

Policy & Procedure

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EFTA SURVEILLANCE
AUTHORITY

Recruitment, Appointment, Renewal & Prolongation of Contract

Section 1 – Policy

ESA's staff, their knowledge and competence are our most valuable assets in fulfilling our role of safeguarding the EEA Agreement. As such, our aim is to attract and recruit the most competent candidates, who demonstrate the technical competence, values and behaviours required to enable us to succeed and continuously improve as an organisation.

ESA also aims to ensure diversity and equality of opportunity, in particular with regard to gender, at all levels in the organisation. This contributes to more effective decision-making and problem-solving by providing a range of perspectives, a broad spectrum of expertise and a more robust process for critical evaluation. In light of ESA's specific mandate of enforcing the EEA Agreement in the EEA EFTA States, it is at the same time crucial to employ sufficient staff with knowledge of the languages, legal systems and national administrations of these States.

The dissemination of knowledge into the EEA States and the EU Institutions ensures increased awareness and understanding of the EEA Agreement. ESA must also remain connected to and up to date on relevant developments in the EEA States and the EU Institutions. ESA therefore aims to ensure a balance between the development and retention of internal expertise and the introduction of new approaches and experience into the organisation. At the same time, ESA recognises the organisational impact and costs of limited-term employment and staff turnover as well as the limiting effect this has on opportunities for professional development, which all have to be balanced.

In order to achieve these aims, ESA has established the following policy:

1. Decisions on recruitment, appointment and renewal of contract will be based on the current and future needs, interests and priorities of ESA.
2. ESA will employ individuals on fixed-term, temporary, traineeship and seconded national expert contracts, as set out in the Staff Regulations and Rules, with renewals and prolongations being offered when in the interests of ESA.
3. Positions will always be offered to the most competent and suitable candidate, as assessed against the essential and desirable qualifications, skills and experience for the position.

4. ESA is an equal opportunities employer and applications from suitably qualified candidates from all backgrounds are welcomed.
5. ESA will encourage applications from male or female candidates at levels and in roles where they are currently underrepresented.
6. ESA will aim to attract candidates from the EEA EFTA States, in order to ensure that there is a critical mass of individuals with prior experience and knowledge of the languages, legal systems and national administrations of these States.
7. ESA will ensure efficient use of resources in all recruitment exercises.
8. ESA will provide opportunities for professional development wherever possible and in the interests of ESA.
9. In light of ESA's role of safeguarding the EEA Agreement, all ESA positions will be open to EEA nationals only. To ensure the continued awareness of the EEA Agreement in the EEA EFTA States, trainee positions will be open to EEA EFTA nationals only.

Section 2 – Procedure

Part III of the Staff Regulations and Rules (SRR) governs the recruitment, appointment and renewal of staff members. This Procedure sets out how Part III of the SRR will be implemented and how ESA’s Policy on recruitment, appointment, renewal and prolongation will be achieved in practice.

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1. Roles and responsibilities

1.1 College

The College is responsible for setting the policy and strategy of ESA, which will inform decisions on recruitment, appointment, renewal and prolongation. College will take the final decision on the content of recruitment advertisements, shortlisted candidates, appointment of new starters, renewal and prolongation of contracts, based on a recommendation made by the relevant Director, in conjunction with Human Resources. College will have access to applicant lists, in order that they can make fully informed decisions on shortlists and appointments.

The College, with the support of the HR Officer, is responsible for ensuring that Director positions are filled efficiently in order that ESA's senior management team is equipped to deliver its policy and strategy.

1.2 Directors

Directors are responsible for ensuring that their Directorate/Department is staffed and equipped to deliver on ESA's policy and strategy. They will ensure that all decisions and recommendations on recruitment, appointment, renewal and prolongation of contract are taken and made in accordance with this Policy & Procedure and the policy and strategy of ESA.

1.3 Human Resources

The HR Officer is responsible for co-ordinating recruitment, appointment, renewal and prolongation processes, providing guidance and support to College, Directors and recruitment panels and ensuring compliance with the Staff Regulations and Rules, ESA Policies and Procedures and best practice.

