



General Implementing Rules on Contract Agents 2017

Follow-up

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Agenda

1. Background
2. Selection
3. Mobility
4. Career
5. Successive contracts
6. European Schools



1. Background

Background: Timeline

Contract agents have been the focus of major initiatives over the last years.

1.1.2014

New staff regulations including new measures for contract agents (e.g. contract duration, internal competitions)

First half of 2015

« Luxembourg agreement » to defend purchasing power and improve career perspectives

02. 2016

First internal competition open to contract agents

06. 2016

Adoption of the talent management strategy

11.2017

Publication of the new GIPs on contract agents

11. 2018

Second internal competition open to contract agents

2014

- Subventions for public transport (for lower salaries). To be revised within March 2020 when public transport will become free in Luxembourg (extension to rail and bus connections out of Luxembourg).
- Subventions for CPE crèche and garderies

2015

- March: “luxembourg agreement” → informal way to refer to the results of the social dialogue of M.me Georgieva with the unions. It led to the introduction of the social indemnity for lower salaries (decision in 07/2015) and to the canteen discounts + the more complex measures, like the new decision on the GIPs and the internal competition
- July: Decision on “social assistance” (matching with the Lux minimum wage for qualified employees → see further details down here)

2016

- First internal competition, laureates being absorbed (cfr. infra)

2017

- Subventions for canteen in Luxembourg

2018

- Second internal competition: see further in this presentation

Details on the measures on social assistance (see 2015)

Mesure sociale visant à ce qu'aucun agent ne soit rémunéré en net moins qu'un salarié qualifié bénéficiant du minimum salarial national luxembourgeois :

Chaque année le PMO réexamine la situation de l'ensemble des AC et fixe le montant de l'aide sociale pour 1 an.

Cet exercice a lieu mois d'octobre.

A ce jour 7 AC bénéficient de cette mesure et perçoivent une aide financière dont le montant varie de 35 euros à 200 euros.

Pour rappel, l'octroi de cette aide tient

compte de la situation individuelle et
familiale de chaque agent et repose sur une
comparaison des niveaux de rémunération
nets (après impôts et allocations) dans les
deux systèmes

Background: Contract agents by location and FG

At 01/09/2019 a total of 7.444 contract agents, of which:

- ☐ 3.431 Contract agents 3a
- ☐ 4.013 Contract agents 3b

Contract agents according to location and FG

Contract agents 3a

	GFI	GFII	GFIII	GFIV	Total
Brussels	36,5%	48,8%	9,5%	5,2%	100%
Luxembourg	26,6%	62,3%	9,5%	1,6%	100%
Ispra	51,3%	42,5%	6,3%	0,0%	100%
Delegation	0,0%	0,3%	5,9%	93,8%	100%
Representation	8,7%	51,1%	26,5%	13,7%	100%
Other*	47,8%	21,7%	21,7%	8,7%	100%
Total	789	1214	341	1087	3431

	GFI	GFII	GFIII	GFIV	Total
Brussels	74,4%	64,6%	44,6%	7,7%	1607
Luxembourg	10,3%	15,7%	8,5%	0,5%	305
Ispra	10,4%	5,6%	2,9%	0,0%	160
Delegation	0,0%	0,2%	17,6%	87,6%	1015
Representation	3,5%	13,5%	24,9%	4,0%	321
Other*	1,4%	0,4%	1,5%	0,2%	23
Total*	100%	100%	100%	100%	3431

Contract agents 3b

	GFII	GFIII	GFIV	Total
Brussels	25,8%	36,2%	38,0%	100%
Luxembourg	33,9%	17,1%	49,0%	100%
Ispra	13,3%	3,8%	82,9%	100%
Other EU locations	11,0%	8,1%	80,9%	100%
Total	925	1109	1979	4013

	GFII	GFIII	GFIV	Total
Brussels	78,1%	91,4%	53,8%	2800
Luxembourg	9,0%	3,8%	6,1%	245
Ispra	8,4%	2,0%	24,5%	585
Other HQ locations	4,5%	2,8%	15,7%	383
Total	100%	100%	100%	4013



