

Date: 17/11/22
Ref.: DGD22_0401
Subject: Approval by Correspondence procedure in Reform package
Contact: Eamonn Brennan
Direct Line: +32 2 729 3500
Encl.:
Mrs Maria Aguilera
President USEF
Mr Benoit Bams
President FFPE
Mr Georges Tsolos
Vice President USB

Dear Benoît, ~~Georges~~ and Maria,

Benoit, Georges & Maria

Thank you for your letter. I regret to inform you that I disagree with the statements expressed therein for the reasons expressed below:

- I fail to understand your argument on the presentation of a "draft" to the Permanent Commission (and Provisional Council to be precise). As long as the proposals submitted to the decision-making bodies have not been approved by those bodies, they are always in a 'draft' status.
- You have already received the documents submitted to the Provisional Council and the Permanent Commission as these had been distributed to you on the 29 August 2022.
- There is no violation of the Rules of Procedure of the Permanent Commission nor of the Provisional Council

Article 8.1 of the Rules of procedure of the Permanent Commission provides that the

"Provisional Council ...may submit proposals to the Commission by correspondence".

Accordingly, and in line with all approvals by correspondence before, the proposal App./PC/22-19 was addressed by the Director General to the Members of the Provisional Council. They were invited to obtain the approval of their Permanent Commission representative on the amendments to the Staff Regulations/GCE, recommendation d) refers. Hence, the proposal was submitted by the Agency to the Permanent Commission through the Provisional Council, in conformity with the Permanent Commission's Rules of Procedure and as is the long-standing practice.

As regards the approval of the Rules of Application of the Staff Regulations and GCE by the Provisional Council, you are not quoting Article 3.1 of the Rules of Procedure of the Provisional Council correctly. Article 3.1 deals with the *"Frequency and convening of sessions"* of the Provisional Council. Article 3.1, last sentence, is, however, about the possibility of convening additional meetings (i.e. the June session of the Provisional Council and ad hoc PC meetings) to the one regular meeting in November and reads as follows:

SUPPORTING EUROPEAN AVIATION

Member States: Albania, Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine, United Kingdom. **Comprehensive Agreement States:** Morocco, Israel.

"It [Provisional Council] may also meet as necessary to advise the Permanent or enlarged Commission on proposals initiated by the Agency and on the supervision of the work of the Agency and in order to prepare any measures to be taken by the Permanent or enlarged Commission."

Your argument on Article 3.1 is therefore beside the point.

Article 7.1 of the Rules of Procedure of the Provisional Council provides that the

"Director General may ask the Provisional Council to signify its agreement on routine matters and certain issues of particular importance by correspondence if he considers an urgent decision to be required."

There is no such article in the Rules of Procedure of the Permanent Commission. As regards the amendments to the Rules of Application to be approved by the Provisional Council, those are considered as 'routine matters'. Also, for obvious reasons it would not have made sense to submit the amendments to the Staff Regulations/GCE to the Permanent Commission for approval by correspondence, while the related amendments to the Rules of Application would be approved by the Provisional Council in session.

Please also be aware that in the context of an approval by correspondence, the Provisional Council and Permanent Commission members may always signify that the matter at stake is not amenable to approval by correspondence, which none of them did in the present case.

- The votes of Member States in the Provisional Council and the Permanent Commission are confidential. To authorise the Agency to publish the votes, the Member States in the Provisional Council and the Permanent Commission would have to agree to such a derogation by a Permanent Commission Measure requiring the unanimity of votes cast.
- There are no minutes of the Permanent Commission deliberations when an approval is sought by correspondence as no session took place (Article 10 of the Rules of Procedure of the Permanent Commission refers). With regard to the "decision" of the Permanent Commission, please refer to the Permanent Commission Measure No 22/274.

I regret to inform you that I cannot suspend the implementation of a reform that has been approved by both the Provisional Council and the Permanent Commission.

I hope my above replies clarify the matter.

Yours sincerely,


Eamonn Brennan,
Director General