

DECISION AB n° 24/2011

ON MIDDLE MANAGEMENT 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 a European Agency for the Cooperation of
Energy Regulators (hereafter referred to as the "ACER Regulation" and "ACER"), and
in particular to Article 28(2) thereof;

Having regard to the Staff Regulations of officials (thereafter: "SR") and the
Conditions of Employment of other servants of the European Communities (thereafter:
"CEOS"), as laid down in Council Regulation (EEC, EURATOM, ECSC) No 259/68
and the amendments thereto, and in particular Articles 2, 4, 5, 7, 29 and 44 thereof;

After consultation of the Staff Committee and in agreement with the European
Commission pursuant to Article 28(2) of Regulation (EC) No 713/2009 and Article 110
of the SR;

Whereas:

- (1) The role and responsibilities of middle management staff should be laid down
precisely;
- (2) A special trial period for newly appointed middle managers should be
introduced.

HAS DECIDED AS FOLLOWS:

Article 1
Definitions

1. Middle management functions to which this decision applies are those of head
of unit as referred to in Article 44(2) of the SR, which involve the permanent
and continuous management of an administrative structure as defined in
paragraph 2;

This means that the function of Head of Department in ACER is covered by this decision.

These posts shall be filled at recruitment range of grades from AD9 to AD12.

2. Departments are organisational structures that meet the following criteria:
 - They appear in the official organisation chart of ACER;
 - They are justified by an overall evaluation considering the size, the number of AD staff, the complexity and sensitivity of its tasks, the budgetary impact and a comparison to other units with similar tasks within ACER and in other Agencies.

In the event of a change in the organisation chart, a net increase in management posts shall be justified and documented in the Staff Policy Plan.

3. In certain cases section managers may carry out management tasks delegated to them by the head of department. Even if they appear in ACER's official organisation chart, they are not part of the middle management staff.

Article 2

Role of middle managers

Middle managers shall demonstrate ability in human resources management or in financial management or both, as appropriate, as well as (where required) the specific knowledge and/or qualifications relevant to the particular post.

The role and responsibility of middle managers shall include the following:

- Issue guidelines for policies and actions to the department on the basis of ACER's mission statement and annual work programme. They shall define the department work programme, coordinate work within the department and with other departments and represent the department at important meetings.
- Act as the main channel for the exchange of information between senior management and the various members of the department.
- Be directly responsible for the management of the human resources of the department and, where appropriate, its financial resources.

Article 3

Publication of a post and filling it

Where the post may be filled by the appointment of a temporary agent, the Director may decide (in no particular order):

- To re-assign a temporary agent to the post in the interest of the service pursuant to Article 7(1) of the SR provided that the duties of the post are appropriate to his or her grade, and that he/she already occupies a middle management post or has occupied such a post and has not ceased to exercise management duties because of insufficient managerial ability or voluntary opt-out, in application of Article 7(1) or (3) below.

- To advertise the post in ACER and/or in the Interagency Job Market, before making an external publication of the vacant post. However, in case of simultaneous publication internally and in the Interagency Job Market, applications of internal candidates shall be considered first.

If the post is advertised internally and/or in the Interagency Job Market, the Director shall publish it at a range of grades corresponding to the functions. The post shall be reserved to candidates of the same function group and whose grade is within this range of grades. Successful candidates shall maintain their classification in grade, step and seniority in step as held before. For candidates from the Interagency Job Market, Article 32 of the SR and the ACER decision concerning the criteria applicable to classification in grade and step on appointment or engagement shall apply concerning the classification in step.

- To publish externally and to launch a selection procedure in accordance with the ACER decision on general implementing provisions on the procedure governing the engagement and the use of temporary agents at ACER, for temporary agents who are recruited through an external selection procedure.

If the post is advertised externally, the Director shall publish it at one grade out of the grades from AD9 to AD12.

