



EUROPEAN
COMMISSION

Brussels, XXX
[...] (2023) XXX draft

COMMISSION DECISION

of XXX

laying down general implementing provisions for the engagement and use of temporary staff under the terms of Article 2, points (a), (b) and (d) of the Conditions of Employment of Other Servants, and amending Decision C(2013)9049

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials ('Staff Regulations') and in particular Article 110(1) thereof and the Conditions of Employment of Other Servants of the European Union ('CEOS') and Article 12(5) thereof, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹,

After consulting the Staff Committee,

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Whereas:

- (1) Officials are expected to occupy most posts in the establishment plan. Temporary staff referred to in Article 2, points (b) and (d), of the CEOS are engaged to fill permanent posts in the establishment plan where a suitable official cannot be found to fill a post until the publication of the reserve lists of competition laureates.
- (2) The establishment plan also includes temporary posts, which are filled by temporary staff referred to in Article 2, point (a), of the CEOS. They are engaged, including for managerial functions, on account of their specialised competence and expertise, in the context of targeted missions limited in time.
- (3) The provisions governing the conditions of employment of temporary staff were updated by Commission Decision C(2013) 9049 final², following the revision of the Staff Regulations and the CEOS which entered into force on 1 January 2014. The provisions of this Decision applicable to temporary staff engaged under Article 2, points (a), (b) and (d), of the CEOS should be revised in order to adapt them to the evolving needs of the services and to simplify and harmonise them.
- (4) In accordance with Article 27 of the Staff Regulations, temporary agents should be recruited on the broadest possible geographical basis from among nationals of the Member States to provide for a geographical balance in this category of staff of the European Commission ('Commission'). Accordingly, when the Commission observes that the composition of staff does not reflect such geographical balance, it may adopt appropriate measures with respect to the selection of temporary agents with the aim to improve such balance.
- (5) When filling a temporary post, or following an unsuccessful internal and interinstitutional selection when filling a permanent post, a vacancy notice should be

¹ OJ L 56, 4.3.1968, p. 1.

² Commission Decision C(2013) 9049 final of 16 December 2013 on policies for the engagement and use of temporary agents.

brought to the attention of the general public. In some cases, notably where the profile sought is highly specialised, the needs of the services may occasionally require that a permanent vacant post be brought to the attention of the general public simultaneously with the internal and interinstitutional publication, which would allow gaining time in identifying the most qualified candidates. In exceptional cases where the urgency of the selection is duly justified in the interests of the service or due to the specific nature of the profile sought, DG HR may authorise that the selection of candidates is made exclusively by making use of available databases of spontaneous applications.

- (6) For transparency purposes, the information provided to potential candidates in a vacancy notice open to temporary agents should in particular indicate the contract duration and the grading system applied to the post, which should be based on the requirements of the post and the qualifications and the years of professional experience required of candidates.
- (7) Minimal common rules should apply to the selection procedure for temporary agents on non-managerial positions, leaving room for selection criteria adapted to the posts offered and to the needs of the services.
- (8) To allow for more flexibility to meet the needs of the services as effectively as possible, a grading system based on the number of years of professional experience should be introduced.
- (9) In order to increase the attractiveness of the Commission as an employer, and to take into account difficulties of recruitment for certain profiles, it should also, by way of exception and in duly justified cases, be possible to recruit specialised profiles at higher grades than those foreseen in this grading system.
- (10) Rules regarding the durations of the initial contract and renewal should be harmonised for all temporary staff under Article 2, points (a), (b) and (d), of the CEOS in order to provide more stability and predictability for both the members of the temporary staff concerned and the services. At the request of the recruiting service, derogations may be granted to these durations for temporary staff under Article 2, point (a), of the CEOS, taking into account, in particular, the expected duration of the task for which the temporary agent was engaged.
- (11) Temporary agents should be engaged for managerial positions or advisory functions only in exceptional circumstances where the services seek highly specialised profiles or, as regards permanent posts, where no suitable internal or interinstitutional candidates have been identified.
- (12) Due to their specificities, a separate set of rules should continue to apply to the engagement and use of temporary staff under Article 2, point (c), of the CEOS. Decision C(2013) 9049 final will therefore, from now on, apply to this category of temporary staff only.
- (13) Decision C(2013) 9049 should, therefore, be amended accordingly,

HAS DECIDED AS FOLLOWS:

Chapter I

General provisions

Article 1

Subject matter and scope

1. These general implementing provisions shall apply to the temporary staff referred to in Article 2, points (a), (b) and (d), of the CEOS ('temporary agents') who are engaged by the Commission in:
 - (a) its departments and services, including in administrative offices, representations and European Union delegations;
 - (b) the European Personnel Selection Office ('EPSO');
 - (c) the Publications Office of the European Union ('OP').For the purposes of these general implementing provisions, EPSO and the OP shall be treated as Commission departments.
2. These general implementing provisions shall not apply to the engagement and use of temporary staff by the European Anti-Fraud Office, which shall be governed by a separate decision.

