

Management Board Decision

DECISION N° 10-2019

of 04 June 2019

CONCERNING THE FUNCTION OF COUNSELLOR

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AVIATION SAFETY AGENCY,

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

Having regard to the Staff Regulations of Officials (hereinafter 'Staff Regulations') and the Conditions of Employment of Other Servants of the European Union (hereinafter 'CEOS') laid down by Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 2, 4, 5, 7 and 29 of the Staff Regulations and Articles 6, 10(1) and 53 of the CEOS,

Having regard to Regulation (EC) No 2018/1139² of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, hereinafter referred to as "the Basic Regulation",

Having regard to Communication C(2014)6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof,

Having regard to the EASA MB Decision No. 07-2015 of 02 June 2015, laying down general implementing provisions on the procedure governing the engagement and use of temporary staff under Article 2(f) of the CEOS (hereinafter 'GIPs on temporary staff 2(f)'),

Having regard to the EASA MB Decision No. 07-2019 of 04 June 2019 on types of post and post titles,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2018)2209 final of 11 April 2018,

After consulting the Staff Committee,

Whereas:

- 1) On 8 July 2016, the Commission informed the European Union Aviation Safety Agency that it adopted Decision C(2016)3214 of 7 June 2016 concerning the function of adviser.

¹ OJ L 56, 4.3.1968, p.1.

² Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p.1).

- 2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 1 shall apply by analogy to the European Union Aviation Safety Agency. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission.
- 3) Commission Decision C(2016)3214 is suitable to apply to the European Union Aviation Safety Agency if it is adapted to the peculiarities of the European Union Aviation Safety Agency. Those peculiarities concern in particular the parties involved in the selection procedure and the eligibility of temporary staff referred to in Article 2(f) CEOS.
- 4) The legal framework established by the present Decision offers a scope for the mobility of counsellors who would like to work in a new environment.
- 5) It is also necessary to take account of the revised Staff Regulations, which entered into force on 1 January 2014.

HAS DECIDED AS FOLLOWS:

SECTION 1. GENERAL PRINCIPLES

Article 1: Subject matter and scope³

The purpose of this Decision is to establish a legal framework setting out the rules of the European Union Aviation Safety Agency concerning:

- the duties of counsellors;
- the procedures for the selection and appointment of counsellors;
- the arrangements for reassigning counsellors to the function of principal expert in certain circumstances.

This Decision shall apply to all European Union Aviation Safety Agency services.

Article 2: Definition

1. Counsellor functions shall be those that meet all of the following criteria:
 - they involve duties that, in view of their horizontal nature (such as coordination, representation, analysis and advice), represent a high added value for the Agency or a service;
 - without prejudice to the exceptions provided for in Article 3(2), they do not involve the direct management of human or financial resources or middle-management tasks;
 - they require special qualities of the person concerned and in particular special expert knowledge and/or special experience and the capacity to provide guidance of high added value.
2. Counsellor functions must correspond to a need of the service, which may be permanent or temporary.
3. Counsellors shall be appointed at grades AD 13/AD 14 (external publications are excluded).

³ Any reference in this Decision to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice versa, unless the context clearly indicates otherwise.

Article 3: Administrative status

1. Counsellors shall in principle be administratively attached to the Head of the Agency as referred to in the act(s) establishing the Agency ('the Executive Director'). In exceptional and duly justified cases, they may be attached to a head of department⁴ or a director.
2. Counsellors in principle don't exercise hierarchical authority over staff. However, a maximum of one staff member providing administrative support may be directly attached to a counsellor. Moreover, counsellors may head a small team during a specific mission or to implement a specific project.
3. Each counsellor function must have a specific title and a full job description.

Article 4: The authority authorised to conclude contracts of employment ('AACC')

Unless otherwise provided for, the AACC powers for the provisions of this Decision shall be exercised by the Executive Director⁵.

SECTION 2. FILLING COUNSELLOR FUNCTIONS – INTERNAL, INTER-AGENCY MOBILITY*Article 5: Filling the functions*

The function shall in principle be filled by publication (Article 4 and/or 7 of the GIPs on temporary staff 2(f)). A temporary staff may be reassigned to a counsellor function in the interests of the service (Article 7(1) of the Staff Regulations⁶) when the conditions set out in Article 7(1) of this Decision are fulfilled.

Article 6: Publication of a function

In the case of publication, the Human Resources Department shall draw up a vacancy notice that is agreed by the Executive Director and then shall publish it.

Article 7: Eligibility

1. In the case of reassignment to a counsellor function in the interests of the service within an Agency (in accordance with Article 7 of the Staff Regulations), the person must:
 - be an established temporary staff member referred to in Article 2(f) CEOS not serving their probationary period,
 - be in grade AD 13 or AD 14,
 - already occupy a counsellor function or have occupied such a function.
2. Where a vacancy notice is published, candidates must, on the closing date for the receipt of applications:
 - be established temporary staff member referred to in Article 2(f) CEOS not serving their probationary period. As regards inter-agency publication, Article 9 of the GIPs on temporary staff 2(f) shall apply;
 - be in grade
 - AD 13 or AD 14, or

⁴ The term 'head of department' refers to all middle management functions.

