



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	No.: mb191218-a7
	Effective Date: 19/12/2019	Supersedes: mb161005-a5 - Decision of the Management Board on the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services

Approvals	Signature	Name
Originator		Bernhard Url
Management Board	See Decision	Jaana Husu-Kallio (Chair of the Management Board)

Introduction	On 30 September 2019, the Commission informed EFSA that it had adopted Decision C(2019)2548 of 5 April 2019 amending Commission Decision C(2004)1597/6 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(2019)2548 does not apply and to whom, potentially, contracts for an 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(2019)2548. 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 (CEOS)
Abbreviations	<i>See Decision</i>



DECISION OF THE MANAGEMENT BOARD 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,

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

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 259/68¹, and in particular Article 110(2) of the Staff Regulations,

Having regard to European Parliament and Council Regulation (EC) No 178/2002 of 28 January 2002 establishing the European Food Safety Authority ('EFSA')²,

Having regard to the Rules of Procedures 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(2019)6929 of 25 September 2019,

After consulting the Staff Committee,

Whereas:

- (1) On 26 September 2014 Communication C(2014) 6543 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, was adopted.
- (2) On 30 September 2019 the Commission informed EFSA that it had adopted Decision of 5 April 2019 amending Commission Decision C(2004)1597/6 on the maximum duration for the recourse to non-permanent staff in the Commission services C(2019)2548⁴. The amendment limits the scope of the Decision by excluding time served as seconded national experts from the calculation of the seven-year maximum duration spent working in the Commission services.
- (3) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 2 shall apply by analogy to the EFSA. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.
- (4) 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.

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 Amended by Commission Decisions C(2011)7071 of 5 October 2011 and C(2013)9028 of 16 December 2013.

- (5) 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, as well as the unique category of contract staff employed in the Agency, namely those referred to in Article 3(a) of the CEOS, they do not fall under the scope of this Commission Decision. Therefore, this Commission Decision is not adapted to the actual situation of EFSA.
- (6) The maximum duration for recourse to seconded national experts is regulated in the Executive Director's decision on seconded national experts⁵.
- (7) Taking into account the different structure of the staff employed in agencies from that of the Commission, on 26 May 2016 the Commission gave agencies its ex ante agreement to the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services (C(2016)2421).
- (8) Commission Decision C(2019)2548 does not introduce a modification that could make applicable to EFSA the Decision on the maximum duration for the recourse to non-permanent staff in the Commission services.
- (9) Therefore, the Commission Decision C(2019)2548 should not apply to EFSA,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision of 5 April 2019 amending 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 shall not apply to EFSA.

Article 2

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

Adopted in Parma on 18 December 2019

For EFSA's Management Board

[NOT SIGNED]

Jaana Husu-Kallio

Chair of the Management Board

⁵ Decision of the Executive Director of the European Food Safety Authority laying down rules on the secondment to the European Food Safety Authority of national experts of 23 May 2019.