



EUROPEAN CENTRAL BANK

EUROSYSTEM

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ECB-RESTRICTED

DECISION OF THE EUROPEAN CENTRAL BANK

of 23 July 2019

**amending the Conditions of Employment for Staff of the European Central Bank and the
Conditions of Short-Term Employment as regards selection and appointment**

(ECB/2019/NP20)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 36.1 thereof,

Having regard to Decision ECB/2004/2 of the European Central Bank of 19 February 2004 adopting the Rules of Procedure of the European Central Bank¹, and in particular Article 21.2 thereof,

Having regard to the proposal of the Executive Board,

Having regard to the opinion of the Staff Committee,

Having regard to the contribution of the General Council,

Whereas:

- (1) Certain provisions of the Conditions of Employment for Staff of the European Central Bank (hereinafter the 'Conditions of Employment') and the Conditions of Short-Term Employment in relation to the legal framework for selection procedures and appointments and the employment relationships between the European Central Bank (ECB) and its staff should be made more explicit.
- (2) Certain core principles and criteria governing access to employment at the ECB should be clarified in the Conditions of Employment.
- (3) Positions within the ECB should in principle be filled by candidates having been assessed as suitable following an appropriate selection procedure, or by means of internal mobility or promotion of members of staff. In exceptional cases, and where justified in order to address specific needs, it should also be possible to have recourse to direct appointments.

¹ OJ L 80, 18.3.2004, p. 33.

- (4) Given the specific nature of the tasks of a Counsellor to a member of the Executive Board or Counsellor to the Chair or Vice-Chair of the Supervisory Board, or to an ECB representative to the Supervisory Board, and in particular the strong mutual trust required for the exercise of such tasks, it is appropriate to issue against such positions non-convertible fixed-term contracts, which should in principle cover the duration of the term of office of the member of the Executive Board, or Chair or Vice-Chair of the Supervisory Board, or ECB representative to the Supervisory Board.
- (5) Given the Union legal framework on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, which is applicable to the appointment of data protection officers and the need to ensure the independence of the ECB data protection officer, it is appropriate to issue non-convertible fixed-term contracts against such positions.
- (6) Therefore, the Conditions of Employment and the Conditions of Short-Term Employment should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to the Conditions of Employment

The Conditions of Employment are amended as follows:

1. Article 8(a) is replaced by the following:

'8a. (a) Candidates shall be eligible for appointment if the following conditions are met:

- (i) they are a national of a Member State of the European Union or an acceding country, unless an exception is authorised in accordance with the provisions laid down in the Staff Rules;
- (ii) they enjoy full rights as a citizen;
- (iii) they have a thorough knowledge of English and a satisfactory knowledge of at least a second official Union language, unless an exception is authorised in accordance with the provisions laid down in the Staff Rules;
- (iv) they have obtained medical clearance;
- (v) they have obtained security clearance;
- (vi) absence of a conflict of interest or appropriate mitigation measures in accordance with the provisions laid down in the Staff Rules.'

2. Article 8(b) is replaced by the following:

'8a. (b) Under the conditions laid down by the Executive Board, appointments to positions within the ECB shall be made:

- (i) as a result of an internal or external selection procedure;

- (ii) as a result of internal mobility;
- (iii) as a result of a promotion; or
- (iv) by means of a direct appointment in exceptional cases where such appointment is justified by specific needs and subject to restrictive conditions in line with such needs.';

3. The following Article 8a(c) and (d) is added:

'8a. (c) Selection procedures shall be competitive recruitment procedures aiming at appointing to positions within the ECB individuals of the highest standard of ability, competence and integrity. Without prejudice to the primacy of merit, the diversity of gender and/or nationality may be used as an additional selection criterion.

Selection procedures shall be conducted in a transparent manner while ensuring the confidentiality of proceedings and the protection of personal data. They shall comply, in particular, with the principles of non-discrimination and equal treatment.

For each selection procedure, a selection committee shall be established by the appointing authority as determined in the Staff Rules. The selection committee shall have the responsibilities and perform the tasks set out in the Staff Rules; it shall, in particular, propose a list of suitable candidates and advise the appointing authority as further specified in the Staff Rules.

