

DECISION AB n° 25/2017

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

of 14 December 2017

**on the implementation of telework in the Agency for the Cooperation of Energy
Regulators**

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

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants of the European Union ('CEOS') laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and, in particular, Articles 1(e)(1) and 110(2) of the Staff Regulations and Articles 10 and 80 of the CEOS,

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 Regulators², and, in particular, Article 28(2) thereof,

Having regard to Communication C(2014) 6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and, in particular, Point 2.B thereof,

Having regard to Decision AB No 03/2010 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 6 May 2010 on the Rules of Procedure of the Administrative Board of the Agency for the Cooperation of Energy Regulators, and, in particular, Article 8 thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2017)5308 of 25 July 2017,

After consulting the Staff Committee on 18 November 2017,

Whereas:

¹ OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013, OJ L 287, 29.10.2013, p.15.

² OJ L 211, 14.08.2009, p. 1.

- 1) On 5 January 2016, the Commission informed the Agency for the Cooperation of Energy Regulators (hereinafter: the 'Agency') that it adopted Decision C(2015)9151 of 17 December 2015 on implementation of telework in Commission Departments.
- 2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 1 shall apply by analogy to the Agency. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission.
- 3) Commission Decision C(2015)9151 is suitable to apply to the Agency provided that certain adjustments are made to take into account the peculiarities of the Agency. Those adjustments concern in particular technical means by which telework is made available.
- 4) Teleworking is part of a modernising trend in organisations which focuses on result-based management and objective-driven performance to increase efficiency of operations. It allows greater flexibility for work organisation and a better work-life balance of staff by increasing autonomy and making better use of new information technology.
- 5) The Authority authorised to conclude contracts of employment (hereinafter: 'AACC') defines teleworking policy in the Agency in accordance with the present decision. The AACC shall delegate the power to implement this teleworking policy.
- 6) Teleworking requires teleworkers to be autonomous, to have a sense of responsibility, to be well-organised and to meet deadlines. For the line manager, it means implementing objective-based management as well as developing efficient remote management of teleworkers.
- 7) To avoid potential risks such as difficulties with the integration of teleworkers in teams or problems with document security or IT provisions, due consideration shall be given to the consequences of teleworking for work organisation within the service and the method of evaluating the performance of teleworkers.
- 8) In the interests of clarity and legal certainty, Decision AB No 21/2012 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 9 October 2012 on the implementation of telework is repealed and replaced by this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

Aim, definition and scope of application

- (1) A teleworking scheme is instituted within the Agency.

- (2) Teleworking is a method of organising and carrying out work outside the workplace³ with the help of information and communication technologies. It aims to help the Agency achieve a more productive, result-oriented working environment that is conducive to a positive work-life balance. Additionally, it has a beneficial impact on the environment by limiting commuting and improves the business-continuity of the Agency.
- (3) The AACC is responsible for the definition of the teleworking policy in the Agency in accordance with the present decision. It shall delegate the power to implement this teleworking policy to the line management. The latter shall implement it in accordance with the present decision under the supervision of the AACC.
- (4) On a voluntary basis, every staff member⁴ has the right to request to telework. In assessing the request, the AACC shall take into account the interest of the service in the specific circumstances. This includes the benefits that teleworking can bring to the service by increasing performance, of the organisation as a whole and to the staff member concerned.
- (5) As knowledge-based activities, tasks carried out by Agency staff are as a rule suitable for teleworking. Tasks which require physical presence at the workplace are, however, unsuitable for teleworking, in particular shift work, receiving the public, working as a driver, catering, mail distribution, interpretation, technical and logistical support to conferences and meetings, crisis management and response operations, security work, child care and medical services.
- (6) This Decision does not concern staff working outside the workplace in the context of flexible working-time arrangements under Decision AB No. 8/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 4 April 2016 on working time.
- (7) The Decision shall apply to all Agency's staff covered by the CEOS regardless of function group or grade. It shall also apply to seconded national experts ('SNEs').

Article 2

General provisions

- (1) There are two types of teleworking: structural and occasional teleworking.
- (2) All the provisions of the Staff Regulations and the CEOS or, where applicable, the provisions on SNEs⁵, apply to teleworkers.

³ In the application of this decision, working outside the workplace primarily refers to working at home. By extension, the workplace includes any workplace where staff attends meetings or is sent on mission.

