

## EB DECISION



<b>DECISION No:</b>	<b>2010/01</b>
<b>SUBJECT:</b>	<b>Decision on outside activities and assignments</b>
<b>PERSON RESPONSIBLE:</b>	<b>Director</b>
<b>STATUS:</b>	<b>FINAL VERSION</b>

THE EXECUTIVE BOARD OF THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS,

Having regard to the Council Regulation (EC) n° 168/2007 of 15 February 2007 establishing the European Union Agency for Fundamental Rights (hereafter “the Agency”) and in particular Articles 15 and 24 thereof,

Having regard to the Staff Regulations of Officials of the European Communities, and in particular Article 1c, the second paragraph of Article 11, Article 11a, Article 12, Article 12b, the second paragraph of Article 15, Article 16, Article 17, Article 17a, Article 19, the first paragraph of Article 55 and article 13 and 40 of Annex VIII thereof, and to the Conditions of Employment of Other Servants of the Communities, and in particular Articles 11, 16, 54, 57, 81 and 91 thereof;

After consultation of the Staff Committee and the agreement of the European Commission pursuant to Article 110 of the Staff Regulations,

Whereas in the interest of transparency the provisions governing permission to engage in an outside activity and assignment should be incorporated in a single measure indicating in detail which factors have to be taken into account when taking a decision on such permission;

Whereas the Agency, in the context of the reform process, has decided to encourage external mobility to enable temporary and contract staff to acquire new skills and knowledge which are of benefit both to the staff themselves and to the Agency;

Whereas the present rules are intended to prevent conflicts of interest from arising, without imposing unreasonable restrictions on temporary and contract staff’s outside activities,

HAS DECIDED AS FOLLOWS:

### *Article 1 - Definition*

For the purposes of the present decision

1. “Public office” means any public office, paid or unpaid, that is filled following an election or otherwise;

2. "Assignment" means the taking-on of a defined, time-limited task;
3. "Outside activity" means any other activity, paid or unpaid, that is of an occupational character or goes otherwise beyond what can be reasonably considered a leisure activity.

#### ***Article 2 - Assignments and outside activities***

Temporary staff in active employment wishing to engage in an assignment or outside activity within the meaning of Article 1 of this Decision must request permission from the appointing authority pursuant to Article 12b of the Staff Regulations. Applications, accompanied by the necessary supporting documents, must be submitted through their Head of Unit, where possible, 2 months before the beginning of the activity or assignment. The appointing authority shall respond to this request within 1 month of receipt of the application.

#### ***Article 3 - Exercise of a public office***

1. Temporary staff that are elected or appointed to public office and who continue working are subject to the obligations that normally apply to temporary staff. By way of exception, any payment made to temporary staff in that connection shall not count towards the ceiling for net remuneration set out in Article 9 of this Decision.
2. Temporary staff who are elected or appointed to public office and who take unpaid leave in order to fill it shall require prior authorisation for assignments or outside activities that are not related to the performance of the duties that it entails. This provision shall not apply where an elective office is covered by legal immunity.

#### ***Article 4 - Activities carried out in the framework of a mission***

Temporary staff may not accept any remuneration that is offered in exchange for any work done - and in particular participation in a conference or a presentation - in the course of a mission ordered by the appointing authority. Temporary staff should however ask for the costs of the mission to be reimbursed by the body to which he/she renders such services. Any such reimbursement shall be declared to the appointing authority and deducted from the temporary staff member's mission costs.

#### ***Article 5 - Voluntary work***

Without prejudice to Article 8, permission shall in principle be granted for work not giving rise to remuneration or the like, whether charitable or not, provided that it is not so onerous as to be likely to impair the temporary staff's ability to work for the Agency, and in particular his/her obligations under Article 55 first indent of the Staff Regulations.

#### ***Article 6 - Educational activities***

Subject to Article 5 and 8 of this decision, teaching and other educational activities, whether gainful or not, shall in principle be authorised for one year provided that their duration does not exceed 100 hours per academic year.

