

MANAGEMENT BOARD DECISION

DECISION No MB/2024/11

OF THE ENISA MANAGEMENT BOARD

of date 29 July 2024

on the request for the Commission Agreement for derogation from implementing rules to the Staff Regulations related to Commission Decision C(2023) 8630 final on the prevention of and fight against psychological and sexual harassment

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR CYBERSECURITY

Having regard to:

- The Treaty on the Functioning of the European Union;
- The Staff Regulations of Officials of the European Union (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 as last amended, and in particular to Article 110(2), third subparagraph, of the Staff Regulations;
- Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act), in particular Article 19(5), Article 21 and Article 23;
- 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 3.3. B) thereof;
- Decision No MB/2013/6 of the Management Board of the European Union Agency for Cybersecurity (ENISA) on internal rules of procedure for the Management Board of ENISA and for the Executive Board of ENISA, in particular Article 20;
- The European Union Agency for Cybersecurity (ENISA) having consulted the Staff Committee on March 28th 2024;

Whereas:

- (1) Pursuant Article 110(2) of the Staff Regulations implementing rules adopted by the Commission to give effect to the Staff Regulations shall apply by analogy to the agencies to that end, the Commission informs the agencies of any such implementing rule without delay after adoption.
- (2) On 22 December 2023, the Commission informed the agencies on the adoption of Commission Decision C(2023)8630 of 12.12.2023 on the prevention of and fight against psychological and sexual harassment, and repealing Decision C(2006) 1624/3.

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.

- (3) This communication triggered the nine-month deadline for agencies to decide if they will apply the rules by analogy or request a derogation;
- (4) The EU Agency for Cybersecurity (ENISA) considers that Commission's Decision C(2023)8630 is not suitable to apply by analogy to the Agency, mainly because of its different internal structure. Therefore, it is appropriate to request a derogation not to apply these rules by analogy and to adopt different rules;
- (5) ENISA emphasizes the importance of prevention and effective handling of harassment, has a harassment policy in place and identifies in its corporate strategy 2023-2026 the following elements:
 - a. the obligation to incorporate in all its organisational processes, including the Career Development Report, the assessment of behaviour and culture with respect to the value of integrity and ethics and the value of respect;
 - b. to work towards a human centric organisation ensuring an attractive workplace for all, based on trust and inclusion;
 - c. the KPI's defined under the objective of being a caring and inclusive modern organisation, more specifically to have a high aggregate staff satisfaction with psychological safety level based upon an annual staff satisfaction survey;
 - d. to regularly perform feedback surveys (recently with the introduction and support of a tool Workleap Officevibe);
 - e. to ensure trainings are provided and performed more specifically related to integrity and ethics, respect and prevention and handling of harassment.
- (6) The Agencies Standing Working Party (SWP) has informed the agencies that in coordination with the Commission, a specific model decision adapted to agencies will be developed and which will better suit the needs of the agencies;
- (7) Pursuant to Article 110(2) of the Staff Regulations and guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, the Management Board must empower the executive Director to request the Commission's agreement for derogation.

HAS DECIDED:

Article 1

With a view to adopting different rules, the Executive Director of the Agency is hereby empowered to request the Commission's agreement on the non-application by analogy of Commission's Decision C(2023)8630, pending the finalisation of a model decision on this matter for agencies.

Article 2

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

Done in Athens, 29 July 2024

On behalf of the Management Board,

[signed]

Ms Fabienne Tegeler
Chair of the Management Board of ENISA