

EB DECISION



DECISION No:	2012/03
SUBJECT:	Decision laying down rules as regards temporary occupation of management posts
PERSON RESPONSIBLE:	Director
STATUS:	Final version

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 (FRA), and in particular Article 24 thereof,

HAVING REGARD to the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities as laid down by Council Regulation (EEC, EURATOM, ECSC) n° 259/68, last amended by Council Regulation (EC, EURATOM) n° 2104/2005 of 20 December 2005, and in particular Article 7(2) of the Staff Regulations and Article 10 of the Conditions of employment,

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

Whereas:

- (1) The Staff Regulations provide for two function groups, i.e. assistants (hereinafter “AST”) and administrators (hereinafter “AD”).
- (2) The position of the Director may be held in grade AD 14 and the position of Head of Department in grades AD 9 to AD 12.
- (3) Rules should be laid down for application of the arrangements for temporary postings, which stipulate that the Appointing Authority may call upon temporary agents to occupy a post in their function group in a grade which is higher than their own grade, such temporary posting being limited to one year except where it is to replace a temporary agent called up for military service or absent on protracted sick,
- (4) Article 7(2) should apply only where the temporary agent is called upon to assume temporarily duties which entail responsibilities substantially greater than those involved in his/her own post. Only the difference in the level of responsibilities between non-management and management (not advisory) posts and between management posts of different levels can be considered as substantial for the purpose of applying Article 7(2) of the Staff Regulations.

- (5) The rationale of Article 7(2) is to grant to the temporary agent who takes up duties which entail responsibilities substantially greater than those involved in his/her own post for a substantial period a remuneration which corresponds to those greater responsibilities¹.
- (6) Deputising arrangements are to be distinguished from temporary postings and are not covered by this Decision.

HAS DECIDED AS FOLLOWS:

Article 1: Posts to which temporary postings may be made

The middle and senior management posts which it may be decided to occupy on a temporary basis shall be:

- Post of Director – 1st hierarchical position in the agency in grade AD 14;
- Posts of Head of Department – 2nd hierarchical position in the agency in grades AD 9 to AD 12.

Article 2: Temporary postings

Temporary postings may be made in the following situations:

- (a) where a new or vacant management post as defined in Article 1 cannot be filled in the short term;
- (b) to replace a temporary agent called up for military service or absent on protracted sick leave or for other reasons preventing him/her from exercising his/her functions.

The situations referred to in points (a) and (b) shall as a rule involve periods lasting longer than three months. Only a full-time and uninterrupted absence of the job holder can give rise to a temporary posting.

A temporary agent may replace an absent staff member on a management post only if he/she has completed his/her probationary period and the duration of his/her contract covers the full period of anticipated temporary posting.

Article 3: Reference grades

As regards posts of Director and Heads of Department as defined in Article 1, temporary postings shall be made at the lowest grade at which such duties may be performed or filled by transfer in the interests of the service or where the post is not vacant.

¹ COJ, C-5/70, Prelle/Commission

Article 4: Differential allowance

From the beginning of the fourth month of a temporary posting, the temporary agent concerned may receive a differential allowance equal to the difference in current remuneration of the temporary agent and the remuneration according to the level of the temporary posting, as follows:

1. If the temporary agent is in the grade immediately below the reference grade, the differential allowance shall be equal to the difference between the remuneration of the temporary agent throughout the relevant period and the remuneration he/she would receive if he/she was promoted to the reference grade².
2. In duly justified circumstances where the temporary agent is in one of the grades below the grade immediately below the reference grade, as the differential allowance cannot be calculated by analogy to a reclassification, it shall be equal to the difference between the remuneration of the temporary agent throughout the relevant period and the remuneration he/she would receive if he/she was newly recruited in the reference grade. The second step shall be awarded under the conditions laid down in the rules on step classification at recruitment.
3. If the temporary agent is in a grade equal to or above the reference grade, except where the temporary agent already receives the benefit on the basis of his/her post of assignment, the remuneration of the temporary agent is increased according to Articles 44 and 46 of the Staff Regulations.

The increase in remuneration according to Articles 44 and 46 of the Staff Regulations will be calculated either on the basis of the grade of the temporary agent concerned, or on the basis of the reference grade of the post that the temporary agent temporarily occupies, depending on which option is the most favourable for the temporary agent concerned³.

Article 5: Management experience

Management experience acquired through a temporary posting shall be taken into account for eligibility purposes in the context of applications for management positions.

Article 6: Successive periods of temporary posting

Where the same temporary agent is the subject of two or more temporary postings in respect of the same functions and those postings are consecutive, the second temporary posting shall be

² Taking account of the provision regarding non-cumulation, as provided in Conclusion 240/05 of the Heads of Administration (see Administrative Notice N° 48-2005), this remuneration will be increased according to Articles 44 and 46 of the Staff Regulations.

³ The amount of the benefit shall be calculated in accordance with the method laid down in Conclusion 240/05 of the Heads of Administration (see Administrative Notice n° 48-2005).

considered as a continuation of the first and the differential allowance shall not be discontinued during the first three months of the second temporary posting.

For the purposes of this provision, a subsequent posting shall be considered to be consecutive if it begins no longer than three months after the end of the previous posting. In any other case, it shall not be considered as consecutive and a new temporary posting period starts.

Article 7: Procedure for temporary postings

1. Where the conditions in Article 2 are met, the Human Resources and Planning Department may submit to the Appointing Authority a proposal for a temporary posting, stating the reasons and providing all relevant information.
2. The effective date of a temporary posting is fixed by the Appointing Authority in the temporary posting decision pursuant to Article 7(2), taking account of the proposal submitted by the Department responsible concerned.
3. Abolition of the post on which a temporary posting has been made as a result of an amendment to the organisation chart automatically entails termination of the temporary posting.

Article 8: Entry into force

This Decision shall apply from the date following that of its adoption.

Done at Vienna, on 15th of May, 2012

For the AGENCY



Ilze Brands Kehris
Chairperson of the Executive Board