

DECISION AB n° 10/2011

ON THE ADOPTION OF
GENERAL IMPLEMENTING PROVISIONS ON THE PROCEDURE
GOVERNING THE ENGAGEMENT AND THE USE OF
TEMPORARY AGENTS AT ACER

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

HAVING REGARD to the Staff Regulations of Officials of the European Communities and Conditions of Employment of Other Servants of the European Communities (CEOS), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68, and in particular to Articles 2(a) and (b) and 12(5) of the CEOS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing a European Agency for the Cooperation of Energy Regulators (hereafter referred to as the "ACER Regulation" and "ACER", respectively), and in particular to Article 28(2) thereof,

HAVING REGARD to the Commission Decision C(2005)5304 of 16 December 2005 concerning the Guidelines on staff policy in the European Regulatory Agencies,

After consultation of the Staff Committee and in agreement with the European Commission pursuant to Article 28(2) of Regulation (EC) No 713/2009 and Article 110 of the Staff Regulations,

Whereas:

- (1) Detailed rules on the employment of temporary agents are desirable. These rules should be based on the types and the duration of tasks to be filled with temporary staff.
- (2) Temporary agents should be selected through a transparent and objective procedure.
- (3) The grading of temporary staff should correspond to the functions to be exercised.



- (4) The Agency may only recruit temporary staff under Article 2(a) of the CEOS.

HAS ADOPTED the following implementing provisions:

Article 1 - Scope

These rules shall apply to temporary staff referred to in Article 2(a) of the CEOS engaged in ACER (hereafter: temporary agents 2 (a)), except:

- the post corresponding to the function stated in Article 16 of the Council Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing ACER: the Director of ACER.
- heads of departments whose conditions of engagement and employment shall be carried out in line with the specific decision concerning middle management.

Article 2 - Type of posts and filling of posts

With reference to the Guidelines on staff policy in the European Regulatory Agencies¹, temporary agents 2 (a) shall be engaged on temporary posts on long-term or short-term employment, depending on the type and the duration of tasks:

- Temporary agents on long-term employment shall be engaged for permanent tasks: staff employed on long-term operational, administrative or technical tasks;
- Temporary agents on short-term employment shall be engaged for tasks of a limited duration: staff employed on operational, administrative or technical tasks of a defined duration or staff to cover peaks in workload on a limited period.

Long-term employment posts may be filled through an internal selection procedure, or via the Interagency Job Market and then through an external selection procedure. Short-term employment posts shall only be filled through an external selection procedure.

The publication of a long-term employment post may be done simultaneously internally in ACER and in the Interagency Job Market, before making an external publication of the vacant post. However, in the case of simultaneous publication internally and in the Interagency Job Market, the applications of the internal candidates shall be considered first.

¹ Commission Decision C(2005)5304 of 16 December 2005



Article 3 - Selection procedure for long-term employment

ACER may select temporary agents 2 (a) for long-term employment using one of the following selection procedures:

1. Selection procedure by the European Communities Personnel Selection Office (EPSO):

- (a) Where, pursuant to Article 12(3) and (4) of the CEOS, EPSO organises on request of ACER a selection procedure, it shall follow the same standards as for general officials' competitions².

EPSO shall provide ACER with a short list of successfully tested candidates.

In the case of general selection procedures performed for different institutions, EPSO shall, on request of ACER, take account of the needs of ACER by reserving a quota of successful candidates and indicating, where appropriate, which of them were successfully tested in ACER's field.

- (b) ACER shall set up a Selection Committee, which shall consist of at least three members. Where the Selection Committee consists of three members, there should be one member from the administration department of the agency, one member from the recruiting unit/service and one member designated by the Staff Committee. The member of the administration or the member from the relevant unit shall act as chairman.

Where the Staff Committee decides not to be represented or fails to propose its representative within 10 working days following invitation to do so, the third member shall be proposed by the Human Resources unit in consultation with the recruiting unit.

In specific cases, in particular for selection procedures of experts, two additional members may be designated from another service of the agency, from outside ACER or from outside the Community Institutions.

The Human Resources unit is in charge of ensuring permanent assistance and supervision of the respect of the current rules throughout the whole procedure. The Human Resources unit is also in charge of making all the necessary preparatory work in order to enable the Selection Committee to perform its tasks.

The members of the Selection Committee who are officials or

² The involvement of EPSO in the selection procedures is defined in a Service Level Agreement between EPSO and ACER.

temporary agents shall be chosen from officials/temporary agents whose function group and grade is at least equal to the post to be filled. Where possible, Selection Committees shall comprise members of both genders.

- (c) The Selection Committee shall invite for interview the candidates from EPSO's short list who are considered to be the most suitable. Minutes of Committee meetings shall be drawn up setting out the reasons for any decision taken.
- (d) The Selection Committee shall propose a short list of successful candidates to the Director, who may appoint successful candidate(s) to the post(s) and may draw up a reserve list of successful candidates. This list will be valid up to 12 months from the date of its establishment and its validity may be extended by decision of the Director.
- (e) Candidates shall be informed of the outcome of the interview and of whether they have been placed on the reserve list.

2. Selection procedure carried out by ACER

- (a) ACER may organise a selection procedure, in which it must apply similar standards to those applied in competitions for officials.
- (b) ACER shall launch the recruitment procedure by advertising vacancy notices specifying the criteria concerning general and specific competencies and key qualifications required and the possible duration of employment, the function group and grade, and the main steps of the selection procedure.

The vacancy notice shall be published at least in English on ACER website and EPSO website, as well as if necessary in the international and local and specialist media. The channels of Permanent Representations of the Member States to the European Union and representatives of National Regulatory Authorities who sit on the Board of Regulators may also be used.

