

DECISION AB n° 11/2011

**ON THE ADOPTION OF  
GENERAL IMPLEMENTING PROVISIONS ON THE PROCEDURES  
GOVERNING THE ENGAGEMENT AND THE USE OF CONTRACT  
STAFF 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 Article 82(6) of the Conditions of Employment,

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"), 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 contract staff are desirable and contract agents should be selected through a transparent and objective procedure.
- (2) The rules contained in these implementing provisions, and in particular those on selection procedures and grading, are without prejudice to Article 2 of the Annex to the CEOS.
- (3) The grading of contract staff in function groups needs to be based on the functions to be exercised by the person concerned. It is therefore essential that



detailed job descriptions are established for all functions to be filled with contract staff.

- (4) The agency may only recruit contract staff under Article 3a of the CEOS.

HAS ADOPTED the following implementing provisions:

## **General provisions**

### **Article 1**

#### *Scope*

These rules shall apply to contract staff referred to in Article 3a (AC3a) of the CEOS engaged in the Agency for the Cooperation of Energy Regulators (hereafter the Agency).

### **Article 2**

#### *Minimum qualifications required*

In the Agency, Article 82(2) of the CEOS shall be applied as follows:

1. Engagement as a member of the contract staff shall require at least:
  - (a) in function group I, successful completion of compulsory education;
  - (b) in function group II:
    - a post-secondary education attested by a diploma, or
    - a secondary education attested by a diploma giving access to post-secondary education and appropriate professional experience of three years. The secondary education diploma giving access to post-secondary education may be replaced by a certificate of adequate professional training of not less than three years on condition that there was no similar professional training giving access to higher education at the time it was issued or,
    - successful completion of intermediate education plus two years relevant supplementary specialised training plus five years' appropriate professional experience.
  - (c) in function group III:
    - a post-secondary education attested by a diploma, or

- a secondary education attested by a diploma giving access to post-secondary education and appropriate professional experience of three years.
- (d) in function group IV: completed university studies of at least three years attested by a diploma and appropriate professional experience of at least one year.
2. Only diplomas and certificates that have been awarded in EU Member States or that are the subject of equivalence certificates issued by the authorities in the said Member States shall be taken into consideration.

### **Article 3**

#### *Probationary period*

Where a member of the contract staff has to serve a probationary period in accordance with Article 84 of the CEOS, the report referred to in that Article shall be established by applying the Agency decision on the general implementing provisions for implementing Article 43 of the Staff Regulations by analogy.

### **Article 4**

#### *Succession of contracts*

1. The authority referred to in Article 6 of the CEOS (hereafter AHCC) may engage as AC3a persons employed as AC3b in an institution only after the latter contract has expired or been terminated.
2. In this case, the contract agent AC3a must comply with the conditions set out in the CEOS and in these provisions, in particular the conditions concerning the qualifications required, and have undergone a selection procedure as laid down under Article 5 or an equivalent selection procedure undertaken by another Community institution or Agency followed by an interview carried out under the provisions of Article 5(1)(c).

### **Article 5**

#### *Selection procedure*

The Agency may recruit contract staff CA3a by using, alternatively, one of the selection procedures indicated below:

1. **Selection procedure using the European Communities Personnel Selection Office (EPSO) database**
- (a) The Agency may recruit contract staff CA3a by using EPSO's database. Candidates validated in the above-mentioned database are the ones that have



successfully completed the selection procedure organized by EPSO according to Article 5(1)(g) of the Commission Decision of 7 April 2004 C(2004) 1313 on the procedures governing the engagement and the use of contract staff.

(b) The Selection Committee, set up by the agency, shall consist of no less than three members. Where the Selection Committee consists of three members, one member will be from the human resources unit, one member from the relevant recruiting department and one member designated by the Staff Committee. The member from the human resources unit or the member from the relevant department shall act as chairman. Where Selection Committees consist of four members, the fourth member shall be from another department of the Agency or external to the Agency.

(c) The Selection Committee shall invite for interviews the candidates that are considered to be the most suitable ones, on the basis of the job description, from among the list of applicants already validated by EPSO. Minutes of Committee meetings shall be drawn up setting out the reasons for any decision taken.