Article 2

Conditions of engagement

Temporary agents shall be engaged by the Commission for a fixed period, in accordance with Article 5(1), to address temporary or specific needs.

Article 3

Minimum conditions and qualifications for engagement

1. Engagement as a temporary agent shall be conditional upon fulfilling the minimum conditions and qualifications laid down in Article 5(3) of the Staff Regulations, which applies to temporary agents by analogy, pursuant to Article 10(1) of the CEOS, and in Article 12(2) of the CEOS.
2. For the purposes of determining whether the conditions and qualifications laid down in Article 5(3) of the Staff Regulations are met, only diplomas with full legal effects awarded in the Member States and diplomas that are the subject of certificates of equivalence issued by the competent authorities of those Member States shall be taken into consideration.

Article 4

Classification in step

Temporary agents shall be classified at the moment of their engagement in the first or second step of their grade in accordance with the rules laid down in Commission Decision C(2013)

Article 5
Duration of contract

1. Without prejudice to paragraph 2, the initial contract for temporary agents shall not exceed four years, with the possibility to be renewed once for a period of up to two years.
2. The Authority authorised to conclude Contracts of Employment ('AACE') may, for temporary agents engaged under Article 2, point (a), of the CEOS, and at the request of the recruiting service, grant derogations to the maximum durations set out in paragraph 1, in line with Article 8 of the CEOS, taking into account, in particular, the expected duration of the task for which the temporary agent was engaged. The AACE shall grant such derogations on a case-by-case basis upon recruitment of such temporary agent and at the time of renewal of his or her contract, where applicable.
3. Paragraphs 1 and 2 shall apply without prejudice to the provisions on the maximum duration for the recourse to non-permanent staff in the Commission services laid down in Commission Decision C(2004) 1597/6⁴.
4. The initial duration of the contract shall be specified in the vacancy notice for the open post, published in accordance with Article 8.

Article 6
Change in assignment and succession of contracts

1. A temporary agent may be reassigned to another temporary agent post within the Commission, within the same category of temporary staff and within the same function group, including at a higher grade, subject to an amendment to the contract, and where this reassignment does not involve a substantial change in the nature of the duties performed. The duration of the contract shall not be affected. Where these conditions are not met, any reassignment from a temporary agent post to another one shall require the conclusion of a new contract, within the time limits set out in Article 5 and subject to the conditions set out in paragraphs 2 and 3.
2. Without prejudice to paragraph 3, after the contract comes to an end, including after its renewal, a temporary agent may not benefit from a new contract as a temporary agent.

³ Commission Decision C(2013) 8970 final of 16 December 2013 laying down general implementing provisions concerning the criteria applicable to classification in step on appointment or engagement.

⁴ Commission Decision C(2004) 1597/6 of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services, as last amended by Commission Decision C(2019) 2548 final of 5.4.2019.

3. By way of derogation from paragraph 2 and without prejudice to the provisions on the maximum duration for the recourse to non-permanent staff in the Commission services laid down in Commission Decision C(2004) 1597/6⁵, the AACE may, in exceptional cases duly justified in the interests of the service, conclude a new contract in the following cases:
 - (a) for the engagement as a temporary agent under Article 2, point (b) or point (d), of the CEOS of a member of temporary staff who was previously engaged under Article 2, point (a), of the CEOS;
 - (b) for the engagement as a temporary agent under Article 2, point (a), of the CEOS of a member of temporary staff who was previously engaged under Article 2, point (b) or point (d), of the CEOS.