- (c) A Selection Committee as referred to in Article 3(1)(b) shall evaluate applications and select those candidates meeting the eligibility criteria and matching best the selection criteria required as per vacancy notice.
- (d) The Selection Committee shall invite the selected applicants to written tests whose content shall be defined in accordance with the level and profile of the position advertised.

The written tests shall consist of the following components:

- general aptitudes and language abilities to the extent necessary for the performance of the duties;
- specific competencies with reference to their profiles, assessing

the quality of writing style and presentation.

The above-mentioned components of these tests can be combined and tailored according to the profile of the post.

A derogation from the requirement for written tests can be granted for a selection procedure by decision of the Director in exceptional circumstances which need to be duly justified and documented.

In accordance with Article 12(3) and (4) of the CEOS, EPSO shall, at the request of ACER, provide assistance to ACER's selection procedure, in particular by providing the written tests and/or defining the content of these tests.

- (e) The Selection Committee shall either invite selected candidates for interview, on the basis of the results of the written tests, or interview all selected candidates. The interview may be organised on the same day as the written tests.
- (f) Minutes of Selection Committee meetings shall be drawn up setting out the reasons for any decision taken.
- (g) The Selection Committee shall propose a short list of successful candidates to the Director, who may appoint successful candidate(s) to the post(s) and may draw up a reserve list of successful candidates. This list will be valid up to 12 months from the date of its establishment and its validity may be extended by decision of the Director.
- (h) Candidates shall be informed of the outcome of the written test and the interview and of whether they have been placed on the reserve list.

3. Interagency job market

By derogation to paragraph (1) and (2), the vacancy notice can be published in the interagency job market within the agencies network at a range of grades corresponding to the functions. The post shall be reserved to temporary agents 2 (a) of the same function group whose grade is within this range of grades and who meet the following criteria:

- being employed in a Regulatory Agency applying the Staff Regulations as a temporary agent 2 (a) on long term employment for permanent tasks as defined in Article 2;
- having been selected according to the procedure laid down in Article 3(1) and (2) or, for staff engaged before the entry into force of this decision, having succeeded in a selection procedure equivalent to that referred to in Article 4.

ACER shall select candidates by following the same procedure as mentioned in



Article 4.

From the closing date of the selection procedure on, if no suitable candidates could be found in the network of Agencies, the vacancy notice may be published externally at the most appropriate grade.

Article 4 - Selection procedure carried out by ACER for short-term employment

The selection procedure carried out by ACER to select temporary agents 2 (a) for short term employment shall be that set out in Article 3(2), except that the matters referred to in Article 3(2)(d) may be tested orally, which test may also be incorporated in the interview.

Article 5 - Grading

1. Subject to paragraph 2, depending on the function and the level of tasks and within the limits authorised by the establishment plan of ACER, temporary agents shall be engaged in principle at the following entry grades:
 - AST 1 to AST 4 for the function group AST
 - AD 5 to AD 8 for the function group AD.
2. By way of derogation from paragraph (1)
 - (a) in order to ensure high-quality recruitment, if justified by an analysis of the labour market conditions in its sector of work and if the post cannot be filled at a lower grade, ACER may engage temporary agents at grades AD 9, AD 10, AD 11 or, on an exceptional basis, at grade AD 12. Such recruitments shall remain annually within the limits of 20% of AD recruited per year within ACER for each type of posts, long-term and short-term employment, as defined in the current Staff Policy Plan approved by the Administrative Board. This percentage may vary within the limit of an annual average of 20 % calculated over a five years rolling period.
 - (b) Successful candidates selected according to the procedure mentioned in Article 3(3) shall be recruited at the grade held in their previous Agency. Article 32 of the Staff Regulations and the specific ACER Decision concerning the criteria applicable to classification in grade and step on appointment or engagement, shall apply concerning the classification in step.
3. The minimum number of years of professional experience required after the award of the qualification certifying the completion of the level of studies required as a condition of eligibility for any selection procedure is as follows:



Grade of engagement	Number of years of professional experience
AD 5	0 years
AD 6	3 years
AD 7	6 years
AD 8	9 years
AD 9/10	12 years
AD 11/12	15 years
AST 1	0 years
AST 2	1 year
AST 3	3 years
AST 4	6 years

Article 6 - Duration of contracts

1. Temporary agents 2 (a) may be engaged under their first contract for a fixed period. Any further renewal shall be for an indefinite period.
2. Contracts of an indefinite period shall only be awarded to temporary agents 2 (a) on long-term employment who have been successful in a selection procedure pursuant to Article 3.

For staff already engaged before the entry into force of this decision, contracts of an indefinite period can be awarded to temporary agents 2 (a) on long-term employment who have been successful in an equivalent selection procedure pursuant to Article 4.

3. Contracts for temporary agents 2 (a) on short-term employment can only be extended once up to 8 years maximum. The duration of the contract shall correspond to the duration of the tasks.

Article 7 - Probationary period

A temporary agent 2(a) on short-term employment or long-term employment shall serve a probationary period pursuant to Article 14(1) of the CEOS, which is in proportion to the duration of his/her contract. If the duration of the contract exceeds twelve months, the probationary period shall last for 6 months. If the duration of contract is between 6 and 12 months, the probationary period shall cover half of the duration of the contract. If the duration of contract is less than 6 months, the temporary agent may be exempted from the requirement to serve a probationary period.



Article 8 - Entry into force

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

Done at Ljubljana, on 01 June 2011

For the Administrative Board:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Piotr Woźniak

Chairman of the ACER Administrative Board