*Other: people in representation affected to Brux or Lux + people in other locations but not in rep or del
See other papers for further numbers



2. Selection procedures

Selection procedures: CAST-Permanent

After the introduction of the GIPs on contract agents, a more standard, faster and effective selection procedure has been put in place

- ☐ Launched in 2017 with 22 different professional profiles (e.g.: law, finance, communication...)
- ☐ Application at any time – no deadline
- ☐ On-going testing sessions: approximately every 6 weeks
- ☐ All applications constantly visible on the Recruiter Portal
- ☐ Cognitive test + competency tests, regularly updated with experts from the Commission



Selection procedures: Status of CAs recruited via the AMI

Pursuant to article 2, paragraph 2, point c, of Annex I of the new GIPs, these contract agents have to succeed in a selection test in order to be able to obtain a renewal of their contract beyond the period of 4 years of employment.

- ☐ Fast track: during 2017-2019 HR B.1 and the AMCs offered up to two possibilities to take the CAST-P test on a fast-track to all CAs recruited via the AMI already working in the Commission.
- ☐ Process started with the CAs closest to the 4 years of service
- ☐ Testing sessions approximately every 6 weeks
- ☐ All eligible contract agents have been offered the opportunity to take the test



Selection procedures: contract agents recruited via older CAST selections

Candidates on a valid, fully tested, CAST list have no need to pass a CAST-P test. They appear on the Recruiter Portal and can be invited to interviews by Commission Services.

All the older CAST reserve lists have been extended for one year at the end of 2018. They are now open until 31/12/2019 and will undergo a review for prolongation at the end of 2019.



3. Mobility

Mobility: the job vacancy portal

Article 14 of the GIPs focuses on the mobility of Contract Agents 3a within the Commission and between the Commission and the Executive Agencies.

Vacant posts may be published internally.

If the services wish to do so, vacancies can be opened to Contract agents 3b.

- ☐ A job portal where services can advertise their vacancies is available on MyIntracomm since November 2017
- ☐ 161 vacancies have been published so far
- ☐ Ways to improve visibility of the portal on MyIntracomm are being implemented

Mobility: Years in service

Extension from 3 to 6 years total contract duration

As provided by the Staff Regulations of 2014

Amendment to the 7-years rule

Time spent as Seconded National Experts will not be considered in the calculation of the 7 years of service within the Institutions (Decision approved in April 2019)

Contract agents at their 4th or 5th year

Several forms of support are in place across the AMCs either via

- career guidance and/or
- information about the availability of experienced contract agents
- a course for orienting contract agents ending their contract is being implemented at the corporate level

Corporate DG HR services are considering a stronger monitoring of these actions, in cooperation with the AMCs



4. Career

Career: Faster reclassification rates

Average seniority in the grade in 2014 and 2018:

	2014	2018	%
FG I 01	4.4	3.1	+16%
FG II 04	4.3	3.7	+15%
FG III 08	4.4	3.5	+20%
FG IV 13	4.1	3.5	+15%

Reclassification possibilities are calculated on the basis of the *lowest value* of the bracket concerning the average time spent into the grade before reclassification.

Statistics for 2017 and 2018 show **reclassification rates** of more than 40% for FGI 1, FGII 4 and FGIII 8.

The indications listed in article 6 of the current GIPs make possible to take into account special merits and responsibilities for a faster reclassification (e.g. coaching a team).

This led to a **lower average seniority in the grade** of the reclassified contract agents in both 2017 and 2018.



Career: Change of function group

As made possible by the 2017 GIPs, a pilot exercise has been implemented in Luxembourg

- ☐ Launched in January 2019 for 26 profiles
- ☐ 27 successful candidates
- ☐ Selection completed in summer 2019 for 25 profiles
- ☐ At September 2019, 10 colleagues already started their new assignment, 9 are expected to do so in January

Further, similar, exercises are currently under study
Exercise for OIL nurses to be launched

Career: Internal competitions -2016

Art. 29 of the 2014 Staff Regulations introduces the possibility for contract agents to participate, *on exceptional basis*, in the internal competitions.

