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COMMISSION DECISION

of 16.12.2013

on policies for the engagement and use of temporary agents

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THE EUROPEAN COMMISSION,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants (CEOS) of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹;

Whereas:

- (1) The Commission Decision of 28 April 2004 on a new policy for the engagement and use of temporary staff (C(2004) 1597/5) needs to be adapted to the amendments to the Staff Regulations and to the Conditions of Employment of Other Servants entering into force on 1 January 2014, and in particular to the creation of a new function group AST/SC corresponding to clerical and secretarial duties.
- (2) For reasons of clarity and legal certainty, Decision C(2004) 1597/5, which has been amended several times², should be replaced by this Decision;

HAS DECIDED AS FOLLOWS:

Article 1 *Scope*

This Decision applies to:

- Directorates-General (DGs) and other Commission departments, including DG Research and DG Joint Research Centre, the representations and the delegations, as far as Commission staff is concerned,
- Commission offices that are attached to a Directorate-General or department, the Publications Office of the European Union (OP) and the European Personnel Selection Office (EPSO).

This Decision shall not apply to the engagement of temporary agents for the European Anti-Fraud Office (OLAF), which shall be governed by a separate Decision.

Article 2 *Temporary staff under Article 2(a) of the CEOS*

Temporary agents under Article 2(a) of the CEOS shall be engaged to fill posts of a specialised nature requiring such knowledge and experience or to meet temporary needs.

- (a) Duration of contracts

Subject to Article 7, the initial contract shall be for a period of up to four years with the possibility of one extension of a maximum of two years. Where

¹ OJ L 56, 4.3.1968, p. 1.

² Last amended by Commission Decision C (2010) 1005 of 17 February 2010.

applicable, the total length of the contract shall be for the duration of the task for the completion of which the agent has been engaged, but subject to these same limits.

(b) Grading

Staff engaged for specialised functions shall be graded at the level of AD 8 or AST 4, and a minimum of 9 years professional experience shall be required.

Staff engaged for temporary needs shall be graded at the level of AD5, AST1 or AST3 or AST/SC1.

(c) Selection procedures

Selection will be on the basis of a profile established by the DG or department concerned and approved by the DG responsible for human resources after informing/consulting³ the Joint Committee. This profile shall lay down the requirements in terms of education and/or professional training, professional experience, linguistic knowledge and the closing date for applications and shall be transmitted for information to the Joint Committee. Once this procedure has been terminated, the DG or department concerned shall transmit the profile to the Permanent Representations of the Member States. The profile shall be published on EPSO's internet site. The DG or department concerned may also publish it on its internet site and give further publicity that it considers appropriate.

The selection procedure shall be conducted by a selection committee composed of a member from a DG or department concerned and a member designated by the Staff Committee. The committee shall be chaired by a third member drawn from another DG or department. The committee shall establish a list of successful candidates from which the persons to be engaged are to be drawn. EPSO will be asked, whenever possible, to provide assistance in the organisation and running of these selection procedures.

Article 3

Temporary staff under Article 2(b) of the CEOS

- (1) As permanent posts are intended for the appointment of officials, the total of all temporary agents under Article 2(b) of the CEOS shall not exceed 3% of the total number of authorised permanent posts in the Commission.
- (2) Recourse to such engagements may only be approved after an unsuccessful publication of the post pursuant to Articles 4 and 29 of the Staff Regulations. Moreover, one of the following conditions has to be met:
 - (a) Reserve lists of successful candidates of internal or external competitions are not available or are insufficient.

In these circumstances, such engagements shall be authorised by the DG responsible for human resources. The function group and grade shall be that of the new competition published or already planned. In the event that the level of a future competition is not known, engagements shall be at the level of AD 5,

³ The Joint Committee shall be consulted, if three or more posts of the same profile are to be filled at the same time.

AST1 or AST3 or AST/SC 1. The maximum level for engagement to non-managerial positions shall be AD 8, AST 4 and AST/SC2.

