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# EFSA Decision on the request for the Commission agreement for derogation from implementing rules to the Staff Regulations

Name	Action	Sign
Bernhard Url	Write	Approved on 27 February 2024
Management Board	Approve	See date of signature

## Document history

Plain technical changes to this document (e.g. reference or adaptation to a revised organizational structure; reference to new or modified regulatory documents; corrections not modifying the substance of the document; etc.) are summarized in the following table in chronological order.

**Any change in the substance of the document requires the adoption of a new document by the accountable body/entity superseding the document at stake.**

Revision No.	Date	Description of Changes
00	21/03/2024	First version of the document

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<b>Process Responsibility</b>	Process owners are accountable this procedure being adhered to within their respective or unit. All relevant staff is responsible for the correct
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	implementation of the procedure. Responsibilities for performing specific steps are outlined in the document.
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<b>Scope of document</b>	
This Decision concerns the non-application by analogy of Commission Decision C(2023)8630 on the prevention of and fight against psychological and sexual harassment.	
<b>Description</b>	
This Decision empowers the Executive Director of EFSA to request the Commission's agreement on the non-application by analogy of Commission Decision C(2023)8630, with a view to adopting different rules and pending the finalisation of a model decision on this matter for agencies.	
<b>References</b>	
Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68.	
European Parliament and Council Regulation (EC) No 178/2002 of 28 January 2002 establishing the European Food Safety Authority and laying down procedures in relation to food safety.	
<b>Abbreviations</b>	
EFSA	European Food Safety Authority
SWP	Standing Working Party



## EFSA DECISION ON THE REQUEST FOR THE COMMISSION AGREEMENT FOR DEROGATION FROM IMPLEMENTING RULES TO THE STAFF REGULATIONS

The Management Board of the European Food Safety Authority,

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

Having regard to the Staff Regulations of Officials of the European Union (hereinafter 'Staff Regulations') and the Conditions of Employment of Other Servants of the European Union (hereinafter 'CEOS'), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68<sup>1</sup> as last amended, and in particular to Article 110(2), third subparagraph, 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') and laying down procedures in relation to food safety<sup>2</sup> and in particular Articles 25, 26 and 48,

Having regard to the rules of procedure of EFSA's Management Board<sup>3</sup> and in particular Article 8 thereof,

Having regard to Communication C(2014)6543 final of 26 September 2014 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 3.3. B) thereof;

After consulting the Staff Committee,

Whereas:

- 1) Pursuant Article 110(2) of the Staff Regulations, implementing rules adopted by the Commission to give effect to the Staff Regulations shall apply by analogy to the agencies, to that end, the Commission informs the agencies of any such implementing rule without delay after adoption.
- 2) On 22 December 2023, the Commission informed the agencies of the adoption of Commission Decision C(2023)8630 of 12.12.2023 on the prevention of and fight against psychological and sexual harassment, and repealing Decision C(2006) 1624/3.
- 3) This communication triggered the nine-month deadline for agencies to decide if they will apply the rules by analogy or request a derogation;

<sup>1</sup> 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.

<sup>2</sup> OJ L 31, 1.2.2002, p.1

<sup>3</sup> mb221006-a2 Rules of Procedure of the Management Board of EFSA, adopted on 6 October 2022.



- 4) EFSA considers that Commission Decision C(2023)8630 is not suitable to apply by analogy to the Agency, mainly because of its different internal structure. Therefore, it is appropriate to request a derogation not to apply these rules by analogy and to adopt different rules;
- 5) The Agencies Standing Working Party (SWP) has informed the agencies that in coordination with the Commission, a specific model decision adapted to agencies will be developed and which will better suit the needs of the agencies;
- 6) Pursuant to Article 110(2) of the Staff Regulations and the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, the Management Board must empower the Executive Director to request the Commission's agreement for derogation.

Has decided as follows:

#### **Article 1**

With a view to adopting different rules, the Executive Director of EFSA is hereby empowered to request the Commission's agreement on the non-application by analogy of Commission Decision C(2023)8630, pending the finalisation of a model decision on this matter for agencies.

#### **Article 2**

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

Adopted on 21 March 2024

For the EFSA Management Board

[for signature]

Aivars Bērziņš

Chair of the Management Board

Annex:

Commission Decision C(2023)8630 of 12.12.2023 on the prevention of and fight against psychological and sexual harassment, and repealing Decision C(2006) 1624/3.