(d) Candidates shall be informed of the outcome of the interview.

## **2. Selection procedure carried out by the Agency**

(a) The Agency shall launch the recruitment procedure by advertising vacancy notices specifying the criteria concerning general and specific competencies and key qualifications required.

(b) The Selection Committee as mentioned in Article 5.1(b) of this decision shall evaluate applications and select those matching best the profile and qualifications required as per vacancy notice.

(c) The Agency shall organize written tests for the selected applicants on the basis of the job description as stated in the vacancy notice. The written tests shall be drafted 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 their duties,
- specific competencies with reference to their profiles.

The above-mentioned components can be combined. Specific practical skills such as typing, driving, and the like, will be tested through practical tests.

(d) The Selection Committee shall invite for interview the selected applicants as per point (c). The interviews can be held on the same day as the written tests take place. Any decision concerning the applicants shall be recorded in writing, setting out the reasons for any decision taken.

(e) The Selection Committee shall establish a list of successful candidates on the basis of the above mentioned selection procedure and the AHCC may

appoint successful candidate(s) to the post(s). This list will be valid up to 12 months from the date of the establishment of the list and may be extended by decision of the AHCC.

(f) Candidates shall be informed of the outcome of the interview and of whether they have been placed on the list of the successful candidates.

3. In accordance with Article 82(5) of the CEOS, EPSO shall, at the request of the Agency, provide assistance to the selection procedure as mentioned in paragraph 2, in particular by:

- advertising on its website vacancy notices of the Agency,
- giving the Agency access to use the list established by EPSO of candidates identified on the basis of the evaluation referred to in Article 5(1)(e) of the Commission Decision of 7 April 2004 C(2004) 1313 on the procedure governing the engagement and the use of contract staff, followed by the selection procedure indicated in 2 (c) and (d) above,
- providing and/or organising written tests for the Agency's selection procedure.

4. Where the interest of the service so requires and where no suitable candidates are available from the EPSO database, the human resource unit, at the request of the unit/department concerned, may grant an exemption from the procedure of paragraph 1. and 2. above for the recruitment of a member of the contract staff in function group IV. In this specific case, written tests are not mandatory.

5. Where there is no current list of successful candidates or in case of a negative result of the screening of candidates of an established list of successful candidates and should the engagement of a member of the contract staff for replacement purposes be required either very quickly or for a short-term replacement, the following procedure shall apply:

(a) The Agency shall launch the recruitment procedure by advertising vacancy notices on its website for at least two weeks and optionally by an additional publication in a local newspaper, by specifying the criteria concerning general and specific competencies and key qualifications required.

(b) The Selection Committee shall evaluate the applications and select those matching best the profile and qualifications required as per vacancy notice.

(c) The Selection Committee shall invite for interview the selected applicants on the basis of the job description as stated in the vacancy notice. The interview shall cover: an analysis of the language abilities and the personal and professional competences of each applicant. On the basis of the results of the interviews the Selection Committee will make its decision in writing by setting out the reasons for any decision taken. For function groups I and II, practical tests on general aptitudes/skills such as typing are to be organized.





(d) The Selection Committee shall consist of at least three members as follows: one from the human resources unit of the agency, one from the relevant unit/department, and/or from another service internal or external to the Agency, and one designated by the Staff Committee.

(e) Candidates shall be informed of the outcome of the interview.

(f) Contracts concluded following the procedure of this paragraph for a quick replacement shall not exceed six months. Contracts concluded for a short-term replacement are limited to a maximum duration linked to the maximum replacement duration caused by the single leave covered by Articles 42, 42a, 42b and Title IV “working conditions” of the Staff Regulations. Both types of contracts may only be renewed for another fixed term or for an indefinite duration if the AC3a has passed a selection procedure pursuant to paragraph 1., 2. or 3. of the present Article.

