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**Decision n°: 2017/01**

**SUBJECT : Decision on the non-application of Commission Decisions on learning and development, middle management staff and function of adviser**

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THE EXECUTIVE BOARD OF THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS, HAVING REGARD to the Council Regulation (EC) n° 168/2007 of 15 February 2007 establishing the European Union Agency for Fundamental Rights (FRA), and in particular Article 24 thereof,

HAVING REGARD to the Staff Regulations of officials of the European Union and the Conditions of employment of other servants of the European Union as laid down by Council Regulation (EEC, EURATOM, ECSC) n° 259/68, and in particular Article 110(2) of the Staff Regulations,

After consulting the Staff Committee and subject to the agreement of the Commission,

Whereas:

- (1) The Commission informed the FRA on 08 July 2016 on the adoption of five Commission Decisions (see annex 1) which entered into force at the Commission at different dates in June 2016. According to Article 110(2) of the Staff Regulations, these implementing rules should enter into force at FRA on 8 April 2017. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules before the expiry of the nine months period referred to in Article 110(2).
- (2) The FRA is informed that the Commission's services are currently drafting, with the assistance of the standing working party, a number of model decisions with a view to authorise derogations from the application by analogy of certain Commission's rules. These decisions concern learning and development, middle management staff and function of adviser.
- (3) It would be contrary to the agency interest to let the Commission's rules enter into force, while specific model decisions, adapted to the agency situation, are developed. Moreover, with view to FRA's different size, location and its specific mission, and mode of operation, FRA plans not to apply the Commission decisions mentioned in recital 1, but will wait for an overarching model decision specific for agencies which would allow for some adaptations to the agencies' specificities.
- (4) Pending the Commission's agreement on the model decisions referred in recital 2, it is necessary to request for the Commission's agreement for derogation from the application by analogy of the Commission's rules listed in Annex I. Then FRA will assess whether it wishes to adopt rules based on the respective model decision or to request an individual agreement regarding different rules.

HAS DECIDED AS FOLLOWS:

*Article 1*

1. The Agency shall request the Commission's agreement for derogation from application by analogy of the implementing rules as listed in Annex I pending the Commission's agreement on the respective model decisions on these matters for agencies.
2. After adoption of the Commission's agreement referred to in paragraph 1, FRA shall assess whether it decides to avail itself of it, or submits, for the Commission's individual agreement, its own rules on the above matters.

Vienna, 1 March 2017

*For the European Union Agency for Fundamental Rights*



*Frauke Lisa Seidensticker*  
*Chairperson of the Management Board*

*Annex I*

Commission Decision C(2016)3828 on the implementation of the learning and development strategy of the European Commission

Commission Decision C(2016)3855 on training on the own initiative of the member of staff

Commission Decision C(2016)3827 repealing existing rules on learning and development

Commission Decision C(2016)3288 on middle management staff

Commission Decision C(2016)3214 concerning the function of adviser