

NOTE TO THE MANAGEMENT BOARD

Request for non-application of Commission rules on the prevention of and fight against psychological and sexual harassment

Background

- On 22 December 2023, EFSA received the notification of the adoption of the Commission Decision C(2023)8630 of 12 December 2023 on the prevention of and fight against psychological and sexual harassment.
- Under Article 110 of the Staff Regulations, Commission Implementing rules enter into force at agencies by analogy nine months after their entry into force at the Commission or nine months after the date on which the Commission informed the agencies about the adoption of the respective implementing rules, whichever is later. Therefore, the above Commission rules would in principle enter into force at EFSA on 22 September 2024.
- By way of derogation to this general principle of the application by analogy, agencies can request not to apply Commission implementing rules (opt-out) and adopt different rules, based, when available, on model decisions receiving ex-ante agreement of the Commission.
- Shortly after the notification of the Commission Decision C(2023)8630, DG HR informed agencies that they have agreed on the need to develop a model decision on the subject of preventing harassment. Actually, Commission's Decision C(2023)8630 appears to be too complex and thus not suitable for application by analogy in agencies. DG HR therefore suggested agencies to opt-out the application by analogy of the Commission Decision.
- To obtain an opt-out, the Management Board should empower the Executive Director to request the non-application of the Commission Decision, pending the finalisation and the agreement of the Commission on the model decision.

Proposed way forward

- In agreement with EFSA Staff Committee, EFSA proposes to the Management Board to empower the Executive Director to request the Commission's agreement on the non-application by analogy of Commission Decision C(2023)8630.
- A draft decision for this purpose is enclosed to the present note as well as the related Commission Decision.

Encl: Decision of the Management Board on the request for the Commission agreement for derogation from implementing rules to the Staff Regulations

Commission Decision C(2023)8630 of 12.12.2023 on the prevention of and fight against psychological and sexual harassment