

# DECISIONS

## COMMISSION DECISION (EU) 2021/1344

of 9 August 2021

**establishing criteria to define the period of time for which persons posing a threat to security may be banned from the Commission's premises**

THE EUROPEAN COMMISSION,

Having regard to Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission <sup>(1)</sup>, and in particular Article 12(1), point (b) and Article 21 thereof,

Whereas:

- (1) The Commission needs to operate in a safe and secure environment. Accordingly, it needs a coherent, integrated approach as regards its security, providing appropriate levels of protection for persons, assets and information that are commensurate with identified risks, and ensuring the efficient and timely delivery of security. The Commission faces major threats and challenges in the field of security, in particular as regards terrorism, and political and commercial espionage.
- (2) In order to ensure the security of persons, assets and information, the Commission, in particular the Security Directorate of its Directorate General for Human Resources and Security, takes measures pursuant to Decision (EU, Euratom) 2015/443 which apply to all Commission departments and in all Commission premises. Those measures include limited measures concerning persons posing a threat to security, including banning persons from the Commission's premises for a period of time pursuant to Article 12(1), point (b) of that Decision.
- (3) Commission staff duly mandated in accordance with Articles 5 and 12 of Decision (EU, Euratom) 2015/443, should, in deciding on banning a person or persons from Commission premises where, pursuant to Article 12(1), point (b) of that Decision, it is considered that they pose a threat to its security, assess that threat on a case-by-case basis, respecting the relevant individual circumstances.
- (4) The restriction of access may apply to one, several or even all Commission premises.
- (5) The period of the ban should take into account the likelihood, seriousness and duration of the threat.
- (6) This Decision should not apply to a ban to the Commission's premises adopted in the context of suspension proceedings pursuant to Article 23 of Annex IX to the Staff Regulations.
- (7) This Decision should not apply to Commission staff working in Union Delegations, who should be subject to the security rules for the European External Action Service.
- (8) In accordance with the internal rules of procedure, the member of the Commission responsible for security matters has been empowered, by means of Commission Decision C(2016) 2797 <sup>(2)</sup>, to establish implementing rules establishing the criteria necessary for defining the periods of time applicable to a ban on access to the Commission's premises pursuant to Article 12 of Decision (EU, Euratom) 2015/443. That power has been sub-delegated to the Director-General of the Directorate General for Human Resources and Security by means of Commission Decision C(2021) 2684 <sup>(3)</sup>.

<sup>(1)</sup> OJ L 72, 17.3.2015, p. 41.

<sup>(2)</sup> Commission Decision C(2016) 2797 of 4 May 2016 on an empowerment relating to security.

<sup>(3)</sup> Commission Decision C(2021) 2684 of 13 April 2021 granting a sub-delegation of powers granted in Commission Decision C(2016) 2797 on an empowerment relating to security.

- (9) Security measures pursuant to this Decision should comply with the principles for security in the Commission laid down in Article 3 of Decision (EU, Euratom) 2015/443, in particular respecting the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS DECISION:

#### *Article 1*

##### **Subject matter and scope**

1. This Decision sets out criteria to define the period of time for which persons posing a threat to security may be banned from the Commission's premises pursuant to Article 12(1), point (b) of Decision (EU, Euratom) 2015/443.
2. This Decision shall apply to all Commission departments and in all Commission premises. Commission staff working in Union Delegations shall be subject to the security rules for the European External Action Service <sup>(4)</sup>.
3. This Decision shall not apply to suspension proceedings pursuant to Article 23 of Annex IX to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community <sup>(5)</sup>.

#### *Article 2*

##### **Scope of the ban**

1. The ban referred to in Article 1(1) may apply to one, several or all Commission premises.
2. Where the Commission shares premises with other EU institutions, agencies and bodies, the Commission shall communicate the decision to ban access to Commission parts of the premises to the latter.

#### *Article 3*

##### **Period of ban**

1. The period of the ban referred to in Article 1(1) shall be based on the estimated duration, likelihood and seriousness of the threat to security.
2. The criteria for assessing the seriousness of the threat to security shall include:
  - (a) the degree of harm to which it could lead, as regards the life, bodily integrity, well-being or health of persons, and potential damage to assets and information;
  - (b) whether the threat is linked to commitment of a criminal offence;
  - (c) whether the threat is based on negligence, gross negligence or intent;
  - (d) whether the behaviour of the person posing the threat is violent, aggressive or repetitive;
  - (e) the extent of potential financial loss to the Commission;
  - (f) the extent of potential reputational damage to the Commission.

<sup>(4)</sup> Decision ADMIN(2017) 10 of the High Representative of the Union for Foreign Affairs and Security Policy of 19 September 2017 on the security rules for the European External Action Service (OJ C 126, 10.4.2018, p. 1).

<sup>(5)</sup> Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 45, 14.6.1962, p. 1385).

3. Where the duration of the threat cannot be estimated with sufficient certainty and the threat is very serious, the person posing the threat may be banned until further notice. That applies, in particular, where the threat has one of the following characteristics:

- (a) it consists of involvement in terrorist or espionage activities and networks;
- (b) it could lead to loss of life, serious injury or harm, or significant damage to property, compromise sensitive or classified information, or disrupt the Commission's IT systems or essential operational capacities;
- (c) it consists of violent, aggressive or repetitive behaviour, having the effect of seriously disrupting the functioning of Commission services.

#### *Article 4*

#### **Review of bans**

The Commission shall review any decision taken pursuant to Article 12(1), point (b) of Decision (EU, Euratom) 2015/443 on request of the person concerned, provided the latter demonstrates new substantial elements that allow a re-examination of the ban. The Commission shall base its review on the criteria that led to the initial ban.

#### *Article 5*

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 9 August 2021.

*For the Commission*

Gertrud INGESTAD

*Director-General*

*Directorate-General for Human Resources and Security*

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