

DECISION OF THE ADMINISTRATIVE BOARD on the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services

THE ADMINISTRATIVE BOARD OF THE EUROPEAN MARITIME SAFETY 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 259/68,¹

Having regard to Council Regulation (EC) N° 1406/2002 of 27 June 2002, as amended, establishing the European Maritime Safety Agency;

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 of 26 May 2016,

After consulting the Staff Committee,

Whereas:

- 1) On 17 December 2013, the Commission informed EMSA that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004 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 EMSA. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.
- 3) In EMSA, 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 EMSA, 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(s) establishing the Agency). 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 EMSA's reality.

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.

- 5) Taking into account the way EMSA 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 EMSA.
- 7) Commission Decision C(2013)9028 should not therefore apply to EMSA,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to EMSA.

Article 2

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

Done at Lisbon by written procedure on 27 October 2016,

Frans Van Rompuy

Chairman of the Administrative Board

