

NOTE TO THE MANAGEMENT BOARD

Commission Decision on outside activity and EFSA decision on types of post and post titles

1. 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.

2. Commission Decision on outside activities and assignments and on occupational activities after leaving the Service (by analogy)

a. Background

The Staff Regulations provides that an agent wishing to engage in an outside activity, whether paid or not, or to carry out any assignment outside the Union shall first obtain permission of the EU entity which the agent works for (Article 12b). Permission shall be refused only if the activity or the assignment in question is such as to interfere with the performance of the agent's duties or is incompatible with the interests of the institution.

A clear approach to outside activities carried out by staff outside professional duties is essential, being EFSA a science-based organisation for which the quality and independence of its science are critical. To this end, EFSA applies by analogy the Commission rules implementing the above Staff Regulations provisions since they are a suitable reference also in our context.

In this field, the new Decision of the Commission C(2018)4048 was adopted on 29 June 2018 and notified to EFSA on 6 July 2018. It takes stock of the experience gained from the practical implementation of the current rules, simplifying the process, and accounts for changing circumstances.

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).



b. Main elements

The main elements of the framework are explained in the present session. The changes from the previous system are highlighted in bracket.

Definitions

- 'outside activity' – any activity, paid or unpaid, which is not part of the staff member's duties at EFSA and that cannot reasonably be considered a hobby or a leisure activity (relevant for staff in service);
- 'occupational activity' – any professional activity, whether gainful or not, which a staff member intends to engage in within two years of leaving service (relevant for staff leaving service);
- 'structural part-time work' – part-time work pattern imposed to a contract agent upon hiring. **(clarification)**

Staff in service

- Prior permission is generally needed before engaging in an outside activity.
- Permission is deemed to be granted for activities meeting all the following conditions: **(new)**
 - Neither pursued in a professional capacity nor are performed for a commercial entity,
 - Performed outside working hours/covered by leave,
 - Impartiality and objectivity not comprised,
 - No negative impact on the reputation and/or the public trust of the institution,
 - Staff Regulations obligations complied with,
 - Examples of what fulfils those criteria are charitable, unpaid teaching, well-being, sport, cultural or political activities.
- Maximum net remuneration - annual overall ceiling is 10.000 euro per calendar year **(new, figure updated)**
- Prohibited activities - paid activities:
 - interfering with the performance of the staff member's duties, and/or
 - incompatible with the interests of EFSA/Union (detrimental to the reputation, damaging public trust, giving rise to an actual conflict of interest etc.), and/or
 - by itself or combined with other authorised outside activities gives rise to a remuneration exceeding the maximum net remuneration.
- Part-time workers **(clarification)**
 - Chosen by the staff member → only unpaid activity
 - Imposed by the contract (structural part-time) → both unpaid and paid activities, without any remuneration ceiling
- Period of validity of the authorisation → new request needed only if change of the activity or of job duties **(new, before annual renewal was requested)**



Staff leaving service

- Obligations after leaving service:
 - integrity and discretion unlimited in time as regards the acceptance of certain appointments and benefits,
 - confidentiality,
 - outside activities:
 - prior permission is generally needed within 2 years of leaving service,
 - taking up duties in an EU Institution, agency, body, does not amount to leaving service **(new)**,
 - permission is deemed to be granted under the same conditions for staff in service, and provided that the activity does not give rise to lobbying or advocacy vis-à-vis EFSA staff, is not remunerated and is carried out in the former staff member's personal capacity **(new)**.

c. EFSA proposal

Following the assessment carried out by EFSA services and the favourable opinion the EFSA Staff Committee, it is proposed that the Management Board decides to apply Commission's Decision C(2018)4048. A draft decision for this purpose is enclosed to the present note.

3. Decision on types of post and post titles in EFSA

a. Background

The Staff Regulations provides that the posts covered by the Staff Regulations shall be classified in 'administrators' function group (AD), 'assistants' function group (AST) and 'secretaries and clerks' function group (AST/SC). AD group shall comprise 12 grades, AST group shall comprise eleven grades and AST/SC group shall comprise six grades. Annex I to the Staff Regulations lists the types of posts with the corresponding grade ranges, while more duties and powers attached to each type of post (i.e. post titles) can be defined by implementing rules.

The grade ranges indicate the maximum career development by way of promotion/reclassification. Mobility to a different type of post requires to be successful in a dedicated selection procedure (e.g. from administrator to Head of Unit, from assistant to senior assistant).

The Commission acknowledged that Agencies differ from the Commission in relation to the different terminology to describe functions exercised, the range of grades of Head of Department post title of which the lower grade should respect the grade limitation of AD 12. Therefore, the Commission notified to agencies an *ex-ante* agreement on a model decision on types of post and post titles (i.e. Commission's Decision C(2018)8800), laying down adjusted provisions suitable to the Agencies' reality.

b. Main elements

The draft decision allows EFSA to decide on the post titles to be used in relation to each type of post. It is therefore possible to keep the post titles currently in use at EFSA (e.g. Assistant, Technical Assistant, Officer, Senior Officer, Head of Unit, Head of Department).



c. Proposal

EFSA proposes that the decision on types of post and post titles should reflect the current practices, except for the phase-out of the “junior officer” category. The Staff Committee expressed favourable opinion to such approach. It is proposed that the Management Board adopts implementing rules based on the model decision agreed by the Commission (Commission’s Decision C(2018)8800). A draft decision for this purpose is enclosed to the present note.



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 of 16.12.2013 on outside activities and assignments C(2013) 9037²;
- 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.

² If adopted, it will be replaced Commission Decision C(2018)4048 on outside activities and assignments and on occupational activities after leaving the Service.



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 staff³;
- 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 Union⁴;
- Decision of the Management Board on setting up a Staff Committee⁵;
- Decision of the Management Board laying down general implementing provisions regarding Article 45 of the Staff Regulations⁶;
- Decision of the Management Board laying down general implementing provisions regarding Article 54 of the Conditions of Employment of Other Servants of the European Union⁷;
- 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 Union⁸;
- 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 harassment⁹;
- Decision of the Management Board on implementing rules laying down guidelines on whistleblowing;
- Decision of the Management Board on middle management staff¹⁰;
- Decision of the Management Board concerning the function of adviser;

³ 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).

⁴ 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).

⁵ It replaces EFSA Decision of 9 October 2012 concerning the establishment of a Staff Committee.

⁶ 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).

⁷ 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.

⁸ 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).

⁹ 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.

¹⁰ It replaces EFSA Decision of 9 February 2011 on middle management staff.



- 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 Development¹¹;
- Decision of the Management Board on Working Time¹².

¹¹ 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 are hereby repealed.

¹² EFSA Decision of 1 December 2008 on the introduction of a flexitime policy.