

## NOTE TO THE MANAGEMENT BOARD

### **Adoption of staff-related implementing rules under Article 110 of the Staff Regulations**

#### **1. Background**

Under Article 110 of the Staff Regulations ('SR'), EFSA lays down staff-related implementing rules ('IRs') according to one of the following modalities:

- adoption by analogy of European Commission ('EC') IRs (general principle);
- adoption of IRs based on Agency Model rules, when available, to ensure common implementation of the SR across all agencies;
- adoption of IRs derogating from EC IRs in case EFSA requires IRs which are specifically adapted to its own reality;
- opt-out from EC IRs which are not relevant for staff management at EFSA.

The decision-making power remains with the Management Board, on the basis of proposals of the Executive Director and following consultation with the Staff Committee.

An overview of IRs adopted so far by EFSA is provided in the Annex to the present note.

#### **2. For adoption - IRs on leave on personal grounds for officials and unpaid leave for temporary and contract staff**

Following the EC ex-ante agreement of 30/07/2015, EFSA can now proceed with the adoption of IRs on leave on personal grounds for officials ('CCP') and unpaid leave for temporary and contract staff, based on the agreed Agency Model rules.

Staff members may request unpaid leave for compelling personal reasons. Being that leave not an individual right, EFSA takes a decision on granting it, taking into account all relevant factors, in particular the reason for the leave, its duration and the immediate needs of the service.

These IRs establish a specific framework for staff working in agencies requesting unpaid leave for personal reasons. For certain aspects (e.g. preventing conflicts of interests, career and promotion when on unpaid leave), the same conditions apply to all staff members, regardless their status. For others (e.g. maximum duration of leave, post management), different sets of conditions apply for officials and temporary agents Article 2(f) CEOS ('TAs2f') under indefinite contract on the one side, for TAs2f with definite contract and contract agents ('CAs') on the other side.

Main aspects of this framework are as follows.

- Common provisions applicable to all staff
  - Preventing conflict of interests:
    - permission to engage in an occupational activity while on leave for personal reasons cannot be granted when such activity involves lobbying or advocacy vis-à-vis EFSA and could lead to the existence or possibility of a conflict with the legitimate interests of EFSA;

- before reintegrating a staff member following leave for personal reasons, EFSA has to examine whether he/she has any personal interest such as to impair his/her independence or any other conflict of interest.
- Career and promotions while on leave for personal reasons
  - staff member's career remains on hold (i.e. seniority in grade and step will remain the same);
  - the concerned periods are not subject to appraisal;
  - staff members do not qualify for promotion/reclassification.
- Conditions applicable to officials and TAs2f under indefinite contract
  - duration of leave for personal reasons – limited to maximum 12 years over the whole career, unless specific situations occur (e.g. assistance in cases of medically certified serious illness or disability);
  - post occupied by the staff member on leave for personal reasons - for leave of more than 6 months, the post is considered as vacant since the beginning and can be assigned to another person.
- Conditions and requirements applicable to TAs2f under definite contract and CAs
  - duration of leave for personal reasons - limited to maximum 12 months over the whole career, and within the duration of the contract;
  - post occupied by the staff member on leave for personal reasons – the post is frozen and kept for the staff member's reinstatement.

Aspects related to data protection have been duly addressed. Moreover, it is proposed to set the date of entering into force on 01/02/2016, in order to allow for a smooth introduction of the new rules by adjusting the relevant workflows to make them fully operational (e.g. mechanisms to prevent conflicts of interests).

### **3. 'Work Programme'**

Negotiations are on-going within the Standing Working Party ('SWP') and the EC (for Agency Model rules and agencies opts-out) or directly with the European Commission (for EFSA requests of derogations) on a number of fields. According to the timeline communicated by the SWP/EC, EFSA indicatively expects to be ready to adopt IRs according to the following programme:

- First half of 2016 – Agency Model rules on:
  - Promotion of officials
  - Reclassification of CA 3a
  - Reclassification of TA 2f
  - Working Time
- Second half of 2016 - Agency Model rules on:
  - Setting up of Staff Committee
  - Prevention of Harassment
  - Opt-out from IRs for Annex X of the SR (staff working in third countries delegations)
  - Opt-out from IRs for recourse to non-permanent staff (7 years rule)
- First half of 2017 – Agency Model rules on:
  - Administrative inquiries and Disciplinary proceedings
  - Temporary occupation of management positions (Article 7(2)SR)

- Uncertain timeline
  - Types of posts and posts titles (EFSA request for derogation)
  - Amended/new EC IRs for teleworking, part-time, learning and development, engagement and use of contract staff, outside activities, whistleblowing policy (once formally notified, EFSA to decide whether to adopt them by analogy, request derogations or opt-out).

## **Annex:**

### **European Commission IRs adopted by analogy**

- Decision on Art. 55 of the SR Annex IVa concerning part-time work
- Decision amending Art. 7(5) and (7) of Commission Decision C(2009) of 18/12/09 concerning the implementation of teleworking in Commission Departments from 2010 to 2015
- Decision on outside activities and assignments
- Decision repealing Commission Decision of 28/04/04 adopting general implementing provisions on the early retirement of officials and temporary agents without reduction of pension rights
- Decision on general implementing provisions on removal expenses (art 9 of Annex VII of the SR)
- Decision on leave
- Decision laying down general implementing provisions to Article 7(4) of Annex VII to the SR on determining the place of origin
- Decision on general implementing provisions on granting the education allowance (Art 3 of Annex VII to the SR)
- Decision laying down general implementing provisions concerning the criteria applicable to classification in step on appointment or engagement
- Decision on maternity leave and maternity pay for women whose maternity leave begins before the end of their contract (Art 17 & 91 of CEOS)
- Decision laying down general provisions giving effect to article 8 Annex VII to the SR (expenses of travel between the place of employment and the place of origin)

### **IRs adopted based on Model agency rules**

- Decision of the MB laying down general implementing provisions on the procedure governing the engagement and use of temporary staff under (2)(f) of the CEOS
- Decision of the MB laying down general provisions for implementing Article 43 of the SR and implementing the first paragraph of Article 44 of the SR for officials and temporary staff.
- Decision of the MB laying down general provisions for implementing Article 87 (1) of the CEOS and implementing the first paragraph of Article 44 of the SR.