⁴ Any reference in this Decision to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice-versa, unless the context clearly indicates otherwise.

⁵ Decision AB No 02/2011 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 3 March 2011 laying down the rules of secondment of national experts to the Agency for the Cooperation of Energy Regulators.

- (3) Under the time-accounting arrangements, a teleworking day will count as a standard eight-hour day, and half a day as four hours⁶. No hours worked in excess of four or eight hours respectively shall be recorded during telework.
- (4) Teleworkers shall comply with the rules on leave and absences. If the teleworker does not work the number of hours required in the teleworking agreement, as defined in Article 3(1) below, he shall take annual leave or flexitime compensation in the same way as if he had been working at the workplace on that particular day.
- (5) Except in the cases described in Article 4(5) and 4(6), teleworkers may be called upon at any time to return to the office, at their own expense, for urgent reasons relating to the interests of the service.
- (6) Teleworkers must agree with their line manager which days they will be in the office to suit the service needs and priorities. The minimum period of teleworking is half a day, taken as a single block.
- (7) Teleworkers shall organise their work schedule during their teleworking day so as to comply with service needs. Teleworkers shall be contactable at least during core hours, in conformity with Decision AB No. 8/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 4 April 2016 on working time.
- (8) Teleworkers shall agree on their usual place of work with their line manager and shall agree with him any changes.
- (9) By virtue of his delegated powers, the line manager concludes the teleworking agreement referred to in Article 3(1) with the teleworker and agrees with the occasional teleworking in accordance with Article 4(4). The Human Resources Management Team is informed of these arrangements via the dedicated IT tool.

Article 3

Structural teleworking

- (1) Structural teleworking alternates regular periods of telework with periods of work at the workplace, which are established by mutual agreement between the line manager and the teleworker. This type of teleworking requires the conclusion of a "teleworking agreement" between the teleworker and his line manager.
- (2) Structural teleworking following a one-week cycle pattern requires a minimum teleworking time of half a day per working week. It is limited to a maximum of two and a half days per working week, amounting to 20 hours, equivalent to 50% of the 40-hour working week.
- (3) Structural teleworking following a two-week cycle pattern requires a minimum teleworking time of two half days (possibly in a row) and is limited to a maximum

⁶ However, for those authorised to work on a part-time basis, time-accounting applies on a pro rata basis, as defined by the relevant part-time work pattern chosen.

amount of time of three days and two days, or vice-versa, in the two respective weeks, equivalent to 50% of the 40-hour working week on average.

- (4) The minimum weekly presence in the office provided for in the above paragraphs applies even when teleworking is combined with part-time work.
- (5) The teleworking agreement shall specify the days on which the teleworker is to be in the office, as the case may be according to the cycle pattern, to suit the service's needs and priorities. It shall set out the arrangements for maintaining contact with the department and specify the usual teleworking location. The agreement shall set out the teleworker's and the manager's duties in relation to the professional objectives to be achieved. It shall include a reference to the basic regulatory provisions, such as the conditions under which teleworking may be terminated, recommendations on safety and ergonomics, guidelines on the use of equipment and precautions against damage and theft.
- (6) A trial period shall be applied in the case of first-time teleworkers, which may be of up to four months.
- (7) The agreement is normally concluded for maximum one year and may be renewed. It shall be notified to the Human Resources Management Team for information.
- (8) If the teleworker changes post, even within the same service, the agreement shall be reviewed.

Article 4

Occasional teleworking

- (1) Occasional teleworking allows staff to telework, on a temporary basis, for a maximum of 60 working days per calendar year.
- (2) Occasional teleworking may be used to accommodate work circumstances involving one-off tasks that can be better carried out outside the office, such as focussing on projects that demand specific concentration. Occasional telework may also be used in case of specific personal or family problems, transportation and mobility issues (e.g. strikes).
- (3) Weekly presence in the office shall not, in principle, be less than two and a half days per working week, which amount to 20 hours, equivalent to 50% of 40 hours working week. By derogation, occasional teleworking may be granted in individual cases for a period of consecutive days which exceeds two and a half days per working week. In that case, the Human Resources Management Team shall be informed.
- (4) To undertake occasional teleworking, staff members shall make a request to their line managers. The latter shall, in principle approve it, unless the teleworking is not compatible with the interests of the service. Approval by the line manager must be given in the dedicated IT tool.