The length of the initial contract shall be calculated according to the expected timing of the publication of the reserve lists of the relevant external competitions and be subject to a maximum of 4 years. In general, such recruitments shall be for an initial period of up to 3 years. Where the initial period is for a longer period or where it is proposed to extend the contract beyond a period of 3 years, a selection procedure as referred to in paragraph 3 shall be organised.

Candidates for such engagements shall be drawn from the data-base of spontaneous applications established by the Commission in collaboration with EPSO. Whilst awaiting the establishment of a global data-base of spontaneous applications, the DG or department concerned should, wherever possible, draw applications from existing data-bases. The DG or department concerned may organise such additional publicity as it considers appropriate. Candidates engaged must at all times meet the conditions of the vacancy to be filled.

- (b) There is a need in a DG or department for the engagement of a specialist and no temporary post is available and the organisation of an external competition for the occupation of a single post, or of a small number of posts, cannot be justified.
 - (c) There is a temporary staffing need.
- (3) In the cases referred to in paragraph 2, points (b) and (c), it is for the DG or department concerned to submit a duly detailed and justified request for decision by the DG responsible for human resources.

With regard to the level of the engagement and the selection procedures, the same rules as for temporary staff under Article 2(a) of the CEOS shall apply. Where a vacancy notice was published in accordance with Articles 4 and 29 of the Staff Regulations, the job profile to be established shall be based on it.

The initial contract for a specialised post shall be for a period of up to four years with the possibility of one extension of a maximum of two years.

To meet a temporary need, the total length of the contract shall be for the duration of the task, but subject to these same limits.

- (4) Periodic information on the recourse to temporary agents under Article 2(b) of the CEOS shall be provided to the Joint Committee.

Article 4

Temporary staff under Article 2(c) of the CEOS

1. Members of Cabinets

The number of Cabinet members and other staff that can be engaged as temporary staff is determined by the Rules governing the composition of the Members' Cabinets. There are no formal selection procedures for the engagement of Cabinet temporary agents. These agents will be graded as follows:

- (1) The Head of the President's Cabinet and the Head of the Cabinet of the Vice-President/ High Representative of the Union for Foreign Affairs and Security Policy

(hereinafter: VP/HR) shall be engaged at grade AD 15. All other Heads of Cabinet shall be engaged at grade AD 14.

- (2) Deputy Heads of Cabinet shall be engaged at grade AD 12.
- (3) Cabinet experts shall be engaged at grade AD 13. The person concerned must possess an appropriate professional experience of at least 15 years.
- (4) Other Members of the Cabinet and, where applicable, the personal assistant of the Commissioner shall be engaged at grade AD 5 (less than 3 years professional experience), AD 6 (at least 3 years), AD 7 (at least 6 years), AD 8 (at least 8 years), AD 9 (at least 10 years), AD 10 (at least 12 years). Exceptionally, in each Cabinet, temporary agents may be engaged at the AD 11 level, if the person concerned possesses at least 14 years of professional experience.
- (5) Staff of the Cabinet in function groups AST and AST/SC shall be engaged at the following grades:
 - (a) Where applicable, the personal assistant of the Commissioner shall be engaged at grade AST 7 on condition of having at least 16 years professional experience, AST 6 (at least 12 years), AST 5 (at least 6 years) or AST 4 (less than 6 years).
 - (b) Other Assistants in the meaning of Annex I, point A, to the Staff Regulations shall be engaged at grade AST 6 on condition of having at least 12 years of professional experience, AST 5 (at least 6 years) or AST 4 (less than 6 years).
 - (c) Secretarial Assistants shall be engaged at grade AST/SC 4 on condition of having at least 9 years of professional experience, AST/SC 3 (at least 6 years), AST/SC 2 (at least 3 years) or AST/SC 1.

