

DECISION AB n° 16/2017

**OF THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE
COOPERATION OF ENERGY REGULATORS**

of 21 September 2017

**amending Decision AB n° 23/2015 of the Administrative Board of the Agency for the
Cooperation of Energy Regulators of 17 December 2015 laying down general provisions
for implementing Article 43 of the Staff Regulations and implementing the first
paragraph of Article 44 of the Staff Regulations for temporary staff,**

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF
ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the
Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹
(hereafter 'Agency'), and, in particular, Article 28(2) thereof,

HAVING REGARD to the Staff Regulations of Officials of the European Union and the
Conditions of Employment of Other Servants of the Union (hereafter 'CEOS') as laid down by
Regulation (EEC, Euratom, ECSC) No 259/68 of the Council², and, in particular, Articles 43
and 44 of the Staff Regulations and Article 15(2) of the CEOS,

HAVING REGARD to Decision AB n° 24/2011 of the Administrative Board of the Agency
for the Cooperation of Energy of 22 September 2011 on middle management staff,

HAVING REGARD to Decision AB n° 23/2015 of the Administrative Board of the Agency
for the Cooperation of Energy of 17 December 2015 laying down general provisions for
implementing Article 43 of the Staff Regulations and implementing the first paragraph of
Article 44 of the Staff Regulations for temporary staff,

After consulting the Staff Committee on 17 August 2017,

WHEREAS

- (1) The Administrative Board adopted its Decision AB no 23/2015 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations for temporary staff on 17 December 2015. In accordance with Article 9(2) of this Decision, Commission Decision C(2013)8985 of 16 December 2013 does not apply by analogy at the Agency;

- (2) By note dated 14 December 2016, Agencies were informed of Commission Decision C(2016)7270 amending Decision C(2013)8985 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations, in application of Article 110(2) SR;
- (3) By note dated 16 March 2017, the Directorate-General Human Resources and Security of the European Commission (hereafter: 'DG HR') communicated its position that Commission Decision C(2016)7270 is suitable to be applied by analogy to Agencies, regardless of whether they adopted Commission's Decision C(2013)8985 by analogy or instead adopted their own decision following the ex-ante agreement of the Commission;
- (4) By note dated on 5 July 2017, DG HR provided an interpretation to the Directors of Decentralised Agencies, according to which if an Agency has, following an (ex-ante) agreement of the Commission, adopted its own decision on the subject matter, the amending Commission Decision will apply by analogy and alongside the Agency's existing decision;
- (5) It is, therefore, necessary to ensure compliance with Commission Decision C(2016)7270 by analogy, along with the amendment of Decision AB n° 23/2015 of the Administrative Board of the Agency for the Cooperation of Energy of 17 December 2015 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations for temporary staff;

HAS ADOPTED THIS DECISION:

Article 1

Decision AB n° 23/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 17 December 2015 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations for temporary staff (hereinafter: 'AB Decision') shall be amended as follows:

"Article 2/A

Appraisal of managerial performance

For a jobholder occupying a function of Head of Department, the report shall, in addition, include a conclusion on whether the jobholder's managerial performance has been satisfactory. The conclusion that the jobholder's managerial performance has been unsatisfactory shall be based on factual elements."

Article 2

The report form used for the management of performance appraisal within the meaning of Article 6(2) of the AB Decision shall be amended accordingly.

Article 3

This Decision shall enter into force on the day following its adoption and shall apply to reports related to future appraisal exercise.

All other provisions of Decision AB n° 23/2015 of the Administrative Board of the Agency for the Cooperation of Energy of 17 December 2015 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations for temporary staff shall remain unchanged.

Done at Ljubljana, 21 September 2017

For the Administrative Board:

SIGNED

Chair of the Administrative Board