1.4 Recruitment panels

Recruitment panel members are jointly responsible for operating in accordance with this Policy & Procedure and for ensuring that candidates are rigorously, fairly and consistently assessed against the essential and desirable criteria for the position. This includes selecting the most appropriate combination of assessment methods to ensure that the selected candidate is the best fit for the position.

Recruitment panels will normally be comprised of three members, including the relevant Director and/or Deputy Director and a member of HR. Wherever this is possible, recruitment panels will be made up of both male and female staff members.

If a candidate is a spouse, partner or family member of a staff member, that individual will not participate in the recruitment process in any capacity. Where a College Member or staff member, who would normally be involved in the recruitment process knows a candidate in any other capacity, they will declare this to the HR Officer in order that appropriate measures can be agreed to mitigate any potential conflict of interest.

2. Planning processes

As part of the annual budget planning exercise, the HR Officer will discuss and agree a plan with the College and each Director for vacancies projected for at least the next financial year. Unexpected vacancies or staffing needs may arise during the financial year and the Director and HR Officer will plan these in accordingly.

3. Recruitment to fixed-term positions

3.1 Advertisement of fixed-term positions

For external vacancy announcements, the advertising methods and media will be selected to ensure that the widest possible range of suitable candidates can be sourced, within the budget available. ESA may occasionally outsource elements of a recruitment process, for example where specific skills are required which may prove difficult to source.

ESA will aim to undertake bulk recruitments wherever possible, in order to establish a list of potential candidates for vacancies arising in the future and avoid repeated advertising of similar positions. Such lists will normally be valid for 12-18 months after candidates are placed on the list.

Director vacancies will always be advertised externally from the outset, in order to ensure that we recruit from the widest possible field of qualified candidates.

Deputy Director positions will be advertised internally in the first instance for applications from current fixed-term staff members, in order to ensure that opportunities for career progression are made available to ESA staff, unless there are clear indications that there would be insufficient qualified internal candidates.

Officer and Assistant vacancies will normally be advertised internally in the first instance for applications from current fixed-term staff members. This is in order to provide opportunities for continuous professional development, and to reduce the organisational impact and costs of recruitment procedures. The advertising period will normally be for two weeks to enable candidates to apply whilst allowing the recruitment procedure to proceed efficiently. Applications for internal vacancies will be submitted to HR in the form of a CV and motivation letter.

If the Director finds that there are no suitable applicants after shortlisting or interview, s/he may recommend to College that the position be advertised externally. If there are no applicants, the position will automatically be advertised externally, unless the Director identifies the opportunity to redistribute some or all of the tasks to other staff within his/her Directorate/Department as set out below.

If it is in the interests of ESA, the Director may recommend to College that a vacancy at Officer or Assistant level be advertised externally in the first instance. For example, if it appears that (a) more suitable candidate(s) could be found via an external advertisement.

3.2 Reallocation of tasks without advertisement

In the following circumstances and where it is in the interests of ESA, the Director concerned may elect to partially or fully reallocate the portfolio of tasks of the vacant position, without the requirement for an advertisement:

- Reallocation of the portfolio of tasks to an individual already in the same role;
- Reallocation of the full portfolio of tasks to an individual in a different role on a short-term basis (normally for up to twelve months), for example to deal with an operational need or to cover sickness absence or maternity leave;
- Reallocation of the portfolio of tasks to two or more staff members within their Directorate/Department, whether they are in the same or a different role

In the above cases, reallocation will have no impact on existing contractual terms.

3.3 Eligibility to apply for fixed-term positions

In accordance with ESA's policy on limited-term employment, current fixed-term staff members will not be eligible to apply for an external vacancy if that position has previously been advertised internally. Current fixed-term staff members will not be entitled to apply for their current position, regardless of whether it is advertised internally or externally.

Temporary staff, trainees and seconded national experts will not be eligible to apply for internally advertised positions but are encouraged to apply for suitable external vacancies.

