



**DECISION OF THE GOVERNING BOARD
OF THE EuroHPC JOINT UNDERTAKING No 27/2019**

of 13 November 2019

**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,

Having regard to the Treaty on the Functioning of the European Union,

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 259/68¹, and in particular Article 110(2) of the Staff Regulations,

Having regard to Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing Joint Undertaking² (hereinafter 'EuroHPC JU'),

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2019) 6929 of 25/09/2019,

After informing the staff,

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 3 October 2019, the Commission informed EuroHPC JU 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]³. The amendment limits the scope of the Decision by excluding time

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 252, 08.10.2018, p. 1

³ Amended by Commission Decisions C(2011)7071 of 5 October 2011 and C(2013)9028 of 16 December 2013.

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 the EuroHPC JU. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.
- (4) In EuroHPC JU, the majority of 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 EuroHPC, 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) and officials seconded in the interests of the service to the Agency (who are not covered by the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services). 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 EuroHPC JU.
- (6) The maximum duration for recourse to seconded national experts is regulated in the Management Board or the equivalent body referred to in the act(s) establishing the Agency'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 non-permanent staff in the Commission services (C(2016)2421).
- (8) Commission Decision C(2019)2548 does not introduce a modification that could make applicable to EuroHPC JU 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 EuroHPC JU,

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 EuroHPC JU.

Article 2

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

Done at Luxembourg, on 13th November 2019.

For the EuroHPC JU

[Signed]

Herbert Zeisel

The Chair