

## **European Union Agency for Network and Information Security**

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### **DECISION No MB/2018/16 of the Management Board of the European Union Agency for Network and Information Security (ENISA) on the non-application of the Commission Decision on the maximum duration of 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 of the European Union ('Staff Regulations') and the Conditions of Employment of Other Servants of the European Union ('CEOS'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>1</sup>,

Having regard to the Regulation (EU) No 526/2013 of the European Parliament and of the Council of 21 May 2013 concerning the European Union Agency for Network and Information Security and repealing Regulation (EC) No 460/2004 and in particular Article 5 (8) thereof,

Having regard to the 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 2.B thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C (2016) 2421 final of 26.05.2016.,

After consulting the Staff Committee,

Whereas:

- 1) On 17 December 2013, the Commission informed ENISA that it adopted Decision C(2013)9028 of 16 December amending the Commission Decision of 28 April 2004<sup>2</sup> on the maximum duration for the recourse to non-permanent staff in the Commission Services, hereinafter 'Commission Decision C(2013)9028'.
- 2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 1 shall apply by analogy to ENISA. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.

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<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> Commission Decision C(2004)1597/6 of 28 April 2004 on the maximum duration for recourse to non-permanent staff in the Commission Services, as amended by Commission Decision C(2011)7071 of 5 October 2011.

- 3) In ENISA, 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.
- 4) In ENISA, temporary agents referred to in Article 2(a) of the CEOS is exclusively the Head of the Agency (whose contract duration is governed by act establishing the Agency) and officials seconded in the interests of service to the Agency (who are not covered by the Commission Decision C(2013)9028. As regards the majority of temporary staff in the Agency, namely those referred to in Article 2(f) of the CEOS, they do not fall under the scope of Commission Decision C(2013)9028. The same applies to the unique category of contract staff employed in the Agency, namely those referred to in Article 3(a) of the CEOS. Commission Decision C(2013)9028 is therefore not adapted to ENISA's reality.
- 5) Taking into account the way the ENISA operates, 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 the Agency.
- 6) The Commission has given its ex ante agreement to the non-application of Decision C(2013)9028 to the ENISA.
- 7) Commission Decision C(2013)9028 should not therefore apply to ENISA,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 20043 on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to ENISA.

Article 2

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

Done at Athens on 11 October 2018

For ENISA  
On behalf of the Management Board

[signed]  
Jean Baptiste Demaison  
Chair of the Management Board

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<sup>3</sup> See footnote 2.