

DECISION 39/2018
OF THE GOVERNING BOARD OF
THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)

**ON THE NON-APPLICATION OF THE COMMISSION DECISION ON THE MAXIMUM DURATION FOR THE
RECOURSE TO NON-PERMANENT STAFF IN THE COMMISSION SERVICES**

THE GOVERNING BOARD OF THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY,

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,

Having regard to Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology², as amended by Regulation (EU) No 1292/2013 of the European Parliament and of the Council of 11 December 2013³ (hereinafter 'EIT Regulation'),

Having regard to Communication C(2014)6543 final of 26 September 2014 from Vice-President Sefcovic 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 the EIT that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004⁴ 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 I shall apply by analogy to the EIT. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.

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 L97 of 09.04.2008, p. 1.

³ OJ L347 of 20.12.2013, p. 174.

⁴ 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.

- (3) In the EIT, 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 EIT, temporary agents referred to in Article 2(a) of the CEOS are 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 EIT's reality.
- (5) Taking into account the way the EIT 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 EIT.
- (7) Commission Decision C(2013) 9028 should not therefore apply to the EIT.

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2013) 9028 of 16 December 2013 amending Commission Decision of 28 April 2004⁵ on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to the EIT.

Article 2

This decision shall enter into force on the day of its signature.

Done at Budapest on 14 January 2019⁶

Dirk Jan Van Den Berg
Chairman of the EIT Governing Board

⁵See footnote 4.

⁶Adopted by the EIT Governing Board by written procedure on 14 January 2019