Article 7

Notice of end of contract

1. Except in the cases referred to in Articles 48 and 49 of the CEOS, and without prejudice to paragraphs 2 and 4, notice shall be given by the AACE in the event of termination of a contract, the duration of which is determined in accordance with Article 47 of the CEOS.
2. Fixed-term contracts shall end on the date stipulated in the contract without any prior notice.
3. A temporary agent wishing to resign shall state unequivocally in writing his or her intention to terminate his or her contract definitively. The AACE shall in principle give its decision confirming the definitive resignation within one month of receiving the letter of resignation. The AACE may, however, refuse to accept the resignation if disciplinary proceedings against the temporary agent are in progress at the date of receipt of the letter of resignation or if such proceedings are started within the following thirty days.
4. In the event of resignation, where an agreement is reached between the temporary agent and the AACE, the period of notice may be shorter than that provided for in paragraph 1.

Chapter II

Temporary agents engaged in non-management functions

Article 8

Information on vacant posts; vacancy notice

1. Temporary agents under Article 2, point (b) or (d), of the CEOS may be recruited for vacant posts after an unsuccessful internal and interinstitutional publication of a vacancy notice. The vacant posts concerned shall be brought to the attention of the general public by means of a new vacancy notice.

⁵ Commission Decision C(2004) 1597/6 of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services, as last amended by Commission Decision C(2019) 2548 final of 5.4.2019.

The prior internal and interinstitutional publication of a vacancy notice shall not be required for vacant posts for temporary agents recruited under Article 2, point (a), of the CEOS. The vacant posts concerned shall be brought to the attention of the general public by means of a vacancy notice.

2. A vacancy notice for the engagement of a temporary agent shall be drafted by the recruiting service and approved by DG HR, and shall provide the following information:
 - (a) the duration of the contract;
 - (b) the grading grid applicable to the post, determined pursuant to Article 11(3) and (4);
 - (c) the rules applicable to the selection procedure, including the appropriate tests pursuant to Article 9(3);
 - (d) the requirements in terms of qualifications or equivalent professional training, professional experience and linguistic knowledge.
3. By way of derogation from paragraph 1, first subparagraph, DG HR may authorise, at the request of the recruiting service, to bring a vacant post to the attention of the general public at the same time as publishing it internally and interinstitutionally, notably where the profile sought is highly specialised. In such cases, a temporary agent may be recruited only if (i) no official or laureate of a competition suitable for the vacant post has applied or (ii) an official or laureate of a competition has applied, but has not been selected for the vacant post since his or her profile did not fit best the requirements of the post.
4. By way of derogation from paragraph 1, in exceptional cases, where justified in the interests of the service, in particular by the urgency of the recruitment needed or the specific nature of the profile, DG HR may authorise, at the request of the recruiting service, that the vacancy notice is not brought to the attention of the general public.

Article 9 *Selection procedure*

1. Temporary agents shall be engaged only upon passing the selection procedure set out in this article 9.
2. The recruiting service shall organise a selection panel consisting of at least three members, including one member from the recruiting unit (or its equivalent) and another member from another directorate (or its equivalent) .
3. The selection panel shall:
 - (i) preselect the candidates who best fit the requirements of the post concerned;
 - (ii) draw up, from among the preselected candidates, a list of successful candidates from which temporary agents may be engaged.

The selection panel shall determine how it will evaluate the competencies and knowledge of languages of the candidates, considering the specialisation of the post and the tasks to be performed. That evaluation may be conducted by means of a test or tests, including in a written form, and an interview.

Article 10
Function group upon engagement

The AACE shall determine the function group in which the temporary agent shall be engaged in accordance with Article 5(1) and (4) of the Staff Regulations, which applies by analogy to temporary staff pursuant to Article 10(1) of the CEOS.

Article 11
Classification in grade

1. Within the limits laid down in the establishment plan, the AACE shall classify a temporary agent in accordance with the rules set out in paragraphs 2 to 4.
2. For the purposes of their classification in grade, the qualifications and professional experience of the persons to be engaged as temporary agents shall be taken into account as follows:
 - (a) the qualifications and professional experience acquired between the date on which the persons in question met the minimum requirements for recruitment, as set out in Article 5(3) of the Staff Regulations, which applies by analogy to temporary staff pursuant to Article 10(1) of the CEOS, and the entry into service;
 - (b) where Article 5(3), point (a)(iii), point (b)(ii), or point (c)(iii), of the Staff Regulations applies by analogy to temporary staff pursuant to Article 10(1) of the CEOS, the AACE shall establish a reference date from which the professional training or professional experience shall be taken into account.
3. The grade upon recruitment for temporary agents shall be determined in accordance with the grading grid indicated in the vacancy notice and shall be based on the number of years of professional experience set out as follows:

Grade	Professional experience
AD5/AST1	Less than 6 years
AD6/AST2	Between 6 and 12 years
AD7/AST3	More than 12 years
AST/SC1	Less than 10 years
AST/SC2	More than 10 years

4. By way of derogation from paragraph 3, in exceptional cases, at the request of the recruiting service, the AACE may agree that the vacancy notice provide for classification upon recruitment in higher grades, in accordance with the following grading grid:

Grade	Professional experience
AD8/AST4	More than 14 years
AD9	More than 16 years

AD10	More than 18 years
AD11	More than 20 years

The recruiting service shall justify its request to the AACE, having regard to the needs of the service, based in particular on the highly specialised profile sought, the level of responsibility to be exercised or the labour market conditions for the profile in question.

In addition, when determining the grade at the time of recruitment, the AACE may decide, having regard to the elements referred to in the preceding paragraph, to require fewer years of professional experience than those set out in paragraph 3 and paragraph 4 for grading the temporary agent selected. This may apply to grades AST3, AST4 and AD7 to AD11 only.

Chapter III

Temporary agents engaged in managerial positions or advisory functions

Article 12 *General provisions*

The engagement of temporary agents to take up managerial positions or advisory functions shall be solely made in exceptional circumstances where the services seek highly specialised profiles or, as regards permanent posts, where no suitable internal or interinstitutional candidates have been identified. Article 8(1) to (3) shall apply *mutatis mutandis*.

Advisory functions include the functions of Adviser, Principal Adviser, *Hors Classe* Adviser and other equivalent functions.

Article 13 *Engagement in managerial positions or advisory functions*

1. The decision to open a managerial position or advisory function to temporary agents shall be taken:
 - (a) for posts of Head of Unit (or equivalent) or Adviser, by the Director-General of DG HR, on the basis of a reasoned request from the department in which the temporary agent will perform his or her duties;
 - (b) for senior management posts, by the Commission, on the basis of a proposal from the Member of the Commission responsible for Human Resources, in agreement with the President and after consulting the Member of the Commission responsible for the department in which the temporary agent will perform his or her duties.
2. The selection procedure for Head of Unit or equivalent functions shall be carried out in accordance with the provisions of Decision C(2016) 3288 final on middle management staff and the eligibility criteria for such functions shall be set out in the vacancy notice.
3. The selection procedure for Adviser functions shall be carried out in accordance with the provisions of Decision C(2016) 3214 final concerning the function of adviser and the eligibility criteria for such functions shall be set out in the vacancy notice.

4. The selection procedure for senior management functions shall be carried out in accordance with the provisions of the Compilation Document on Senior Officials Policy (SEC(2004) 1352/2) and the eligibility criteria for such functions shall be set out in the vacancy notice.
5. The conditions of engagement are as follows:
 - (a) to perform the duties of Head of Unit or equivalent, in grade AD9 to AD14, the candidate shall be engaged at grade AD9;
 - (b) to perform the duties of Head of Unit or equivalent, in grade AD13 to AD14, the candidate shall be engaged at grade AD13;
 - (c) to perform the duties of Adviser in grade AD13 to AD14, the candidate shall be engaged at grade AD13;
 - (d) to perform the duties of Director or equivalent, or Director-General or equivalent, the candidate shall be engaged at grade AD14 or AD15, respectively.

Chapter IV

Final and transitional provisions

Article 14 *Amendments to Decision C(2013) 9049 final*

Decision C(2013) 9049 final is amended as follows:

- (1) Articles 2, 3, 5, 6 and 7 are repealed;
- (2) Article 4(6) is repealed.

Article 15 *Transitional provisions*

1. These general implementing provisions shall enter into force on the day following their adoption.
2. These general implementing provisions shall apply without prejudice to Commission decision C(2022) 9068 of 13 December 2022 on establishing the Junior Professionals Programme.
3. These general implementing provisions shall apply to contracts concluded after their entry into force. However, Article 5(1) of these general implementing provisions applies to the renewal of contracts initially concluded in accordance with Decision C(2013) 9049 final.
4. Candidates who are on reserve lists drawn up after selection procedures in accordance with Decision C(2013) 9049 final, which are still valid, may be recruited as temporary agents without the need to undergo the selection procedure set out in Article 9.

[...]

Done at Brussels,

For the Commission

The President

Executive Vice-President

Vice-President

Member of the Commission