

Implementing Rules to the EU Staff Regulations

69th Meeting of the Management Board 30 March 2023

Proposed action

The Management Board (MB) is invited to adopt amended Implementing Rules (IR) on the reclassification of Temporary Agents¹.

The amendments were prepared in close cooperation with the Directorate General - Human Resources and Security (DG HR) of the European Commission (Commission). In addition to the specific process applicable to the Members of the Board of Appeal (BoA) that were adopted in 2020, these amendments further safeguard the independence of BoA Members as regards their promotion to a higher grade. ECHA's management and Staff Committee have been consulted on the respective Implementing Rules and agree with the proposals herein. The MB Subgroup Board of Appeal reviewed the amendments to the IR during a written consultation.

Following their adoption by the MB, the secretariat will request the formal agreement of the Commission (which is standard procedure for such rules), and subject to this agreement, the MB Chair will finalise the new rules and they will enter into force.

Background

In accordance with Article 110(2) of the Staff Regulations, IRs adopted by the Commission shall apply by analogy to ECHA either nine months after the date of the Commission notification or by decision of the Management Board at an earlier date. Alternatively, ECHA may request the Commission's agreement either to adopt modified rules or not to apply certain rules adopted by the Commission.

Rationale

In December 2020, the MB adopted ECHA's specific rules on the reclassification of Temporary Agents to ensure that the specific situation of its BoA Members is duly reflected in the annual promotion exercise. More specifically, the 2020 rules clarified that, for BoA Members, their Reporting Officers are MB Members and that any final decision on their reclassification must be adopted in agreement with the Management Board (as their Appointing Authority).

It is now proposed to amend the 2020 rules to address remaining concerns as regards the protection of BoA Members' independence from the Secretariat:

- The Reporting Officers (MB members) decide whether a BoA Member should be added to the draft list of reclassifications, which would be implemented by the Executive Director (within the applicable budget limitations);
- Should a BoA Member decide to lodge a complaint with the Agency's Joint Reclassification Committee, that consultative body should include two MB Members (one appointed by the Secretariat, the other by the Agency's Staff Committee, given the Committee's joint setting between management and staff representatives);

¹ The MB adopted the current ECHA Implementing Rules on this matter in December 2020 (MB Decision 49/2020): General provisions for implementing Article 54 of the Conditions of Employment of Other Servants of the European Union.

- It should be clarified that the Management Board is empowered to have the final decision on adding BoA Members to the draft list and, ultimately, the final reclassification lists (in contrast to the current wording which refers only to an 'agreement' between the Executive Director and the Management Board, which could be misperceived as a power of the Executive Director to disagree to, and, ultimately, object to the reclassification of BoA Members);
- Finally, it should be specified that any potential complaints of BoA Members in reclassification matters, submitted pursuant to Article 90(2) of the Staff Regulations, would be addressed to, and decided by, the Management Board.

The MB Subgroup BoA was informed about these amendments, which reflect the current practice of the ECHA reclassification exercises and which, hence, should be considered as clarifications with regard to BoA Members, as opposed to any substantive changes to the procedure. Any questions raised by Subgroup Members were addressed in writing.

Alternative options

The Management Board could also decide not to adopt the referenced Implementing Rules, which would, however, harm the interest of the Agency, as explained above.

Drawbacks

ECHA worked closely with the Commission on the specific Agency rules on the reclassification of Temporary Agents that are proposed for adoption herein, as amended, and, therefore, these rules reflect ECHA's needs without any drawbacks.

For questions: shay.omalley@echa.europa.eu with copy to mb-secretariat@echa.europa.eu