Two internal competitions open to contract agents have since been organised.

First internal competitions launched in 2016; three profiles were open to contract agents. Successful candidates are being recruited.

- ☐ For the AST/SC 2 profile: **16 contract agents recruited**
- ☐ For the AST 2 profile: **9 contract agents recruited**
- ☐ For the AD 6 profile: **29 contract agents recruited**



Career: Internal competitions – 2018

Internal competitions launched in 2018

The following grades were open to contract agents.

- ☐ *AST/SC 2*: 820 applications received, of which 561 contract agents
- ☐ *AST 2*: 679 applications received, of which 557 contract agents
- ☐ *AD 6 - Research field*: 441 applications received, of which 371 contract agents
- ☐ *AD6 - Development field*: 476 applications received, of which 448 contract agents
- ☐ *AD6 – EU public administration field*: 529 applications received, of which 304 contract agents

Interviews are currently taking place

Career: Team leadership

The GIPs provide the possibility for contract agents in GFIII and GFIV to manage a team of contract and local staff in delegations

This provision has been implemented

At 1 October 2019:

- ☐ 30 posts for team leaders (contract agents) have been published overall
- ☐ All of them have been filled
- ☐ DGs involved: NEAR, DEVCO and FPI
- ☐ The LCA (living conditions allowance) ranges from 10 to 40:
team leaders operate in Countries of different complexity, including the most difficult ones



Not being mentioned in the GIPs, no initiative has been taken in this sense neither in the Agencies, nor in the Commission services. In Commission services in particular, there are some CA that are “team coordinator” whose tasks include coordinating some activity of the team. While not officially team leaders, they are empowered to a

richer set of tasks, which is normally reflected in their job description and classification.

Career: JRC staff under national contracts

In the past, grant-holders were employed at the different JRC sites with national contracts. This created disparities in treatment among colleagues working on similar jobs with different contracts.

The situation is different now:

- ☐ All the staff in this position became contract agents in the past two years
- ☐ A new scheme has been established between the JRC and universities for Ph.D. students, negotiated with the unions. Ph.D. students will not be hired as contract agents, but receive a specific grant by the JRC.



5. Successive Contracts

Successive contracts

The new GIPs on contract agents regulate the succession of contracts

- The ruling in *Torné vs. Commission* does not change the current legal framework applicable to CAs (T-128/17, 14 December 2018):
 - **Change of function group: new contract**
 - **Interinstitutional mobility: new contract**

- The ruling in *Picard vs. Commission* is expected in spring/summer 2020 (T-769/16)

***Torné v Commission* (T-128/17) 14 December 2018**

Ms Torné was appointed as an official in the Commission in 2006.

In 2012, Ms T took a CCP pursuant to Article 40 of the SR to be recruited as a TA by Frontex.

In 2015, she left Frontex to be engaged by the AESM for 2 years. This new contract was renewed in 2017. She still

works there today.

Ms T applied for the calculation of her pension. **The question was whether she could rely on a principle of career continuity since her initial entry into service. In this case, she would benefit from an entry into service before the reform of pension rights and would benefit from a pension based on 2% of the salary for every year of service (instead of 1.9%).**

The Court ruled that the appointment by the AESM was not a fresh entry into service because:

- (i) the statutory link between the Commission and Ms T has never been put in question ;
- (ii) Ms T never resigned or stated her intention to leave the service of the Commission definitively within the meaning of article 48 SR;

(iii) she has contributed to the EU pension scheme without interruption;
(iv) the contribution rate to the pension scheme was the same whether official or TA.

The circumstance that Ms T was a Commission official on leave on personal grounds pursuant to Article 40 SR was a key ground of the outcome of the case.

Implications of the *Torné* case law for CAs: NONE

Indeed, TAs and CAs enter into service on the date on which their contract takes effect. This date will only remain the relevant point of reference for calculating their pension rights and determining their pension age for as long as they maintain a *continuous contractual link* with the institution/agency at which they are employed.