2. Staff of the Bureau of European Policy Advisers (BEPA)

There are no formal selection procedures for the engagement of BEPA temporary agents. Where a function is filled by the engagement of a temporary agent pursuant to Article 2(c) CEOS, the grade of engagement is determined as follows:

- (1) The Head of BEPA shall be engaged at grade AD 15; the person concerned must possess a professional experience of at least 15 years (including at least 5 years of management experience).
- (2) The Chief Scientific Adviser shall be engaged at grade AD 15; the person concerned must possess an appropriate professional experience of at least 15 years.
- (3) Agents engaged to fill a vacant function of Principal Adviser in BEPA must possess an appropriate professional experience of at least 15 years and shall be engaged at grade AD 14.
- (4) Agents engaged to fill a vacant function of Adviser in BEPA must possess an appropriate professional experience of at least 15 years and shall be engaged at grade AD 13.
- (5) The grade of engagement of other Members of BEPA is determined applying *mutatis mutandis* the rules applicable to other Members of the Cabinet in the Administrators' function group, as defined in paragraph 1(4).
- (6) The grade of engagement of BEPA staff in function groups AST and AST/SC is determined applying *mutatis mutandis* the rules applicable to staff of the Cabinets, as defined in points (b) and (c) of paragraph 1(5).

3. Spokespeople

- (1) There are no formal selection procedures for the appointment or engagement of Spokespeople.
- (2) The functions of Spokespeople are filled either by the secondment of an official (pursuant to Article 37, first paragraph, point (a), second indent and Article 38 of the Staff Regulations) or by the engagement of a temporary agent pursuant to Article 2(c) CEOS.
- (3) The function of Head of Service is filled at grade AD 15, the function of Commission Spokesperson is filled at grade AD 14, and the function of Deputy Spokesperson at grade AD 13. The functions of Co-ordinating Spokespeople (heads of unit) as well as the function of Lead Spokesperson of the VP/HR are filled at grade AD 11.
- (4) The grade of engagement of other spokespeople is determined applying mutatis mutandis the rules applicable to Other Members of the Cabinet in the Administrators' function group, as defined in paragraph 1.(4).

4. Other temporary staff under Article 2(c) of the CEOS

The grade at which all other temporary staff pursuant to Article 2(c) is engaged shall be determined by the specific decision allowing for such recruitments.

5. Transitional provisions

Notwithstanding the grading rules above, any such agent serving in a Cabinet on 30 April 2004 and maintained without discontinuity in a Cabinet to perform a similar function, may ask to maintain the conditions applicable to his existing contract.

6. Final provision

At the expiry of his contract, a member of temporary staff pursuant to Article 2(c) CEOS may be engaged to fill temporarily a permanent post only if he has passed the relevant selection procedures laid down in Article 2.

Article 5

Temporary staff under Article 2(d) of the CEOS (research budget permanent posts)

The same rules as for temporary staff under Article 2(b) of the CEOS shall apply for the engagement of such temporary staff, in particular the approval of the profiles by DG HR after informing the Joint Committee.

DG JRC may recruit exceptionally highly specialised staff with corresponding scientific training/education and experience at AD 11 level and AST8 level on the basis of a minimum of 12 years' experience.

The composition of the selection committee should take into account the decentralised nature of the JRC and the President of the committee may be drawn from the administrative services of the JRC.

Article 6

Engagement of temporary staff to managerial positions or advisory functions

In addition to the provisions of Article 4 above, applying to temporary staff under Article 2(c) of the CEOS, temporary staff under Article 2(a), (b) and (d) of the CEOS may also be engaged, in exceptional circumstances, to carry out managerial or advisory functions.

(1) Managerial functions

Such engagement shall be the exception and limited to candidates drawn from the public service and semi-public bodies. The engagements shall comply with the following rules:

- for Head of Unit (or equivalent) functions at level AD9-AD14: the candidate shall be engaged at level AD9 and shall be required to have at least 12 years of professional experience, including a minimum of 2 years of managerial experience;
- for Head of Unit (or equivalent) functions at level AD13-AD14: the candidate shall be engaged at level AD13 and shall be required to have at least 15 years of professional experience, including a minimum of 4 years of managerial experience;
- for Director (or equivalent) or Director-General (or equivalent) functions: the candidate shall be engaged at level AD14 or AD15, respectively, and shall be required to have at least 15 years of professional experience, including a minimum of 5 years of managerial experience;

The total number of such temporary staff shall not at any time exceed 2% of the total number of managerial positions.

