

DECISION AB n° 16/2016

**OF THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE
COOPERATION OF ENERGY REGULATORS**

of 22 September 2016

**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 AGENCY FOR THE COOPERATION OF
ENERGY REGULATORS,**

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 259/68¹,

Having regard to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators ('the Agency'), and, in particular, Article 28(2) thereof,

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 Point 2.B thereof,

Having regard to Decision AB n° 03/2010 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 6 May 2010 on the Rules of Procedure of the Administrative Board, and, in particular, Article 8 thereof,

Having regard to 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 Agency for the Cooperation of Energy Regulators that it adopted Decision C(2013)9028 of 16 December 2013

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.

amending the Commission Decision of 28 April 2004² 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 Agency for the Cooperation of Energy Regulators. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.
- 3) In the Agency for the Cooperation of Energy Regulators, 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 Agency for the Cooperation of Energy Regulators, temporary agents 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 Agency for the Cooperation of Energy Regulators' reality.
- 5) Taking into account the way the Agency for the Cooperation of Energy Regulators 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 Agency for the Cooperation of Energy Regulators.
- 7) Commission Decision C(2013)9028 should not therefore apply to the Agency for the Cooperation of Energy Regulators,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004³ on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to the Agency for the Cooperation of Energy Regulators.

Article 2

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

² 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 See footnote 2.

Done at Ljubljana, on 22 September 2016

For the Administrative Board:

SIGNED

Dr. Romana Jordan
Chair of the Administrative Board