Their contractual link is maintained under

the following circumstances:

Their contract is amended, provided that the essential elements thereof remain unaltered;

[\[1\]](#)

Their contract is prolonged;

In the case of TA, if they request unpaid leave ('congé sans rémunération') pursuant to Article 17 CEOS, and regardless of whether they are employed by another EU institution/agency during their leave.

On the other hand, there is *no continuous contractual link* in the following cases:

A new contract is signed (meaning the termination of the former contract);

They are appointed as officials (meaning the termination of the contract).

It follows that whenever a CA or TA moves from one institution/agency to another, this is, in principle, to be considered as a *new entry* into service, with the exception of TA

on CCP.

On the other hand, if a CA or TA remains at the same institution/agency, it is necessary to assess their contractual situation and, in particular, whether they have signed a new contract or simply extended the existing one. Hence, the *Torné* judgment has not modified the position of CA and TA, with the exception of TA on CCP.

The *Picard* case, currently pending before the GC, which may modify this conclusion. However, the judgment in that case is expected only in spring/summer 2020.

***Picard v. Commission* case (T-769/16 expected in spring/summer 2020)**

In 2005, Mr Picard was put on the reserve list for the recruitment of CA FG I (EPSO/CAST25/05).

In 2007, Mr Picard was put on the reserve

list for the recruitment of CA FG II (EPSO/CAST/27/07).

In 2008, Mr Picard was recruited by the PMO for one year in FG I. DG HR refused to consider that he had the required professional experience of at least 3 years to be recruited in FG II. His employment contract was renewed 3 times, the last one for an indefinite duration.

Mr P provided further evidence that he had the required professional experience of 3 years and applied for a re-assessment of his function group with retroactive effect.

Ultimately, DG HR proposed a new contract in FG II, 5, 1, which was signed by Mr P. on 16 May 2014.

Mr P. lodged a complaint claiming that the upgrade to FG II should enter into force as from 1 July 2008 and not as from 1 June 2014 because DG HR had at last recognised that he had the appropriate professional experience required by

CAST/27/07.

This complaint was rejected in 2014 as belated and groundless on substance. Mr P. brought the case to the General Court where it was stayed until the Judgment in *Torné* be delivered. The judgment is expected in spring/summer 2020.

Issues at stake: Is the upgrade of 2014 a new contract or the continuation of the former contract?

Can Mr Picard claim that his “entry into service” occurred before the 2014 reform entered into force on 1 January 2014?

Within the EU institutions, Mr P. has always had one and unique employer: the Commission. There is no issue of mobility inter-agencies. If the General Court holds that there was no continuity of career, depending on how the ruling is precisely phrased, the Court’s reasoning could *a fortiori* apply to CA/TA moving between

agencies.

Essential element: “[...] *La prémisse de cette requalification est que l’agent temporaire, qui progresse dans la carrière ou évolue dans ses fonctions, maintienne une relation de travail caractérisée par la continuité avec son employeur. S’il s’avère que l’agent conclut un contrat comportant une modification substantielle, et non formelle, de la nature de ses fonctions, la prémisse de l’application de l’article 8, premier alinéa, du RAA n’est plus valable. En effet, il serait contraire à l’esprit de l’article 8, premier alinéa, du RAA d’admettre que tout renouvellement puisse être pris en considération aux fins de l’application de la règle qu’il prévoit.* »

Judgment of 16 September 2015, *Drakeford v EMA*, T-231/14 P, [EU:T:2015:639](#), paragraph 40.

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Judgment of 16 September 2015, Drakeford v EMA, T-231/14 P, [EU:T:2015:639](#), paragraph 40.



6. European Schools

European schools

Children of contract agents are allowed to continue their studies in the European schools. More precisely:

- ☐ Children can finish the year and complete the school cycle until the Baccalauréat.
- ☐ They are moved from category I to category III, and their parents should pay a pro-rata fee to cover until the end of the year.
- ☐ Younger siblings already enrolled in the EU schools are also allowed to terminate their cycle until the Baccalauréat, as category III.
- ☐ Younger siblings not yet enrolled in the EU schools are not automatically admitted, but follow the same admission rules as the other category III children.

