

DECISION AB n° 21/2016

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

of 15 December 2016

**amending Decision AB No 21/2015 of
the Administrative Board of the Agency for the Cooperation of Energy Regulators of 17
December 2015 on the adoption of the budget for the financial year 2016 and on the
establishment plan of the Agency for the Cooperation of Energy Regulators
as amended by Decision AB No 3/2016 of 27 January 2016**

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, and, in particular, Articles 1(1), 3 and 13(4) thereof,

Having regard to Definitive Adoption (EU, Euratom) 2016/150 of the European Union's general budget for the financial year 2016 of 24 February 2016, and in particular Title 32 (Energy), Annex 'Staff' thereof²,

Having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the Framework Financial Regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council³, and, in particular, Articles 1, 33 and 38 thereof,

Having regard to Decision AB No 22/2013 of the Administrative Board of the Agency for the Cooperation of Energy Regulators on the adoption of the Financial Regulation of the Agency for the Cooperation of Energy Regulators of 12 December 2013 and, in particular, Article 38(1) thereof,

Having regard to Decision AB No 21/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 17 December 2015 on the adoption of the budget for the financial year 2016 and of the establishment plan of the Agency for the Cooperation of Energy Regulators, as amended by Decision AB No 3/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 27 January 2016,

¹ OJ L 211, 14.8.2009, p. 1.

² OJ L 48, 24.2.2016, p. 1934.

³ OJ L 328, 7.12.2013, p. 42.

Whereas:

- (1) The contribution of the EU Budget to the budget of the Agency, including the establishment plan for the year 2016, was adopted by the Budgetary Authority on 25 November 2015 as part of the European Union's general budget. The Establishment Plan establishes the maximum number of posts and the relevant grades which can be occupied by a member of the staff in a given year.
- (2) Following Decision AB No 21/2015 of 17 December 2015, the Administrative Board of the Agency for the Cooperation of Energy Regulators (further 'the Agency'), adopted the Agency's establishment plan. The establishment plan was subsequently amended following Decision AB No 3/2016 of 27 January 2016.
- (3) The Agency did not comply with the establishment plan as approved by the Budgetary Authority as it understood that the grades referred to those at the time of recruitment.
- (4) The ACER establishment plan must therefore be modified to correct this ACER *bona fide* error.
- (5) According to the procedure established in Article 38(1) of AB Decision No 22/2016 ('the flexibility rule'), the establishment plan may be modified by the Administrative Board of the Agency with respect to up to 10% of the posts authorised, save in the case of grades AD16, AD15, AD14 and AD13, subject to the following conditions cumulatively fulfilled: (a) the volume of staff appropriations corresponding to a full financial year is not affected, (b) the limit of the total number of posts authorised by the establishment plan is not exceeded; and that (c) the Agency has taken part in a benchmarking exercise with other bodies of the Union as initiated by the European Commission's staff screening exercise.
- (6) The modification referred to in recital (5) would allow for realignment of the establishment plan of the Agency with the actual grades of the staff members in service.
- (7) By modifying the establishment plan the total volume of appropriations (item of the budget "salaries and allowances" under Title 1 – Staff expenditure) will not be affected, giving that in its budget forecast of the different years, the Agency considered the actual grades of staff, following the reclassifications exercises, as reported in the past programming documents. Moreover, the limit of total number of posts authorised by the establishment plan would not be exceeded as the implementation of the flexibility rule affects the grades in the establishment plan, but not the number of posts, which remain unchanged. Furthermore, the modification of the establishment plan does not affect the grades AD 16, AD15, AD14 and AD 13. Finally, the Agency carried out the benchmarking exercise for 2015 in line with the provisions of Article 29(3) of the Framework Financial Regulation (FFR) and the snapshot for the benchmarking exercise was taken on 31 December 2015.

- (8) Giving that the conditions for implementing Article 38(1) of Decision AB No 22/2013 are fulfilled, it is appropriate to modify the 2016 establishment plan of the Agency by implementing 'the flexibility rule 'and to repeal Decision AB No 3/2016 and amend Decision AB No 21/2015.
- (9) The changes in the grades as per the establishment plan should be reflected in 2017-2019 and 2018-2020 Programming Documents,
- (10) No further appointments can be made beyond the limits of the Establishment Plan.

HAS ADOPTED THIS DECISION:

Article 1.

Decision AB No 3/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 27 January 2016 is hereby repealed.

Article 2.

The establishment plan listed in Annex I of Decision AB No 21/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 17 December 2015 on the adoption of the budget for the financial year 2016 and of the establishment plan of the Agency for the Cooperation of Energy Regulators shall be amended as follows:

- (a) Three AD 5 posts are upgraded to AD12;
- (b) Three AST 3 posts are upgraded to AST5.
- (c) One AST3 post is upgraded to AST6.

Article 3.

- 1. This Decision shall be implemented by means of filling the posts in the respective grades as per the amended establishment plan in annex.
- 2. This Decision shall enter into force on the day following its adoption.

Done at Ljubljana, on 15 December 2016.

For the Administrative Board:

SIGNED

Dr. Romana Joraa
Chair of the Administrative Board

Annex I.

Category and grade	2016 EU Adopted budget	Amended 2016 ESTABLISHMENT PLAN (according to Art. 38 of the ACER FR (Decision AB No 22/2013))	
		Amendments	Amended Establishment Plan 2016
AD 16			
AD 15	1		1
AD 14			
AD 13			
AD 12		3	3
AD 11	5		5
AD 10			
AD 9	2		2
AD 8	10		10
AD 7	10		10
AD 6	7		7
AD 5	19	-3	16
Total AD	54	0	54
AST 11			
AST 10			
AST 9			
AST 8			
AST 7			
AST 6		1	1
AST 5	1	3	4
AST 4	1		1
AST 3	13	-4	9
AST 2			
AST 1			
Total AST	15	0	15
GRAND TOTAL	69	0	69