



DECISION OF THE ADMINISTRATIVE BOARD of 8 November 2019 on the non-application of the Commission Decision on the maximum 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 (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 259/68¹, and in particular Article 110(2) of the Staff Regulations and Title IV of the CEOS,

Having regard to Council Regulation (EC)] No 1406/2002 of 27 June 2002 establishing EMSA, as amended,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations (Commission Decision C(2019)6929 of 25 September 2019,

After consulting the Staff Committee,

Whereas:

- 1) On 26 September 2014 Communication C(2014) 6543 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, was adopted.
- 2) On 30 September 2019, the Commission informed EMSA that it had adopted Decision of 5 April 2019 amending Commission Decision C(2004)1597/6 on the maximum duration for the recourse to non-permanent staff in the Commission services C(2019)2548.² The amendment limits the scope of the Decision by excluding time served as seconded national experts from the calculation of the seven-year maximum duration spent working in the Commission services.
- 3) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 2 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.
- 4) 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.
- 5) 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, as well as the unique category of contract staff employed in the Agency, namely those referred to in Article 3(a) of the CEOS, they do not fall under the scope of this Commission Decision. Therefore, this Commission Decision is not adapted to the actual situation of EMSA.
- 6) The maximum duration for recourse to seconded national experts is regulated in the Administrative Board's decision on seconded national experts.
- 7) Taking into account the different structure of the staff employed in agencies from that of the Commission, on 26 May 2016 the Commission gave agencies its *ex ante* agreement to the non-application of the Commission Decision on the maximum duration for the recourse to nonpermanent staff in the Commission services (C(2016)2421).

¹ OJ L 56, 4.3.1968, p.1.

² Amended by Commission Decisions C(2011)7071 of 5 October 2011 and C(2013)9028 of 16 December 2013.

- 8) Commission Decision C(2019)2548 does not introduce a modification that could make applicable to EMSA the Decision on the maximum duration for the recourse to non-permanent staff in the Commission services.
- 9) Therefore, the Commission Decision C(2019)2548 should not apply to EMSA.

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision of 5 April 2019 amending 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 shall not apply to EMSA.

Article 2

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

Done at Lisbon, on 8 November 2019,

For EMSA



Andreas Nordseth

Chairman of the Administrative Board