

DECISION OF THE ADMINISTRATIVE BOARD

of 20th November 2009

General implementing provisions on the procedure governing the engagement and the use of Temporary agents at EMSA

The Administrative Board of the European Maritime Safety Agency,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (CEOS), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 last amended by Council Regulation (EC, EURATOM) No 1558/2007 of 17 December 2007, and in particular to Articles 2 (a) and (b) and 12 (5) of the Conditions of Employment,

Having regard to the Council Regulation (EC) n° No 1406/2002¹ of 27 June 2002 establishing the European Maritime Safety Agency, and in particular article 6 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 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.

¹ OJ L 208, 5.8.2002, p.1, as amended by Regulation (EC) No 1644/2003 of the European Parliament and of the Council of 22 July 2003 (OJ L 245, 29.9.2003, p. 10) and Regulation (EC) No 724/2004 of the European Parliament and of the Council of 31 March 2004 (OJ L 129, 29.4.2004, p. 1).

- (3) The grading of temporary staff should correspond to the functions to be exercised.
- (4) The agency may only recruit temporary staff under Article 2a and 2b of the CEOS

ARTICLE 1 - SCOPE

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

- the posts corresponding to the functions stated in the Council Regulation (EC) n° No 1406/2002² of 27 June 2002 establishing the European Maritime Safety Agency.
- heads of unit 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 Agencies³ Temporary agents 2a 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.

Temporary agents 2b can be engaged to fill permanent tasks on permanent posts for a short-term employment.

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

The publication of a long-term employment post may be done simultaneously internally in the Agency and in the Interagency Job Market, before making an external publication of the

² OJ L 208, 5.8.2002, p.1, as amended by Regulation (EC) No 1644/2003 of the European Parliament and of the Council of 22 July 2003 (OJ L 245, 29.9.2003, p. 10) and Regulation (EC) No 724/2004 of the European Parliament and of the Council of 31 March 2004 (OJ L 129, 29.4.2004, p. 1).

³ Commission Decision C(2005)5304 of 16 December 2005

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.

ARTICLE 3 - SELECTION PROCEDURE FOR LONG-TERM EMPLOYMENT

EMSA may select temporary agents 2a 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 the agency a selection procedure, it shall follow the same standards as for general officials' competitions.⁴

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

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

(b). The Agency 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 of the agency, one (two) member(s) from the relevant unit/department and one person external to the recruiting unit/department. The Staff Committee will be informed on the selection procedure and may designate one person as observer. The member of the administration or the member from the relevant unit/department shall act as chairman.

In specific cases, in particular for selection procedures of experts, one or more additional members may be designated from another service of the Agency, from outside the agency or from outside the Community institutions.

The members of the Selection Committee who are officials or temporary agents shall be chosen from officials/temporary agents whose function group and grade is at least equal to that of the post to be filled.

(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.

⁴ The involvement of EPSO in the selection procedures shall be defined in a Service Level Agreement between EPSO and EMSA

(d) The Selection Committee shall propose a short list of successful candidates to the Contracting Authority, which may draw up a reserve list of successful candidates. This list will be valid up to 24 months from the date of the deadline for sending the applications and its validity may be extended by decision of the Contracting Authority.

(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 EMSA:

(a). EMSA may organise a selection procedure, in which it must apply similar standards to those applied in competitions for officials.

(b) EMSA 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 the language(s) corresponding to the language regime of the Agency on the Agency's Internet site, EPSO website, as well as if necessary in the international and local and specialist press. The channels of Permanent Representations of the Member States to the European Union and representatives of Member States who sit on the Management Board 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 their duties,
- knowledge on European integration, the institutions and the Agency;
- 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 Executive 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 EMSA, provide assistance to the Agency'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 for the same day as the written tests.

(f) Minutes of 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 Contracting Authority, which may draw up a reserve list of successful candidates. This list will be valid up to 24 months from the date of the deadline for sending the applications and its validity may be extended by decision of the Contracting Authority.

(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 agency network at a range of grades corresponding to the functions. The post shall be reserved to temporary agents 2a 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 2a 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.

The Agency 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 level.

ARTICLE 4 - SELECTION PROCEDURE CARRIED OUT BY EMSA FOR SHORT-TERM EMPLOYMENT TEMPORARY AGENTS 2A AND 2B

The selection procedure carried out by the Agency to select temporary agents 2a [and 2b] 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 the Agency, 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 ensuring 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, EMSA may engage temporary agents at grade 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 the Agency for each type of posts, long-term and short-term employment, as defined in the current Staff Policy Plan approved by the Management 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 decision of the Administrative Board of EMSA concerning the criteria applicable to classification in grade and step on appointment or engagement of 26 November 2006 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 years
AST 3	3 years
AST 4	6 years

ARTICLE 6 - DURATION OF CONTRACTS

1. Temporary agents 2a may be engaged under their first contract for a fixed period. The contract may be renewed not more than once 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 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 on long term employment who have been successful in an equivalent selection procedure pursuant to Article 4.

3. Contracts for temporary agents 2a on short-term employment can only be extended once up to 10 years maximum. The duration of the contract shall correspond to the duration of the task.

By derogation, a second extension could be awarded to a temporary agent 2a on short-term employment, subject to the following two conditions:

- the tasks for which the temporary agent was engaged are not completed yet, but should be completed in the near future;
- the management gives its agreement to awarding the indefinite contract by unanimous decision.

Once it becomes apparent that the tasks will be completed at a certain date in the future, the contract shall be terminated, preferentially at the time the tasks are finished, taking into account the period of notice of the contract.

4. Temporary agents 2b shall not be engaged for more than four years. Their contract can be renewed not more than once for a maximum period of two years if the possibility of renewal has been provided for in the initial contract and within the limits provided for in that contract.

ARTICLE 7 (PROBATIONARY PERIOD)

Where a member of temporary staff on short-term employment or long-term employment is engaged on a contract of duration of twelve months or more, he/she shall serve a probationary period according to Article 14 (1) of the CEOS. The report of the probationary period shall be made in accordance with the procedure in Article 14 of the CEOS.

ARTICLE 8 (ENTRY INTO FORCE):

These rules shall take effect on the day following that of its adoption.

Done at Lisbon, 20.11.2009

For the Agency:



Jørgen Hämmer Hansen

Chairman of the Administrative Board

