

To reflect an agency's specific circumstances, text in [xxx] should be revised in line with the instructions in square brackets e.g. replace [Management Board] with 'Governing Board'.

[Name of AGENCY] DECISION

of [date]

on the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services

[THE MANAGEMENT BOARD or the equivalent body referred to in the act(s) establishing the Agency],

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 259/68¹,

Having regard to [Council Regulation (EC) / European Parliament and Council Regulation (EC) / Council Decision / Commission Decision] No [] of [date] establishing [name of AGENCY],

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 2.B thereof,

[Having regard to the rules of procedure of [name of AGENCY] and in particular Article [] thereof,]

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations [reference number of the Commission's Decision] of [date],

[For agencies which have established a Staff Committee: After consulting the Staff Committee, or

for agencies which do not have a Staff Committee in place: After informing the staff],

Whereas:

- 1) On [17 December 2013], the Commission informed [name of AGENCY] that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004² on the maximum duration for the recourse to non-permanent staff in the Commission services, hereinafter 'Commission Decision C(2013)9028'.

¹ 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.

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 Commission Decision C(2011)7071 of 5 October 2011.

- 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 [name of AGENCY]. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.
- 3) In [name of AGENCY], [the majority of *or* 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 [name of AGENCY], temporary agents referred to in Article 2(a) of the CEOS [are/is] exclusively the head of the Agency [, deputy head(s) of the Agency (whose contract duration is governed by act(s) establishing the Agency) [and officials seconded in the interests of the service to the Agency (who are not covered by 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 [name of AGENCY]'s reality.
- 5) Taking into account the way the [name of AGENCY] 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 [name of AGENCY]
- 7) Commission Decision C(2013)9028 should not therefore apply to [name of AGENCY],

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 [name of AGENCY].

Article 2

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

Done at [CITY], on [DATE]

For [Name of AGENCY]

³ See footnote 2.