(a) Temporary staff under Article 2(a) of the CEOS

Temporary posts may be assigned to such functions when the necessity has been demonstrated to engage a person possessing a high degree of specialised expertise or where the functions have temporary duration.

The decision to assign temporary posts to such functions shall be taken by the Director-General responsible for human resources for Head of Unit posts and by the Commission for Director-General, Deputy Director-General and Director posts.

As regards Head of Unit (or equivalent) functions, engagement shall comply with the same rules and procedures applying to the engagement of such temporary staff to non-managerial functions.

As regards the functions of Director-General, Deputy Director-General and Director (or equivalent), the selection procedures shall be the same as the procedures under Article 29(2) of the Staff Regulations.

The duration of such contracts shall be for an initial period of up to four years with the possibility of one extension of a maximum of two years.

(b) Temporary staff under Article 2(b) and (d) of the CEOS

In the same way as for temporary staff under Article 2(a) of the CEOS, engagement may be authorised only for a highly specialised need or where the duties to be performed are of a temporary nature.

Before proceeding to such engagement, it shall be necessary to demonstrate that the post cannot be filled by an official within the institutions. To this end, the vacant post will have had to be published unsuccessfully internally and inter-institutionally in accordance with Article 29 of the Staff Regulations.

For Head of Unit (or equivalent) functions, the decision to authorise the possibility of engaging a temporary agent shall be taken by the

Director-General responsible for human resources on the basis of a reasoned proposal from the Commission department concerned and after having obtained the opinion of the Consultative Committee on Appointments. For functions at the Joint Research Centre (JRC) covered by the research budget, the decision shall be taken by the Director-General of the JRC following the same procedure. The selection procedures shall be the same as for non-managerial temporary staff under Article 2(a) of the CEOS.

For Director-General, Deputy Director-General and Director (or equivalent) functions, the decision to authorise the possibility of engaging temporary staff shall be taken by the Commission on the basis of a proposal from the Member responsible for human resources in agreement with the President and the Member responsible for the Commission department concerned. This proposal shall be accompanied by the opinion of the Consultative Committee on Appointments on the appropriateness of such a measure. The existing rules for the selection and appointment of senior management officials shall apply.

The duration of such contracts shall be for an initial period of up to four years with the possibility of one extension of a maximum of two years.

- (2) Advisory functions (Adviser, Principal Adviser and Adviser *hors classe* and other equivalent functions)

Temporary staff under Article 2(a), (b) and (d) of the CEOS

The rules referred to in paragraph 1, concerning the reasons for using temporary staff and the selection and engagement procedures, shall apply *mutatis mutandis*.

The rules referred to in paragraph 1, concerning the grade of engagement and the required experience, shall apply *mutatis mutandis*, except for the requirement of a minimum period of managerial experience, which is not necessary.

The duration of such contracts shall be for an initial period of up to four years with the possibility of one extension of a maximum of two years.

Article 7

Derogation regarding the maximum duration of contracts

As far as this Decision provides for a maximum length of contracts, such provisions shall be subject to the possibility of derogation laid down in Article 3(1) of the Commission Decision of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services (C(2004) 1597/6)⁴. This possibility of derogation shall apply without prejudice to statutory limits to the duration of contracts.

Article 8

Final provisions

- (1) The Commission Decision of 28 April 2004 on a new policy for the engagement and use of temporary agents (C(2004) 1597/5) is hereby repealed.
- (2) This Decision shall take effect on 1 January 2014.

⁴ As amended by the Commission Decision of 5 October 2011 (C(2011) 7071).

Done at Brussels, 16.12.2013

For the Commission
Maroš ŠEFČOVIČ
Vice-President