

Admitting contract staff to internal competitions

Internal competitions are in principle open to officials and temporary staff: see **Article 29 (1)** of the **Staff Regulations**:

“Before filling a vacant post in an institution, the appointing authority shall first consider:

[...]

(d) whether to hold a competition internal to the institution, which shall be open only to officials and temporary staff as defined in Article 2 of the Conditions of Employment of Other Servants of the European Union;”

The **third paragraph** of the same article allows for derogation from the above-mentioned rule:

“While maintaining the principle that the vast majority of officials are to be recruited on the basis of open competitions, the appointing authority may decide, by way of derogation from point (d) and only in exceptional cases, to hold a competition **internal** to the institution which shall **also be open to contract staff** as defined in Articles 3a and 3b of the Conditions of Employment of Other Servants of the European Union. That latter category of staff shall be subject to restrictions with regard to that possibility as laid down in Article 82(7) of the Conditions of Employment of Other Servants of the European Union and with regard to the specific tasks it was entitled to perform as contract staff.”

The conditions for **admitting contract staff to internal competitions** are specified in **Article 82 (7)** of the Conditions of Employment of Other Servants (**CEOS**); these are the following:

- a. “Contract staff in function groups II, III and IV” *(which means that those in function group I are in any case excluded)*;
- b. “may be authorised to take part in internal competitions” *(which means that the appointing authority, when setting the terms of the notice of competition, has discretionary power to authorise or not the admission of contract staff)*;
- c. “only after having completed three years of service in the institution” *(under any form of contract under the CEOS)*.
- d. “Contract staff”
 - i. “in function group II may have access *only* to competitions at grades SC 1 to 2,”

- ii. “in function group III at grades AST 1 to 2 and”
- iii. “in function group IV at grades AST 1 to 4 or at grades AD 5 to 6.”

(see table below)

Court of Justice - Cour de justice					grades de fonctionnaire auxquels les ACA peuvent accéder par concours interne
Contract staff - agents contractuels					
CEOS Article du RAA	Function group - Groupe de fonctions	Grade	time limits of contracts - durée des contrats	classification in the next higher grade - classement au grade imméd. supérieur	
3b - 3ter (ACA)	IV	18	6 years max - 6 ans / max	non applicable	AD 6 AD 5
		17			
		16			
		15			
		14			
		13			
	III	12			AST 4 AST 3 AST 2 AST 1
		11			
		10			
	II	9			SC 2 SC 1
		8			
		7			
3a - 3bis	I	6	indefinite period possible - CDI possible	yes - oui	reclassification - reclassement grade 1 → grade 2 : 3 yrs - ans grade 2 → grade 3 : 6 yrs - ans
		5			
		4			
		3			
		2			
		1			

- e. “The total number of candidates who are members of the contract staff and who are appointed to vacant posts at any of those grades shall never exceed 5 % of the total number of appointments to those function groups made per year in accordance with the second paragraph of Article 30 of the Staff Regulations.”

Competition internal to the Institutions for proof-readers

It must be noted that the Court of Justice is structurally understaffed in terms of proof-readers posted in Translation Units, each one (except FR) having two permanent posts. A request to the Budget Authority for a 3rd post for each language, made by the Institution several years ago, was refused by the Budget Authority, which instead granted appropriations for contract staff to be employed under Article 3b of the CEOS (in FR ‘ACA’ or ‘3ter’), whose contracts, following the 2014 Reform of the Staff Regulations, were extended from a maximum of 3 to a maximum of 6 years. Still, this results in permanent instability and job insecurity.

Contract staff are a legal form of employment introduced to the CEOS under the 2004 reform of the Staff Regulations. Following extensive recourse to contract staff for auxiliary tasks (Article 3b) – who were in fact employed to cover permanent needs of the institutions – the 2014 Reform al-

lowed for a limited possibility of admitting contract staff to internal competitions, which until then was totally excluded.

Conditions for admitting contract staff to internal competitions are specified above ([Article 82 \(7\) of the CEOS](#)). The Notices of competition for five languages provided an opportunity to realize how these new rules, which constitute limited progress compared to the previous absolute ban, are more than restrictive; they are handicapping.

Indeed, while, according to standard practice, proof-readers' careers start at grade AST 3, which, in contract staff career terms, corresponds to function group III, proof-readers who have been working in the institution and classified in function group III, **can only be admitted** (see Article 82 (7) CEOS and table above) **to internal competitions for grades AST 1 to 2.**

By contrast, again in accordance with consistent practice, a competition for proof-readers will be published for grade AST 3, thus automatically leaving out all proof-readers employed at FG III, *i.e.* people who have been doing the job to which the competition refers.

A possible solution

There is no legal obstacle against publishing a competition relating to two successive grades for the same job profile: in our case, **AST 3 and AST 2**. The Notice of competition can then include a provision allowing contract staff to participate once they fulfil the conditions of Article 82(7) CEOS.

Policy reasons can reasonably be raised against such a step: there is pressure from the Commission to under-classify proof-readers, by recruiting them at grade AST 1. Quite rightly, the Court's policy has been to maintain the AST 3 level of recruitment, and it could be argued that departing from this position of principle might weaken this line of defence in future.

It can be argued though that, in the case of an internal competition, the Notice of competition is not going through the Common (Inter-institutional) Joint Committee and that the Court is having recourse to this practice only exceptionally, as a lesser evil than that of excluding contract staff from internal competitions for the tasks they have been performing. This would go against the very reason for inserting [Article 82 \(7\) of the CEOS](#) in the 2014 reform following the requests of the trade unions.