

MANAGEMENT BOARD

DECISION

EFSA – European Food Safety Authority	Decision on the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services	Decision No.: mb161005-a5
	Effective Date: 5 October 2016	Supersedes: Commission Decision C(2013)9046 of 16.12.2013

Approvals	Signature	Name
Originator		Bernhard Url (Executive Director)
Management Board	See Decision	XXXX (Chair of MB)

Introduction	On 17 December 2013, the Commission informed EFSA that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services. The present Decision allows EFSA to opt-out the latter Decision.
Description	Agencies differ from the Commission, particularly as regards the structure of their staff. The majority of temporary staff are those referred to in Article 2(f) of the CEOS to whom Commission Decision C(2013)9028 does not apply and to whom potentially contracts for indefinite duration can be granted. As regards contract staff, agencies employ only those referred to in Article 3(a) of the CEOS who do not fall under the scope of Commission Decision C(2013)9028. It is therefore appropriate to opt-out the concerned Decision.
References	Regulation (EC) No 178/2002, Staff Regulations of Officials of the European Union and Conditions of Employment of Other Servants of the European Union.
Abbreviations	<i>See Decision</i>

**DECISION OF THE EUROPEAN FOOD SAFETY AUTHORITY
ON THE NON-APPLICATION OF THE COMMISSION DECISION ON THE
MAXIMUM DURATION FOR THE RECOURSE TO NON-PERMANENT STAFF
IN THE COMMISSION SERVICES**

THE MANAGEMENT BOARD OF THE EUROPEAN FOOD SAFETY AUTHORITY,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union ('Staff Regulations') and the Conditions of Employment of the Other Servants of the European Union ('CEOS'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and the Council of 28 January 2002 laying down the general principles of food law, establishing the European Food Safety Authority ('EFSA') and laying down procedures in relation to food safety², and in particular Article 25, 26 and 48,

Having regard to Communication C(2014)6543 final of 26 September 2014 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, and in particular Point 2.B thereof,

Having regard to the rules of procedure of the Management Board of the European Food Safety Authority³, and in particular Article 8 thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2016)2421 of 25 May 2016,

After consulting the Staff Committee,

Whereas:

- (1) On 17 December 2013, the Commission informed EFSA that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004⁴ on the maximum duration for the recourse to non-permanent staff in the Commission services, hereinafter 'Commission Decision C(2013)9028'.
- (2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 1 shall apply by analogy to EFSA. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.

¹ 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.

² OJ L 31, 1.2.2002, p.1, as last amended.

³ mb 27 06 13 – Revised Management Board Rules of Procedure – ADOPTED.

⁴ Commission Decision C(2004)1597/6 of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services, as amended by Commission Decision C(2011)7071 of 5 October 2011.

- (3) In EFSA, all temporary staff other than those referred to in Article 2(a) of the CEOS are those referred to in Article 2(f) of the CEOS and all contract staff are the ones referred to in Article 3(a) of the CEOS.
- (4) In EFSA, temporary agent referred to in Article 2(a) of the CEOS is exclusively the head of the Agency (whose contract duration is governed by act(s) establishing the Agency). As regards the majority of temporary staff in the Agency, namely those referred to in Article 2(f) of the CEOS, they do not fall under the scope of Commission Decision C(2013)9028. The same applies to the unique category of contract staff employed in the Agency, namely those referred to in Article 3(a) of the CEOS. Commission Decision C(2013)9028 is therefore not adapted to EFSA's reality.
- (5) Taking into account the way the EFSA operates, it is not appropriate to set a maximum duration of recourse to non-permanent staff, because such a rule could be detrimental to the functioning of the Agency.
- (6) The Commission has given its ex ante agreement to the non-application of Decision C(2013)9028 to the EFSA.
- (7) Commission Decision C(2013)9028 should not therefore apply to EFSA,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004⁵ on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to EFSA.

Article 2

This Decision shall take effect on the day following that of its adoption.

Adopted in Parma on 5 October 2016

For EFSA's Management Board

XXXX

Chair of the Management Board

⁵ See footnote 4.