- (5) At the request of a service or department which raises duly justified reasons, the Human Resources Management Team is empowered to allow occasional telework for longer periods than the ones mentioned in Article 4(1) and 4(3) for all or part of a service or department. In cases of force majeure, the Human Resources Management Team is also empowered, after consultation of the concerned service, to request staff members to telework.
- (6) Upon the staff member's request and upon recommendation of his treating doctor, occasional teleworking may be granted even beyond the 60-day limit per calendar year, if a staff member has temporarily lost his mobility but is still able to work outside the work place; the period granted must be necessary for recovering the ability to return to the workplace.

Article 5

Termination

- (1) A structural or occasional teleworking arrangement may be terminated at any time by the line manager, if the working conditions change or in the interest of the service (for example in the event of a change in the staff member's assignments or duties, when the staff member's performance is affected as a result of teleworking, or, in case of scarce teleworking capacity, when priority is given to another staff member). This is not affected by the appointment of a new line manager.
- (2) The line manager terminates the teleworking agreement ahead of time at the request of the teleworker.
- (3) The structural teleworker shall be notified at least one month before the termination takes effect. In exceptional circumstances related to the interest of the service, an immediate return to normal working conditions may be requested.
- (4) The decision to terminate the teleworking agreement before its term within the meaning of Article 3(7) shall indicate the reasons of termination and the date on which it takes effect.

Article 6

Training and career development

- (1) Teleworkers shall retain their entitlements to training as well as their career prospects. In particular, teleworking shall not affect the individual's appraisals or assessments. Teleworkers' workload and performance indicators shall be the same as those of similar job holders working at the workplace.
- (2) The Agency shall provide teleworkers with information on ergonomics, document security, use of IT equipment, precautions to be taken against damage and theft and other subjects relating to teleworking. Management training will take into account the specifics of objective-based and remote management of teleworking staff.

Article 7

Health and safety

- (1) Teleworkers shall benefit from the same insurance against accident and occupational disease as staff working at the workplace. They shall take out the home insurance required by the law of the country in which the teleworking takes place. They are responsible for ensuring that their home and its electrical installation comply with the applicable health and safety regulations.
- (2) The Agency shall provide the teleworker with information on occupational health and safety, in particular the use of display screen equipment. Teleworkers shall regularly check the advice on ergonomics communicated to them by the Agency and ensure that they maintain an adequate level of compliance.
- (3) Teleworkers shall take all precautions necessary to safeguard the confidentiality of the information they handle while teleworking.

Article 8

Teleworking capacity

- (1) The Agency shall make teleworking available or feasible as widely as possible for staff members.
- (2) The Agency shall determine a non-discriminatory allocation system, based on objective criteria that are relevant to the proper operation of the service.

Article 9

Equipment and technical support

- (1) The Agency ensures the remote access and may put the necessary equipment at the disposal of teleworkers. It may continue progressively to provide teleworkers at least with a laptop computer to replace the standard Agency desktop PCs. This laptop shall be used both in the office and when teleworking.
- (2) The Agency may set out by appropriate means the IT services provided to teleworkers according to types of access. The IT services provided to teleworkers may be adjusted according to users' needs, technological developments and available budget.
- (3) Teleworkers shall bear the cost of their internet subscription and of the communication charges incurred while teleworking, regardless of the chosen teleworking option or type of access. The cost of transferring calls from work telephones to teleworkers' private numbers shall, however, be borne by the Agency.

Article 10

Monitoring and evaluation

- (1) The Human Resources Management team shall be responsible for monitoring effective implementation and compliance of this Decision within the Agency, in consultation with the Joint Committee. In particular, the Human Resources Management Team will monitor possible correlations between use of telework and career advancement to avoid situations of unequal treatment. At the latest five years after entry into force of this Decision, the Human Resources Management Team will report on the implementation of this Decision.
- (2) The Human Resources Management Team will draw up a Guide for the line managers indicating procedures and good practices to achieve of the objectives of this Decision.

Article 11

Final provisions

- (1) Decision AB No 21/2012 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 9 October 2012 on the implementation of telework is repealed and replaced by this Decision.
- (2) The Commission's Decision C(2015)9151 of 17 December 2015 on implementation of telework in Commission Departments does not apply by analogy at the Agency.
- (3) This Decision shall take effect on the day following that of its adoption.

Done at Ljubljana, on 14 December 2017.

For the Administrative Board


Dr Romana Jordan
Chair of the Administrative Board