In exceptional circumstances, where the activity is clearly in the interest of the Agency, the educational activities may be extended to academic activities, including research. In those cases no decision may be taken without prior consultation of the Agency's Appointing Authority.

#### ***Article 7 - Professional activities***

Without prejudice to Articles 5, 6 and 8 of this Decision, permission shall not be granted for assignments or outside activities which are pursued in a professional or similar capacity (e.g. architect, lawyer, economist, accountant, computer expert, engineer, interpreter, doctor, translator, consultant etc.).

By way of derogation assignments or outside activities may be granted in very limited and special cases. The temporary agent must be obliged to practice in the field of his/her profession in order to keep his/her entitlement.

The derogation might only be granted if the following requirements are complied:

- The temporary agent has a contract of definite duration;
- There is no interference with the performance of the temporary staff's duties;
- There is no incompatibility with the interest of the Agency;
- Only for the time that is necessary to keep the entitlement of the professional capacity.

#### ***Article 8 - Commercial activities***

Permission shall not be granted for assignments or activities for firms and companies, whose objects are commercial, even if the temporary staff's relationship with the company or firm in question entails no remuneration or purely nominal remuneration.

#### ***Article 9 - Maximum net remuneration***

The maximum annual ceiling for net remuneration, including any fees received, which a temporary staff member may receive in connection with all his assignments or outside activities combined, shall be € 4500. The reimbursement of costs (e.g. transportation etc.) shall not be taken into account for this purpose. The temporary agent shall hand over to the appointing authority amounts exceeding the sum of € 4500.

Royalties received for publications shall be excluded from the calculation of net remuneration.

#### ***Article 10 - Prizes and awards***

Members of temporary staff given a prize or award for an assignment or outside activity are required to apply to the appointing authority for permission to accept it. Such permission shall be granted or withheld by the appointing authority depending on the circumstances of each case, regardless of the value of the prize or award. Permission shall only be refused if the acceptance of the prize or award is incompatible with the interests of the Agency or could impair the independence of the temporary staff member.

### ***Article 11 - Special leave***

Where unpaid activities are of benefit to the Agency, the appointing authority may grant special leave amounting to half the number of working days involved, up to a maximum of twelve days per year.

### ***Article 12 - Period of validity***

Permission granted pursuant to Article 12b of the Staff Regulations shall be valid for the period set out in the authorisation but in principle not more than one year. A new application must be submitted for any prolongation or renewal at least two months before expiration of the period.

### ***Article 13 - Temporary staff working part time***

1. Temporary staff who have been authorised to work part time may take on unpaid outside assignments and activities if such outside assignments and activities are not incompatible with the reasons for which part-time work has been authorised.
2. Temporary staff elected or appointed to public office who have been authorised to work part time may take on paid outside assignments and activities directly related to the reasons for which part-time work has been authorised.

### ***Article 14 - Permission for outside activities or assignments for temporary staff on unpaid leave (Article 12b of the Staff Regulations)***

1. Temporary staff on unpaid leave must seek permission pursuant to Article 12b of the Staff Regulations to undertake an assignment or an outside activity at any time during the period of leave in accordance with the present decision.
2. Such permission shall in principle be granted except where the assignment or the activity could give rise to a conflict of interest or be detrimental to the interest of the Agency. A conflict of interest shall be deemed to exist i) where the assignment or the activity would reflect on the temporary staff 's status as a temporary agent and would be detrimental to the loyalty he/she owes to the Agency but also ii) where it would be incompatible with his/her duty to conduct himself/herself in a manner that is beyond suspicion in order that his/her relationship of trust with the Agency may at all times be maintained.
3. A temporary staff member requesting permission pursuant to Article 12b of the Staff Regulations in order to take up an assignment or outside activity shall in particular provide to the appointing authority:
  - a description of the activity during his/her last three years of active service in the Agency;
  - a description of the activity that the temporary staff member wishes to take up including information on the position the temporary agent is to occupy and the expected duration of the activity;

- the name, address and telephone number of the potential employer;
- the employer's fields of activity;
- the links with the temporary agent's functions exercised in the Agency, if any;
- any other information that could reasonably be considered relevant by the appointing authority in deciding on the request.

