



EuroHPC JOINT UNDERTAKING
DECISION OF THE GOVERNING BOARD OF THE EuroHPC JOINT
UNDERTAKING No 19/2019

Authorisation of the Interim Executive Director to request ex art. 110(2) of the Staff Regulations the Commission's agreement to apply implementing rules for the delegation of the powers conferred by the Staff Regulations on the appointing authority and by conditions of employment of other servants on the authority empowered to conclude contracts of employment to the Executive Director of EuroHPC JU

THE GOVERNING BOARD,

Having regard to the Staff Regulations of Officials (Staff Regulations) and the Conditions of Employment of Other Servants of the European Union (CEOS), and in particular to Articles 2(1), 110 (2) of the Staff Regulations and Article 6 of the CEOS,

Having regard to Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing Joint Undertaking (hereinafter "Regulation")¹ and in particular Article 16 thereof,

Having regard to the Rules of Procedure of the Governing Board and in particular Articles 10 and 11 thereto,

Having regard to the agreement of the European Commission pursuant to Article 110 (2) of the Staff Regulations,

After informing the Staff,

WHEREAS

- (1) By virtue of Article 16(2) 1st subparagraph, of the Regulation, the powers of the Appointing Authority and the Authority empowered to conclude contracts of employment are conferred on the Governing Board of the Joint Undertaking;
- (2) Article 16(2) 2nd subparagraph of the Regulation provides that the Governing Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a Decision delegating the relevant powers of the Appointing Authority and the Authority empowered to conclude contracts of employment to the Executive Director of the Joint Undertaking;
- (3) Pursuant to Article 110 (2), 6th subparagraph, of the Staff Regulations, the Management Board, or the equivalent body referred to in the act establishing an agency, shall adopt the implementing rules to the Staff Regulations;
- (4) It is necessary to adopt a Decision to empower the Interim Executive Director to request the Commission's agreement to apply implementing rules in the annexed text for the delegation of the powers conferred by the Staff Regulations on the appointing authority

¹ OJ L 252, 08.10.2018, p. 1-34.

and by conditions of employment of other servants on the authority empowered to conclude contracts of employment to the Executive Director of EuroHPC JU pursuant to Article 110(2) 5th subparagraph and point 3.2.1.B c) of the Communication 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 of 26/09/2014 C(2014) 6543;

HAS ADOPTED THIS DECISION:

Article 1

The Interim Executive Director is empowered to request the Commission's agreement to apply implementing rules in the annexed text for the delegation of the powers conferred by the Staff Regulations on the appointing authority and by conditions of employment of other servants on the authority empowered to conclude contracts of employment to the Executive Director of EuroHPC JU pursuant to Article 110(2) 5th subparagraph and point 3.2.1.B c) of the Communication 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 of 26/09/2014 C(2014) 6543.

Article 2

This Decision shall enter into force upon its adoption by the Governing Board.

Done at Luxembourg, on 13th November 2019

For the Governing Board

Herbert Zeisel

The Chair

Annex: Draft Decision delegating AIPN powers to the Executive Director

Annex



EuroHPC JOINT UNDERTAKING **DECISION OF THE GOVERNING BOARD OF THE EuroHPC JOINT** **UNDERTAKING No [reference number]**

On the delegation to the Executive Director of the EuroHPC Joint Undertaking (Euro HPC JU) the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority empowered to conclude contracts of employment

THE GOVERNING BOARD,

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants ('CEOS') of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68², and in particular to Articles 2 (1), 110 (2) of the Staff Regulations and Article 6 of the CEOS,

Having regard to Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing Joint Undertaking (hereinafter "JU Regulation")³ and in particular Article 16 thereof,

Having regard to the Rules of Procedure of the Governing Board⁴ and in particular Articles 10 and 11 thereof,

Having regard to the agreement of the European Commission pursuant to Article 110 (2) of the Staff Regulations [*reference number of the Commission's Decision*] of [*date*],

After informing the Staff,

Whereas:

- (1) By virtue of the first subparagraph of Article 16(2) of the JU Regulation, the powers of the appointing authority and the authority empowered to conclude contracts of employment are conferred on the Governing Board of the Joint Undertaking.
- (2) The second subparagraph of Article 16(2) of the JU Regulation provides that the Governing Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a decision delegating the relevant the appointing authority powers to the

² 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.

³ OJ L 252, 08.10.2018, p. 1-34.

⁴ <https://eurohpc-ju.europa.eu/documents/EuroHPC-GB-Rules-of-Procedure.pdf>

Executive Director of the Joint Undertaking and defining the conditions under which that delegation may be suspended. The Director is authorised to sub-delegate those powers and should inform the Administrative Board of such sub-delegations.

