



NOTE TO THE MANAGEMENT BOARD

Decision of the Management Board on the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff

Background

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

- adoption by analogy of Commission Implementing rules (general principle);
- adoption of Implementing rules based, when available, on Agency Model Decisions negotiated within the Standing Working Party¹, to ensure common implementation of the Staff Regulations across all agencies;
- adoption of Implementing rules derogating from Commission Implementing rules in case EFSA requires Implementing rules which are specifically adapted to its own reality;
- opt-out Commission Implementing rules which are not relevant or suitable 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 the Implementing rules adopted so far by EFSA is provided in the Annex to the present note.

Opt-out Commission Decision on the maximum duration for the recourse to non-permanent staff (based on Agency model Decision)

On 30 September 2019, the Commission informed EFSA that it had adopted Decision C(2019)2548 of 5 April 2019 amending Commission Decision of 28 April 2004² on the maximum duration for the recourse to non-permanent staff in the Commission services.

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 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.

Taking into account the way agencies operate, 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 agencies. Against this background, the Commission notified agencies with its agreement to the non-

¹ The Standing Working Party is composed of agencies' and Commission (DG HR) representatives and its mission is to negotiate General Implementing rules to be applied within agencies. EFSA is represented by the European Medicines Agency (EMA).

² 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 the Commission Decision C(2011)7071 of 5 October 2011 and Commission Decision C(2013)9028 of 16 December 2013.



application of the concerned Commission Decision, providing a model decision for agencies to formalise such step³.

It is proposed that the Management Board avails itself of the agreement given by the Commission, adopting the draft Decision enclosed for this purpose, based on the above-mentioned Agency Model Decision.

³ Commission Decision C(2019)6929 of 25 September 2019 on giving the Commission's ex ante agreement to the agencies regarding the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services



Annex

Commission implementing rules adopted by analogy

- Commission Decision of 16.12.2013 laying down general provisions giving effect to Article 8 of Annex VII to the Staff Regulations C(2013) 8987;
- Commission Decision of 16.12.2013 repealing Commission Decision of 28.4.2004 adopting General implementing provisions on the early retirement of officials and temporary agents without reduction of pension rights (C(2004) 1588 final/5) C(2013) 9039;
- Commission Decision of 16.12.2013 laying down general implementing provisions concerning the criteria applicable to classification in step on appointment or engagement C(2013) 8970;
- Commission Decision of 16.12.2013 on general implementing provisions on granting the education allowance (Article 3 of Annex VII to the Staff Regulations) C(2013) 8971;
- Commission Decision of 16.12.2013 on leave C(2013) 9051;
- Commission Decision of 16.12.2013 on maternity leave and maternity pay for women whose maternity leave begins before the end of their contract (Articles 17 and 91 of CEOS) C(2013) 9020;
- Commission Decision of 16.12.2013 laying down general implementing provisions to Article 7 (4) of Annex VII to the Staff Regulations on determining the place of origin C(2013) 8982;
- Commission Decision of 16.12.2013 on reimbursements due to officials assigned to non-member countries C(2013) 8990;
- Commission Decision C(2015)9151 of 17 December 2015 on the implementation of telework in Commission Departments;
- Commission Decision C(2018)4048 on outside activities and assignments and on occupational activities after leaving the Service⁴;
- Commission Decision of 16.12.2013 on General Implementing Provisions on removal expenses (Article 9 of Annex VII to the Staff Regulations) C(2013) 9040;
- Commission Decision of 16.12.2013 on rules for the implementation of housing policy in EU delegations C(2013) 8965,
- Commission Decision of 16.12.2013 on the living conditions allowance and the additional allowance referred to in Article 10 of Annex X to the Staff Regulations C(2013) 9032;
- Commission Decision of 16.12.2013 on home leave for officials, temporary agents and contract agents posted in third countries (second paragraph of Article 7 Annex V to the Staff Regulations) C(2013) 9035;
- Commission Decision of 16.12.2013 on management of rest leaves pursuant to Article 8 of Annex X to the Staff Regulations C(2013) 9027.
- Commission Decision C(2015)9720 concerning part-time work.
- Commission Decision of 27 September 2017 on the general provisions for implementing Articles 11, 12 and 13 of Annex VII to the Staff Regulations of Officials (mission expenses) and on authorised travel C(2017) 5323.

