

HIGH COUNCIL DECISION N. 5/2022

of 2 December 2022

regarding the designation of the Court of Justice of the European Union as the body settling disputes between the Institute and its administrative and teaching staff

THE HIGH COUNCIL

Having regard to the Convention setting up a European University Institute (EUI), in particular Article 6(5)(c) thereof;

Having regard to the Staff Regulations applicable to Permanent Staff Members and the Conditions of Employment of Other Servants (CEOS);

Having regard to the Conditions of Employment of the Teaching Staff (CETS);

Having regard to Article 2 of the Common Provisions for Teaching and Administrative Staff (hereinafter referred to as “the Common Provisions”);

Having regard to High Council decision n. 8/06 of 8 December 2006 establishing an Organ of First Instance within the Appeals Board of the European University Institute;

Having regard to High Council Decision n. 10/2019 of 6 December 2019 on the direct employment by the EUI of doctoral researchers;

Having regard to President Decision n. 10/2019 of 18 February 2019 regarding Data Protection at the European University Institute (EUI);

Whereas:

- (1) The Final Act to EUI’s Convention states that the provisions of Article 6(5)(c) do not prevent the High Council from designating the Court of Justice of the European Communities after consultation with the President of the Court, as the body appointed to settle disputes between the Institute and its staff;

- (2) The resignation of all three judges of the Organ of First Instance has exposed the weakness of the ad hoc judicial system of the EUI. This suggests that an attempt to transfer EUI's jurisdiction to a professional body would be appropriate.
- (3) During the meeting on 3 June 2022 the High Council gave the mandate to the President of the EUI to explore ways in which the EUI's jurisdiction could be transferred to the Court of Justice of the European Union (CJEU);
- (4) After consultation with the President of the CJEU, the EUI confers its jurisdiction upon the Court as the body for settling differences between the Institute and its staff;
- (5) To this end, the High Council should confer upon the Court the competence to settle differences between the Institute and its staff;
- (6) Pending cases shall remain under the jurisdiction of the EUI's Organ of First Instance and Appeals Board;

HAS DECIDED AS FOLLOWS:

Article 1

(1) The words "Appeals Board of the European University Institute" in Article 91 of the Staff Regulations applicable to permanent staff members of the European University Institute are replaced by the words "Court of Justice of the European Union".

(2) The wording of Article 2 of the Common Provisions is replaced by the following text:

"1. The Court of Justice of the European Union shall have jurisdiction in any disputes between the Institute and any person to whom these Common Provisions, the Conditions of Employment of Teaching Staff or the Service Rules for Administrative Staff apply.

2. An appeal to the Court of Justice of the European Union shall lie only if:

- the President has previously had a complaint submitted to him pursuant to Article 1 within the period prescribed therein, and,
- the complaint has been rejected by express decisions or by implied decision.

3. Appeals under paragraph 2 shall be filed within three months. The period shall begin:

- on the date of notification of the decision taken in response to the complaint,
- on the date of expiry of the period prescribed for the reply where the appeal is against an implied decision rejecting a complaint submitted pursuant to Article 1; nevertheless, where a complaint is rejected by an express decision after having

been rejected by an implied decision but before the period for lodging an appeal has expired, the period for lodging the appeal shall start to run afresh.

4. By way of derogation from paragraph 2, the person concerned may, after submitting a complaint to the President pursuant to Article 1, immediately file an appeal with the Court of Justice, provided that such appeal is accompanied by an application either for a stay of execution of the contested act or for the adoption of interim measures. The proceedings in the principal action before the Court of Justice shall then be suspended until such time as an express or implied decision rejecting the complaint is taken.

5. Appeals under this Article shall be investigated and heard as provided for in the Rules of Procedure of the Court of Justice of the European Union.”

(3) The words “Organ of First Instance and the Appeals Board of the European University Institute” in Article 4 of High Council Decision N. 10/2019 are replaced by the words “Court of Justice of the European Union”.

(4) The words “Organ of First Instance” in Article 27 (4), first and second subparagraph of President Decision n. 10/2019 are replaced by the words “Court of Justice of the European Union”.

Article 2

The present decision shall not apply to appeals already brought to the Organ of First Instance and/or to the Appeals Board before its entry into force.

Article 3

This decision shall enter into force at the day when its notification was well received by the Court of Justice of the European Union.

Done in Florence, 2 December 2022

For the High Council

The President

(original signed)

Frans van Vught