To this end the temporary staff member will fill in an application form provided by the Administration. Applications, accompanied by the necessary supporting documents, must be submitted through his/her Head of Unit, at least two months before the beginning of the activity or assignment. Authorisation shall only be refused if the work referred to above is incompatible with the interests of the Agency or could impair the independence of the temporary staff.

4. In addition, the temporary staff member shall sign a declaration confirming that he/she has full knowledge of his/her obligations in the sense of the present decision.
5. The appointing authority shall make permission to undertake an activity whilst on unpaid leave conditional upon the temporary staff's consent to the Agency making his/her name, position in the undertaking, and the name of the undertaking for which he/she intends to work, publicly available. To this end the temporary staff will sign a declaration provided by the appointing authority.
6. Any permission granted pursuant to an application under paragraph 3 of this article shall be limited to employment with the named employer, and any person with whom the employer merges or transfers the undertaking by which the temporary staff is employed.
7. Temporary staff on unpaid leave who wishes to transfer to a different employer shall seek a revised authorisation pursuant to Article 12b of the Staff Regulations. Obligations of the present decision shall apply.
8. A temporary staff member shall inform the appointing authority without delay where any other change in one or more of the circumstances set out in paragraph 3 of this article arises after permission pursuant to Article 12b, second paragraph, of the Staff Regulations has been granted. The appointing authority shall examine whether to modify the conditions of or to withdraw its permission in the light of such a change. Such withdrawal shall take effect after the temporary staff member has had a reasonable time to take the necessary measures.

### **SPECIFIC PROVISIONS**

#### ***Article 15 - Work dealing with active service in the Agency***

1. If the temporary staff intends to undertake work that requires him/her to deal directly or indirectly with subjects that fall within a policy area in which he/she was or has been working during the three years of active service immediately preceding the probable or actual date of commencement of his/her unpaid leave, he/she shall provide full details

thereof to the appointing authority. Such work may not be undertaken unless and until he/she has received the written authorisation of the appointing authority.

2. The temporary staff may not deal with individual cases that he/she had worked on in the course of the three years of active service in the Agency immediately preceding the probable or actual date of commencement of unpaid leave. When temporary staff members have worked on individual cases prior to the said period of three years, they are not thereby automatically authorised to deal with those individual cases.
3. The temporary staff may not participate in meetings or have contacts of a professional nature with her former service for a period of:
  - 1 year where the temporary staff occupied a management function,
  - 6 months in all other cases.
4. The appointing authority may make any authorisation it grants subject to such conditions as it reasonably sees fit, in the light of the particular characteristics of a policy area or of the circumstances of the case. The appointing authority may in particular increase the restrictions laid down in paragraph 3.

#### ***Article 16 - Contracts with the Agency***

1. No temporary staff on unpaid leave may be given an assignment of any kind that carries remuneration other than a daily allowance and / or a reimbursement of expenses unless an exemption has been granted under paragraphs 2 to 4 of this article.

For the purposes of this Article, « assignment » includes in particular:

- a. any direct contractual relationship between the Agency and a temporary agent on unpaid leave as an individual; and
  - b. any contractual relationship between the Agency and an undertaking in which a temporary staff member on unpaid leave has directly or indirectly a significant financial interest.
2. In cases other than the those referred to in paragraph 1 of this Article, where the temporary agent on unpaid leave is asked by a third party to work on the performance of contracts with or for the Agency, whether directly or by way of sub-contracting, and where she intends to give a positive answer, she shall immediately inform the appointing authority about this request and give all the necessary information allowing the appointing authority to assess the request and take a decision.