Former ESA staff members will be eligible to apply for their previous or a different position in ESA when advertised externally, provided the closing date is at least three years after their departure date. In exceptional circumstances, College may waive this requirement. Wherever possible, this will be decided in advance and indicated in the vacancy announcement, but individual applicants may also request a waiver once the advertisement has been published. They should send their request to HR setting out the reasons for which they feel the three-year requirement should be waived. The three-year requirement does not apply in the case of applications from current or former ESA temporary staff, trainees and seconded national experts.

Current and former EFTA Secretariat and EFTA Court staff may apply for positions in ESA at any time.

3.3 Shortlisting for fixed-term contracts

The recruitment panel will conduct a shortlisting process to identify the preferred candidates for interview, assessing applicants against the essential and desirable criteria set out in the vacancy announcement. A written proposal will be submitted to College for approval of the proposed shortlist.

3.4 Assessment methods for fixed-term positions

Using a rigorous combination of assessment methods helps to ensure that ESA is able to make informed decisions on the suitability of candidates for the recruitment to fixed-term positions. Typically, the assessment process will include:

- A semi-structured panel interview designed to assess past experience, motivational fit, technical competence and the required behaviours for the position in question.
- A written assessment designed to assess technical competence and skills.
- An occupational personality questionnaire used as a tool to explore the typical behaviours and tendencies of the individual in the workplace and how these fit with the requirements of the position and ESA.

The recruitment panel may elect to waive some of the above elements in the case of an internal recruitment process. If there is only one suitable candidate from an internal advertisement, the panel may elect to waive the requirement for further assessment of the candidate altogether.

A written proposal will be submitted to College for approval of the appointment of the preferred candidate(s) and/or the placement of (a) candidate(s) on file for future vacancies.

4. Appointment to and renewal of fixed-term positions

In accordance with the provisions of the Staff Regulations and Rules and the aims of the ESA Policy on recruitment, appointment, renewal and prolongation, fixed-term appointments shall normally be granted for three years and shall normally be renewed only once, for a period of up to three years, if this is in the interest of ESA. In accordance with Staff Regulation 13/1(a)(vi), ESA will inform a staff member in writing at least six months prior to the end of their contract whether or not a renewal is offered.

The following contractual arrangements will apply:

4.1 Internally advertised fixed-term positions (including internally advertised Deputy Director positions)

(a) For a staff member in their first 3-year contract at the time of appointment:

The staff member will take up the position on the date agreed between the relevant Director(s) for the remainder of their current contract. They will be offered a step increase at the time of taking up their new position, to ensure compliance with Staff Rule 21.3. Subject to satisfactory performance and it being in the interests of ESA, a subsequent 3-year renewal of contract will be offered.

(b) For a staff member already in their second 3-year contract at the time of appointment:

The staff member will be offered a new 3-year contract commencing on the date agreed between the relevant Directors. They will be offered a step increase at the time of taking up their new position, to ensure compliance with Staff Rule 21.3.

Further renewals of contract in this position will not normally be offered. Only in exceptional circumstances and when it is in the clear interest of ESA, may a further prolongation be offered. Such prolongations will be handled in accordance with Section 5 of this Policy & Procedure.

4.2 Externally advertised fixed-term positions

Any applicant appointed following an externally advertised recruitment process will be appointed on a 3-year fixed-term contract. Subject to satisfactory performance and it being in the interests of ESA, a 3-year renewal of contract will be offered.

Further renewals of contract will not normally be offered in this position. Only in exceptional circumstances and when it is in the clear interest of ESA, may a prolongation be offered. Such prolongations will be handled in accordance with Section 5 of this Policy & Procedure.

5. Prolongation of fixed-term appointments

If a Director identifies a need for a further prolongation of a fixed-term contract, s/he will prepare a proposal for approval by the College, in consultation with the Director of Administration and the HR Officer. The Administration's role is to ensure consistency of approach across the Authority. Such prolongations will only be approved in exceptional circumstances and/or where efforts to recruit a suitable candidate have proved unsuccessful.

The proposal should set out the following:

- The operational necessity for the prolongation
- The potential adverse implications of not prolonging the contract
- The alternatives to prolongation that have been considered
- Details of any unsuccessful attempts to fill the position
- The rationale for the proposed length of prolongation (maximum 3 years)
- The continued strong performance of the staff member
- Input from Administration on relevant previous precedents and other horizontal issues

The College will make a decision as to whether the prolongation is approved and the Director will inform the staff member concerned of the decision and the rationale behind it.