⁵ ED Decision 2018/067/ED of 10.09.2018 on sub-delegating the powers conferred by the Staff Regulations of officials on the appointing authority and by the conditions of employment of other servants of the European Union on the authority empowered to conclude contracts of employment to the Resources and Support Director and the Head of Human Resources Department.

⁶ Applicable to temporary staff by virtue of Article 10(1) of the CEOS.

- in case of an official or temporary agent of the same agency where the vacancy is to be filled, to be AD 12 and have a seniority of two years in that grade,
- possess the qualifications specified in the vacancy notice.

Article 8: Selection and appointment

1. Selection:

In the case of publication of a vacancy notice, the stages in selection to be followed by the AACC shall be as follows:

(a) Definition of the job profile

The vacancy notice shall set out in detail the tasks and duties of the function to be filled, including those in the job description. It shall also specify the minimum qualifications which applicants must possess for their applications to be taken into consideration and any other desirable qualifications.

(b) Assessment of applications by the pre-selection panel

The Executive Director shall set up a pre-selection panel comprising at least two members of a grade equal or superior to that of the function to be filled, including one member from another Directorate. Where there are no temporary agents in the agency fulfilling the requirement of the grade, the Executive Director may decide to designate officials or temporary agents from another agency or institution who fulfil that condition. The Executive Director may invite other persons to the pre-selection panel as observers. The Executive Director must ensure whenever possible, that there is a balanced representation of men and women in the pre-selection panel.

Using assessment checklists, the pre-selection panel shall consider all applications received having regard to the vacancy notice and the CVs of the applicants. Where appropriate, it shall conduct interviews. It shall draw up a shortlist of the applicants who best correspond to the profile sought, giving reasons for its choices.

(c) Interviews by the Executive Director and at least one head of department or director.

The Executive Director and, the members mentioned above shall interview the applicants on the shortlist. The Executive Director may decide to interview other eligible applicants.

2. Appointment:

(a) The AACC shall appoint the successful applicant. The selected candidate shall be appointed in his current grade, except for candidates in grade AD 12 who shall be appointed in grade AD 13.

(b) Articles 6(2) and Article 10 of the GIPs on temporary staff 2(f) shall apply respectively to the selected candidates of the same and a different agency.

SECTION 3: REASSIGNMENT OF COUNSELLORS

Article 9: Reassignment of counsellors to a principal expert function

1. Reassignment in case of unsatisfactory performance

A procedure for reassignment to a principal expert function may be launched by the Executive Director if the performance of a counsellor has been evaluated as unsatisfactory in the last annual report provided for in Article 43 of the Staff Regulations. It must be launched by the Executive Director if the

performance has been evaluated as unsatisfactory in two of the last three annual reports. Furthermore, the procedure may be launched by the Executive Director in exceptional and duly justified cases.

Procedure to be followed:

Before a decision is taken, the case shall be further assessed by the rapporteur designated by the Executive Director. The rapporteur shall be chosen from the established heads of department of the Agency who shall not be in any conflict of interest.

The rapporteur shall issue an opinion in which it may:

- whenever possible, suggest that the temporary staff member be offered another counsellor function;
- confirm that the temporary staff member be reassigned to a principal expert function.

Final decision: following the opinion of the rapporteur, the Executive Director shall take the final decision, after hearing the temporary staff concerned.

2. Reassignment in case of revision of the organisation chart or the function of counsellor ceases to exist
Where the function occupied by a counsellor ceases to exist, the Executive Director may, after having examined the possibilities of transfer to a vacant counsellor function in the Agency and after hearing the counsellor, reassign him to a principal expert function.

3. Reassignment in other cases

In other cases, the Executive Director may, with the agreement of the counsellor, reassign him to a principal expert function.

SECTION 4 – SPECIFIC CASES AND FINAL PROVISIONS

Article 10: Seconded counsellors

1. A function of 'seconded counsellor' may be created to permit the secondment of a counsellor in the interests of the service (under Article 37(a) and Article 38 of the Staff Regulations, or Article 51 of the CEOS).
2. The function of 'seconded counsellor' shall be created in the Agency of origin of the person concerned. The function shall automatically cease to exist when, either at the end of the secondment or at the latest 12 months afterwards, the temporary staff member is reassigned or appointed to a different function.
3. At the end of the secondment, the seconded counsellor shall return to the Agency of origin and occupy the function of seconded counsellor pending reassignment in the interest of the service or appointment (following the publication of a function) to a counsellor function within 12 months.

If, at the end of that period, the temporary staff member has not been reassigned or appointed to a counsellor function, the Executive Director shall, after hearing the temporary staff member, reassign him to a principal expert function.

Article 11: Final provisions

1. Commission Decision C(2016)3214 does not apply by analogy to the European Union Aviation Safety Agency.

This Decision shall take effect on the day following that of its adoption.

Done in Cologne, 04 June 2019

[Signed]

PEKKA HENTTU
Chair of the Management Board

