article 110(2) of the Staff Regulations, the above-mentioned implementing rules shall apply by analogy to the agencies either nine months after the date of said information, or, by decision of the Management Board, at an earlier date. By derogation, when it is justified by agencies' specificities, those may request Commission's agreement to either adopt modified rules, or not to apply of rules adopted by the Commission.

In the Standing Working Party (SWP) meeting held on 27 February 2017 and in the Heads of Administration meeting of 28 February 2017, the representatives of agencies in the SWP expressed the views that Commission Decision C(2016)7270 is not applicable by analogy by those agencies which did not apply Commission Decision C(2013)8985 by analogy as those agencies adopted instead implementing rules based on the model decision to which the Commission gave an ex-ante agreement.

However, it is our opinion that Commission decision C(2016)7270 should be applied by analogy by agencies, regardless of whether the agency adopted Commission's Decision C(2013)8985 by analogy or adopted instead implementing rules based on the model decision.

Indeed, the sole Article of Commission Decision C(2016)7270 lays down a new rule (assessment of managerial performance) with an autonomous legal value. This rule can therefore be applicable by analogy by agencies.

I remain, with my staff at your disposal for any clarification.

[e-signed]
Marco-Umberto MORICCA

Annex: DG HR's note of 14 December 2016 (ref. Ares(2016)6965618)

Copy: M. Saúde, Head of Unit HR.E.4