



## **Governing Board Decision 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 ETF,**

Having regard to the Staff Regulations of Officials (Staff Regulations) and the Conditions of Employment of Other Servants (CEOS) of the European Union, laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68<sup>1</sup>, and in particular Article 110 (2) thereof,

Having regard to the Council Regulation (EC) n°1339/2008 of 16 December 2008 establishing a European Training Foundation (recast)<sup>2</sup>,

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 Points 2.B thereof,

Having regard to the agreement of the European Commission (Decision C (2016) 2421) pursuant to Article 110(2) of the Staff Regulations,

After consulting the Staff Committee,

### **WHEREAS:**

- 1) On 17 December 2013, the Commission informed the ETF that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004<sup>3</sup> 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 the ETF. By way of derogation, an agency may request the Commission’s agreement to the non-application of certain implementing rules.
- 3) In the ETF, 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 ETF, the temporary agent referred to in Article 2(a) of the CEOS is exclusively the Head of the Agency (whose contract duration is governed by act 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 to ETF’s reality.
- 5) Taking into account the way the ETF 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 ETF.

<sup>1</sup> 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.

<sup>2</sup> OJ L 354 of 31/12/2008, p. 82

<sup>3</sup> 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.

7) Commission Decision C(2013)9028 should therefore not apply to the ETF,

**HAS ADOPTED THE FOLLOWING DECISION**

*Article 1*

Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004<sup>4</sup> on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to the ETF.

*Article 2*

This decision shall take effect on the day of its signature

Done at Brussels , on 25.11.2016

For the ETF,  
Chair of the Governing Board

A handwritten signature in blue ink, appearing to read "Michael O'Leary".

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<sup>4</sup> See footnote 3.