#### ***Article 17 - Members of temporary staff having left the service of the Agency***

1. A temporary staff member leaving the service of the Agency shall sign a declaration following a form provided by the Appointing Authority so as to acknowledge that he/she is

aware of his/her continuing obligations to the Agency, in particular under Articles 16, 17, 17a and 19 of the Staff Regulations.

2. For a period of 2 years after leaving the Agency, a former temporary staff member wishing to take up an assignment or outside activity shall inform the Appointing Authority. The former temporary staff member shall in particular provide:
  - a description of his/her activity during his last three years of active service at the Agency;
  - a description of the activity that he/she wishes to take up including information on the position he is to occupy and the expected duration of the activity;
  - the name, address and telephone number of the potential employer;
  - the employer's fields of activity;
  - the links with his/her former functions in the Agency, if any.

To this end the former temporary staff member will fill in and file with the Agency the application form provided by the Administration.

3. Any permission granted pursuant to the application form under paragraph 2 of this Article shall be limited to employment with the named employer, and any person with whom the employer merges or transfers the undertaking by which the temporary staff is employed.
4. A former temporary staff member shall inform the appointing authority without delay where any other change in one or more of the circumstances set out in paragraph 2 of this Article arises after permission has been granted. The appointing authority shall examine whether to modify the conditions of or, in exceptional circumstances, to withdraw its permission in the light of such a change.

***Article 18 - Former temporary staff members receiving a retirement pension or on non-active status or retired in the interests of the service***

1. Former temporary staff members in receipt of a retirement pension may be requested by the Agency to undertake assignments or carry out activities provided that such assignments or activities are unpaid and do not give rise to remuneration of any kind. However costs reasonably incurred in connection with such assignments or activities may be reimbursed. The above restriction shall not apply to assignments and activities which, although not directly paid by the Agency, give rise to payments that are financed from Community funds.
2. The Appointing Authority may authorise a former temporary staff member who is receiving a retirement pension to provide services to the Agency.
  - a. such permission will only be given when it is in the general interests of the Agency and to fulfill a specific need demanding a knowledge that is difficult to find other than with the temporary staff in question;

- b. the former temporary staff can receive ad hoc payments for his/her services, which when cumulated with his/her retirement pension or allowance for the then current year, do not exceed his last total annual remuneration whilst in activity; the reimbursement of costs shall not be taken into account for this purpose. The annual remuneration is established on the basis of the salary table in force on the first day of the month for which the pension is paid;
  - c. a temporary staff member may render services described in this paragraph until a date of 3 years after his/her day of retirement.
3. The provisions of this Article shall apply by analogy to temporary staff on non-active status or who have been retired in the interest of the service.

***Article 19 - Former temporary staff members receiving an invalidity allowance or invalidity pension***

1. Former temporary staff receiving an invalidity allowance or invalidity pension may not be given an assignment of any kind, paid or unpaid, by the Agency.
2. In addition, the temporary staff member shall sign a declaration confirming that he/she has full knowledge of his obligations in the sense of the present decision.
3. When deciding whether to grant the permission to undertake an activity or assignment on the basis of Article 13 of annex VIII paragraph 2 of the Staff Regulation, the Appointing Authority must consider whether such an assignment or activity is consistent with the original reasons for granting an invalidity allowance or pension.

***Article 20 - Contract staff***

1. The present decision shall apply by analogy to members of the contract staff.

Only those contract staff who have had access to sensitive information shall be subject to the obligations laid down in Article 17 (2). Contract staff shall be informed by their service whether Article 17 (2) is applicable on leaving the service.

2. Former temporary and contract staff in receipt of an unemployment allowance may not be given an assignment of any kind, paid or unpaid, by the Agency for as long as the allowance is paid.

***Article 21- Final provision***

The present Decision shall enter into force on 22/09/2010.

Done at Vienna,

*22 September 2010*



Ilze Brands Kehris  
Chairperson of the Executive Board