In accordance with Staff Regulation 13/1(a)(vi), ESA will inform a staff member in writing at least six months prior to the end of their contract whether or not a prolongation is offered.

In the interests of transparency, details of any prolongations and the rationale behind them will be published internally.

6. Temporary positions

In accordance with Staff Regulation 13.1(b), temporary appointments will normally be for a maximum of 12 months in the first instance. If it is in the interests of ESA, a temporary appointment may be renewed for a period of up to 12 months. Any renewal will be approved by the College, based on a recommendation by the relevant Director, following consultation with the Director of Administration and HR Officer. Any further prolongation will be handled in accordance with the principles of Section 5 of this Policy & Procedure.

Temporary appointments may be made to cater for a short-term operational need or particular assignment, or to ensure that any unforeseen gaps in recruitment or long term absences can be adequately covered. Temporary appointments may be made for the purpose of building competence in EEA law amongst professionals from the EEA EFTA States.

ESA may select the most suitable candidate for temporary positions from in-house or external candidates, without the requirement for an advertisement or competitive selection process.

Nevertheless, any temporary appointment will be made on a fair and objective basis. If any internal candidate is under consideration for a temporary position, expressions of interest will be invited from any interested party and the most suitable candidate will be selected by the Director, in consultation with HR.

7. National experts

ESA may appoint experts from the EEA EFTA States as national experts. The recruitment procedure will be determined in line with the needs of ESA at that time. Any appointment of a national expert will be for a maximum of three years.

8. Trainees

ESA will appoint a number of trainees from the EEA EFTA States each year on 11-month contracts. The purpose of such traineeships is to build interest and competence in EEA law amongst recent graduates and young professionals.

ESA will take pro-active steps to encourage trainee applications (e.g. attending careers fairs, arranging moot courts and delivering lectures and presentations on the role of ESA and EEA law). Trainee appointments will be advertised and selection will be made by remote interview and, if necessary, written assessment.

In the interests of ensuring that trainee positions are open to as wide a group of individuals as possible, current and former trainees of the EFTA Secretariat will not be eligible to apply for ESA trainee positions. Current and former trainees of the EFTA Court will, however, be eligible to apply in light of the short-term nature of traineeships in the Court as compared with those in the Secretariat.

9. Reference checks

ESA will conduct all necessary reference checks to satisfy itself of the suitability of the candidate. References will not be taken without the prior agreement of the candidate. Normally reference checks will be completed after approval has been given by College to proceed with the preferred candidate(s). It may occasionally be necessary to take references prior to College approval, for example to obtain relevant information needed to make a full assessment of the candidate(s) in question.

10. Security Clearance

ESA will establish a list of positions requiring security clearance and will indicate this requirement in relevant recruitment advertisements. ESA will liaise with the relevant national security agencies in order to obtain the required clearance. If the required clearance is not obtained prior to the individual's start date, a provisional clearance will be issued in the first instance.

11. Starting Salary

ESA does not normally enter into negotiations on starting salaries. Instead, the experience and qualifications of the individual at the time of recruitment will be assessed against those of current staff members appointed on the same type of contract at their time of joining. This means that an individual can expect to be offered the same starting salary as that offered to a current staff member who had comparable qualifications and experience at the time of joining ESA.

The HR Officer will prepare a proposal for the starting salary, for approval by the recruiting Director and the Director of Administration. The recruiting Director should satisfy him/herself that relevant experience has been taken into account and the Director of Administration's role is to ensure consistency and fairness across ESA.

12. Candidate feedback

ESA is committed to providing meaningful and constructive feedback to candidates to assist them in future applications for ESA positions, as well as positions elsewhere.

All candidates not shortlisted for interview will be informed of this and will be provided with personal feedback on request. All candidates not selected following an interview process will be provided with feedback.

13. Travel & accommodation expenses

ESA will cover reasonable travel and accommodation expenses for candidates required to travel and stay overnight to attend interviews and assessments. Meals and other expenses will not be covered.