- (3) Pursuant to the third sub-paragraph of Article 16 of the Agency Regulation, where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of appointing authority powers to the Executive Director and any subsequent sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member of the Joint Undertaking other than the Executive Director.
- (4) Pursuant to the sixth subparagraph of Article 110 (2) of the Staff Regulations and Article 16(3) of the Agency Regulation, the Governing Board is to adopt the implementing rules to the Staff Regulations and the CEOS.
- (5) Decisions on the daily management of the Joint Undertaking, and in particular decisions in individual staff matters should be taken at the most appropriate level.
- (6) The Executive Director manages the Joint Undertaking and should be in particular responsible for the day-to-day administration of the Joint Undertaking.
- (7) On the basis of Service Level Agreements, certain appointing authority powers of a technical nature could be sub-delegated by the Executive Director to the services of the European Commission, in particular to the Paymaster's Office or the Directorate-General for Human Resources and Security, notably when those services are not available within the Joint Undertaking.
- (8) It is therefore necessary to adopt a decision delegating the relevant competences in the area of staff management to the Executive Director,

HAS DECIDED AS FOLLOWS:

Article 1

This Decision concerns the exercise of the powers of the appointing authority and the authority empowered to conclude contracts of employment in respect of the staff of the Joint Undertaking, except the Executive Director of the Joint Undertaking and the appointment of the Accounting Officer.

Article 2

1. Within the limits of Article 1, the powers conferred by the Staff Regulations on the appointing authority and by the CEOS on the authority empowered to conclude contracts of employment shall be delegated to the Executive Director of the Joint Undertaking, except for the adoption of the implementing rules to give effect to the Staff Regulations and the CEOS.
2. The powers referred to in paragraph 1 are conferred on the Executive Director of the Joint Undertaking without prejudice to other competences of the Governing Board as provided for in the Statutes annexed to the JU Regulation.
3. Decisions on extension of contract, termination of contract and reclassification of the Accounting Officer shall be subject to approval by the Governing Board.

4. The powers referred to in paragraph 1 concerning Article 90(2) of the Staff Regulations are exercised by the Governing Board when the contested decision was taken at the level of the Executive Director.

Article 3

1. The Executive Director may sub-delegate, by way of a formal decision, the powers referred to in Article 1 to a member of temporary staff by reference to appropriate criteria, such as their function group, position, and job assignment, which they hold in the Joint Undertaking. In such case, the Executive Director may not exercise him or herself the power, unless he or she has taken back the sub-delegation by way of a formal decision.

2. The Executive Director shall inform the Governing Board of such sub-delegations.

3. Agents to whom powers are sub-delegated under paragraph 1 may be designated by their position in the Joint Undertaking or *ad personam*.

4. Sub-delegations shall be brought to the attention of the staff in a suitable form.

5. The Executive Director, may sub-delegate the relevant powers referred to in Article 1 to the services of the Commission. The sub-delegation shall be carried out in writing and brought to the attention of the staff.

Article 4

If a person to whom powers have been conferred pursuant to Article 2 or Article 3(1) is unable to act, those powers shall be exercised in accordance with the rules on deputising set out in the Joint Undertaking's internal rules⁵.

Article 5

1. Where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of appointing authority powers to the Executive Director and any subsequent sub-delegation of those powers by the latter. In such cases and the Governing board shall exercise the appointing authority powers itself or shall delegate them to one of its members or to a staff member of the Joint Undertaking other than the Executive Director.

2. These powers may be sub-delegated as necessary, in which case Article 3 shall apply *mutatis mutandis*.

3. The suspension shall be decided in accordance with the following provisions:

- a. before adopting a decision on suspension the Governing Board shall carefully consider any possible impacts on the functioning of the Joint Undertaking. The

⁵ [reference of EuroHPC JU's rules]

suspension shall be limited to the duration and extent necessary to achieve its objective;

- b. the decision on suspension shall be taken according to the voting rules of the Governing Board provided for in JU Regulation;
- c. the decision on suspension shall be communicated to the Executive Director in writing and shall clearly define the powers being suspended, the exact duration of the suspension and any conditions thereto;
- d. the decision on suspension shall automatically suspend any related sub-delegation, unless explicitly stated otherwise in the decision;
- e. the decision on suspension shall specify who shall exercise the relevant powers during the period of suspension;
- f. the decision on suspension shall be brought to the attention of staff in a suitable form.

Article 6

This Decision shall take effect on [*date*] and it shall be brought to the attention of the staff in a suitable form.

Done at Luxembourg, [DD] [Month] 2019.

For the Governing Board

[Signed]

Herbert Zeisel

The Chair