

**DECISION
ADB(D)13-2017**

**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 SESAR JOINT UNDERTAKING (SJU),

Having regard to:

- The Treaty on the Functioning of the European Union,
- 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,
- Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation of the European Air Traffic Management system (SESAR)² as modified by Council Regulation (EC) No 1361/2008 of 16 December 2008³ and amended by Council Regulation (EU) No 721/2014 of 16 June 2014 ("SJU Regulation")⁴ and in particular Article 2a,
- 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,
- The agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2016)2421 final of 26 May 2016.

After consulting the Staff Committee,

Whereas:

- 1) On 17 December 2013, the Commission informed the SJU that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004⁵ 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 OJ L 64, 2.3.2007, p.1.

³ OJ L 352, 31.12.2008, p. 12.

⁴ OJ L 192, 1.7.2014, p.1.

⁵ 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 the SJU. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.
- 3) In the SJU, 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 the SJU, temporary agent referred to in Article 2(a) of the CEOS is exclusively the head of 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 to the SJU's reality.
- 5) Taking into account the way the SJU 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 SJU,
- 7) Commission Decision C(2013)9028 should not therefore apply to the SJU.

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004⁶ on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to the SJU.

Article 2

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

Done at Brussels, on 11 September 2017.

For the Administrative Board

*The Chairperson
Henrik Hololei*

⁶ See footnote 2.