8a. (d) The appointing authority as determined in the Staff Rules shall decide on the appointment of members of staff.';

4. Article 9 is amended as follows:

(a) paragraph (a) is replaced by the following:

'(a) Employment relations between the ECB and its members of staff shall be governed by employment contracts issued in conjunction with these Conditions of Employment. The Staff Rules adopted by the Executive Board shall further specify these Conditions of Employment.

The employment relations between the ECB and its members of staff shall be subject to mobility in the interest of the service.';

(b) paragraph (c) is replaced by the following:

'No specific national labour law governs these Conditions of Employment. The ECB shall apply (i) the general principles of law common to the Member States, (ii) the general principles of Union law, and (iii) the rules contained in Union regulations and directives concerning social policy which are addressed to Member States. Whenever necessary, these legal instruments will be implemented by the ECB. Union recommendations in the area of social policy will be given due consideration. In interpreting the rights and obligations under the present Conditions of Employment, due regard shall be shown for the authoritative principles of the regulations, rules and case law which apply to the staff of

other Union institutions.

The ECB shall provide to its members of staff a workplace which complies with health and safety standards at least equivalent to the minimum requirements under Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work and the individual Directives adopted on the basis of Article 16 thereof. In interpreting the rights and obligations under these Directives, due regard shall be shown for the legal acts transposing them into German law, to the extent that the ECB has not adopted its own rules and that such application is without prejudice to the legislative powers conferred upon the Governing Council and the Executive Board and the ECB's independence as guaranteed by the Headquarters Agreement and the Protocol on Privileges and Immunities.';

5. Article 10 is amended as follows:

(a) paragraph (b) is replaced by the following:

'(b) Appointments may be subject to a probationary period in accordance with the provisions laid down in the Staff Rules. The probationary period shall in no circumstances exceed 12 months nor shall a member of staff be subject to more than one probationary period for the same or an equivalent position. Where not subject to a probationary period, appointments to managerial positions may be subject to a confirmation period in accordance with the provisions laid down in the Staff Rules.';

(b) the following paragraphs (f) and (g) are added:

'(f) The ECB may issue an employment contract for a definite period for the position of Counsellor to a member of the Executive Board or Counsellor to the Chair or Vice-Chair of the Supervisory Board, or to an ECB representative to the Supervisory Board, in accordance with the conditions laid down in the Staff Rules.

(g) The ECB may issue an employment contract for a definite period for the position of Data Protection Officer in accordance with the conditions laid down in the Staff Rules. The maximum period of employment of a member of staff in the capacity of ECB data protection officer shall be ten years.'.

Article 2

Amendments to the Conditions of Short-Term Employment

The Conditions of Short-Term Employment are amended as follows:

1. Article 13a is replaced by the following:

'13a. The ECB shall appoint short-term contract employees under the conditions laid down in the Rules for Short-Term Employment.';

2. Article 14 is replaced by the following:

'Employment relations between the ECB and its short-term contract employees shall be governed by employment contracts issued in conjunction with these Conditions of Short-Term Employment. The Rules for Short-Term Employment adopted by the Executive Board shall further specify these Conditions of Short-Term Employment.

Employment with the ECB as a short-term contract employee shall be subject to security clearance.';

3. Article 15 is replaced by the following:

'15. No specific national labour law governs these Conditions of Short-Term Employment. The ECB shall apply (i) the general principles of law common to the Member States, (ii) the general principles of Union law, and (iii) the rules contained in Union regulations and directives concerning social policy which are addressed to Member States. Whenever necessary, these legal instruments will be implemented by the ECB. Union recommendations in the area of social policy will be given due consideration. In interpreting the rights and obligations under the present Conditions of Short-Term Employment, due regard shall be shown for the authoritative principles of the regulations, rules and case law which apply to the staff of other Union institutions.

The ECB shall provide to its short-term contract employees a workplace which complies with health and safety standards at least equivalent to the minimum requirements under Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work and the individual Directives adopted on the basis of Article 16 thereof. In interpreting the rights and obligations under these Directives, due regard shall be shown for the legal acts transposing them into German law, to the extent that the ECB has not adopted its own rules and that such application is without prejudice to the legislative powers conferred upon the Governing Council and the Executive Board and the ECB's independence as guaranteed by the Headquarters Agreement and the Protocol on Privileges and Immunities.'

Article 3

Entry into force

This Decision shall enter into force on the third day following the date of adoption.

Done at Frankfurt am Main, 23 July 2019.



The President of the ECB

Mario DRAGHI