⁴ It replaces Commission Decision of 16.12.2013 on outside activities and assignments C(2013) 9037.



- Commission Decision on outside activities and assignment and on occupational activities after leaving the service⁵.

Implementing rules adopted based on Model agency rules

- Decision of the Management Board laying down general implementing provisions on the procedure governing the engagement and use of temporary staff under (2)(f) of the Conditions of Employment of Other Servants of the European Union;
- Decision of the Management Board laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations for officials and temporary staff⁶;
- Decision of the Management Board laying down general provisions for implementing Article 87 (1) of the Conditions of Employment of Other Servants of the European Union and implementing the first paragraph of Article 44 of the Staff Regulations;
- Decision of the Management Board on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union⁷;
- Decision of the Management Board on setting up a Staff Committee⁸;
- Decision of the Management Board laying down general implementing provisions regarding Article 45 of the Staff Regulations⁹;
- Decision of the Management Board laying down general implementing provisions regarding Article 54 of the Conditions of Employment of Other Servants of the European Union¹⁰;
- Decision of the Management Board laying down general implementing provisions regarding Article 87(3) of the Conditions of Employment of Other Servants of the European Union¹¹;
- Decision of the Management Board on the policy of the European Food Safety Authority on protecting the dignity of the person and preventing psychological harassment and sexual harassment¹²;
- Decision of the Management Board on implementing rules laying down guidelines on whistleblowing;

⁵ It replaces Commission Decision of 16.12.2013 on outside activities and assignments C(2013) 9037.

⁶ It replaces Commission Decision of 16.12.2013 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations C(2013) 8985, initially adopted by analogy by Decision of the Management Board of 26 June 2014 concerning the adoption of implementing provisions of the Staff Regulations by analogy (mb 26 06 14).

⁷ It replaces Commission Decision of 16.12.2013 on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union C(2013) 9054, initially adopted by analogy by Decision of the Management Board of 26 June 2014 concerning the adoption of implementing provisions of the Staff Regulations by analogy (mb 26 06 14).

⁸ It replaces EFSA Decision of 9 October 2012 concerning the establishment of a Staff Committee.

⁹ It replaces EFSA Decision of 23 July 2010 concerning the career and the promotion of officials (on the basis of Art. 45 of the Staff Regulations).

¹⁰ It replaces EFSA Decision of 22 April 2008 concerning the career of temporary staff and assignment to a post carrying a higher grade than that at which they were engaged (on the basis of Art. 10 of the Conditions of Employment of other Servants) and its Amendment N°1 of 23 July 2010.

¹¹ It replaces EFSA Decision of 23 July 2010 concerning the career of contract staff and assignment to a post carrying a higher grade than that at which they were engaged (on the basis of Art. 87(3) of the Conditions of Employment of other Servants).

¹² It replaces EFSA Decision of 27 April 2012 concerning EFSA's policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment.



- Decision of the Management Board on middle management staff¹³;
- Decision of the Management Board concerning the function of adviser;
- Decision of the Management Board laying down implementing rules on temporary occupation of management posts;
- Decision of the Management Board on the Framework for Learning and Development¹⁴;
- Decision of the Management Board on Working Time¹⁵;
- Decision of the Management Board on the types of posts and posts titles in EFSA;
- Decision of the Management Board on the conditions of employment of contract staff employed under the terms of Article 3a of the Conditions of Employment of Other Servants of the European Union (CEOS).

¹³ It replaces EFSA Decision of 9 February 2011 on middle management staff.

¹⁴ It replaces EFSA Decision laying down the principles and guidelines concerning learning and development at EFSA of 26 June 2014 and EFSA Decision of 20 March 2013 concerning language training at EFSA.

¹⁵ EFSA Decision of 1 December 2008 on the introduction of a flexitime policy.