## **Article 6**

### *Duration of contracts*

1. AC3a may be engaged under their first contract for a fixed period of at least three months and not more than five years.
2. The renewal of a contract in function groups II, III and IV shall be for another fixed period of at least three months and not more than five years. A second renewal without interruption leading to an indefinite-duration contract may only be granted if the first two contracts covered a total period of at least five years.
3. The first three renewals of the contract in function group I shall be for fixed periods of at least three months and not more than five years, the fourth renewal, in accordance with Article 85(2) of the CEOS, shall be for an indefinite period. However,
  - where a total duration of ten years of service would be exceeded, already a previous renewal shall be for an indefinite period, in accordance with Article 85(2) of the CEOS;
  - a fourth renewal without interruption may only be granted if the first four contracts covered a total period of at least five years.
4. In order to be taken into consideration with a view to the award of an indefinite duration contract the contracts concerned must follow each other uninterruptedly. A gap of six months or more between two contracts shall be regarded as an interruption.
5. Where a contract as AC3a in function group I has been renewed three times without a further renewal being granted, any new engagement under such a contract shall be subject to the condition that the 12-year reference period laid



down in Article 2 of the Commission Decision of 28.4.2004 on the maximum duration for the recourse to non-permanent staff in the Commission services and the Annex thereto has expired.

**Article 7**  
*Grading of AC3a*

1. AC3a shall be engaged:
  - (a) in function group I: in grade 1;
  - (b) in function group II:
    - in grade 4 if the person has professional experience of up to seven years;
    - in grade 5 if the person has professional experience of more than seven years;
  - (c) in function group III:
    - in grade 8 if the person has professional experience of up to seven years;
    - in grade 9 if the person has professional experience of more than seven years;
    - in grade 10 if the person has professional experience of more than fifteen years;
  - (d) in function group IV:
    - in grade 13 if the person has professional experience of up to seven years;
    - in grade 14 if the person has professional experience of more than seven years;
    - in grade 16 if the person has professional experience of more than twenty years.
2. The AHCC may decide to grant the grade immediately above the one determined in paragraph 1 if the function to be filled corresponds to a competency profile where due to the labour market conditions this measure is necessary to ensure a sufficient number and quality of applications. These profiles shall be determined by decision of the AHCC and communicated to the units/departments.
3. In order to be taken into account professional experience must have been acquired in an activity corresponding at least to the level of qualification



required for the access to the function group and having a link with one of the institution's sectors of activity. It shall be taken into account from the date on which the person fulfils the minimum qualifications for engagement set out in Article 2 (including, where applicable, any professional experience required by that Article).

4. In the case of a doctorate/PhD the actual duration of the studies shall be taken into account, subject to an upper limit of three years. In the case of other qualifications the statutory duration of the studies shall be taken into account.
5. Military service and equivalent civilian service shall be regarded as professional experience.
6. For grading purposes, part-time work shall be taken into account in proportion to the stated percentage in relation to full-time work.

In the case of freelance translators the extent of the professional experience shall, subject to the period devoted to this activity, be calculated on the basis of the number of pages translated.

7. No period may be counted more than once.
8. Where AC3a are engaged in another entity without interruption as defined in Article 6(4) as contract staff under the same type of contract the following shall apply:
  - a. If hired to perform duties within the same function group the member of the contract staff shall retain the grade, step and seniority acquired in his or her grade and step;
  - b. If hired to perform duties in a higher function group the member of the contract staff shall be placed in the most favourable grade resulting from:
    - the application of the provisions under paragraphs 1 to 7 above, including the requirement that professional experience must have been acquired at least at the level of the function group concerned, and
    - the application of the rule laid down in Article 86(2) of the CEOS that the basic salary is to be maintained, choosing the grade that, taking into account the steps, constitutes the lowest grade possible.
  - c. If the person is hired to perform duties in a lower function group, paragraphs 1 to 7 above shall apply.





## **Transitional and final provisions**

### **Article 8**

#### *Possibility of engaging staff during the transition period*

The contracts concluded before date of entry into force of this decision may only be renewed if the member of staff has successfully completed one of the selection procedures pursuant to Article 5.

### **Article 9**

#### *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:



Piotr Woźniak

Chairman of the ACER Administrative Board