Article 4 **Eligibility**

1. For temporary agents, if the post is published internally and/or in the Interagency Job Market, the applicant to be appointed must:
 - Have been selected according to the selection procedure for temporary agents 2(a) as defined in Article 4 of the ACER decision on general implementing provisions on the procedure governing the engagement and the use of temporary agents at ACER;
 - Be in grade AD9, AD10, AD11 or AD12;
 - Possess the qualifications specified in the vacancy notice;
 - Possess the competencies set out in Annex I to this decision.
2. For temporary agents, if the post is published externally, the applicant to be appointed must:
 - Have been selected according to the selection procedure pursuant to Article 3 (1) or (2) of the above mentioned decision on the engagement and use of temporary agents at ACER or, in the case of staff engaged before the entry into force of this decision, must have passed a selection procedure equivalent to that for short term employment referred to in Article 4 of the ACER decision on general implementing provisions on the procedure governing the engagement and the use of temporary agents at ACER;
 - Possess the qualifications specified in the vacancy notice;
 - Possess the competencies set out in Annex I to this decision.

Article 5 Training

1. Newly appointed Heads of Department shall be required to follow a management preparation course before or within three months of taking up their duties. Management courses listed in the Commission's/Agency's training catalogue and followed by an applicant during the five years prior to publication of the post may be validated by the appointing authority as management preparation courses.
2. As an alternative, the temporary agent may demonstrate to the appointing authority that he or she has already acquired the management qualifications required by successfully completing other courses of training for management functions.

Article 6 Trial period

1. All those newly appointed to a Head of Department position without having served at least two years as a middle manager, whether in ACER, in the European Institutions¹, bodies, offices or other Agencies (including new middle managers recruited following an open selection procedure), shall serve a special management trial period of nine months as a 'probationer Head of Department'.

The reporting officer and the countersigning officer (if applicable) shall be the same as those designated in relation to probation for the post to which the new middle manager has been appointed, for the purposes of the appraisal report under the ACER decision establishing the policy and procedure for the performance appraisal of staff.

The final assessment shall be drawn up in writing and countersigned by the 'probationer middle manager'. A 'probationer Head of Department assessment sheet', covering final assessment, is provided in Annex II.

2. For temporary agents already in service, the final assessment as middle manager shall be drawn up before the end of the management trial period. This assessment may be attached to the next Performance Appraisal Report provided for in Article 15(2) of the CEOS.

In exceptional circumstances, the management trial period may be extended by up to six months by the Authority Responsible for Concluding Contracts of Employment (AHCC), in order to give the probationer manager time to remedy perceived deficiencies.

If at the end of the process (i.e. after 15 months maximum) the probation is deemed to have been unsuccessful (meaning at least one 'insufficient' in the assessment sheet), the AHCC shall propose reassignment to a non-management position.

3. For 'probationer middle managers' newly recruited as temporary agents following an external selection procedure, the final assessment as manager

¹ Or two years as Head of cabinet, or as an AD13/AD14 Legal adviser in the Legal Service.

shall be drawn up before the end of the management trial period. This assessment of management ability does not replace the normal probationary period report provided for in Article 14 of the CEOS.

In exceptional circumstances, the management trial period may be extended by another three months by the AHCC, in order to give the probationer manager time to remedy perceived deficiencies.

If at the end of the process (i.e. after 12 months maximum) the probation is deemed to have been unsuccessful, the appointing authority shall propose termination of the employment.

Article 7

Reassignment to a non-management position

Middle managers may be reassigned to a non-management position whilst keeping their grade.

Reassignment to a non-management position shall be distinguished from reassignment resulting from the procedure provided for in Article 51 of the SR.

Reassignment to a non-management position shall be possible in the following cases:

1. **Insufficient managerial ability as a Head of Department**

1.1. **Reassignment following the trial period**

A procedure for reassignment to a non-management position may occur following the end of the trial period for a newly appointed Head of Department provided for in Article 6(2) hereof.

1.2. **Reassignment at any stage during a managerial career**

A procedure for reassignment to a non-management position may occur at any stage when a Head of Department is deemed not to have met the required management standards in two successive Performance Appraisal Reports. Unmet standards means an 'improvements required' or a 'significant improvements required' in the Report sheet, related to possible deficiencies in management ability.

Before a decision is taken, the case shall be further assessed by one staff member designated by the Director, who must have at least the same grade as the middle manager and shall not be in any conflict of interest. The designated staff member shall draw up conclusions.

Following the opinion of the designated staff member, the final decision shall be taken by the Director.

2. **In cases where a management post ceases to exist as a consequence of redeployment or the amendment of the organisation chart of ACER, a Head of Department may be reassigned to a non-management position.**

Persons, who were reassigned to a non-management position under the conditions as described in this paragraph, may be reassigned by the Director to Head of Department posts in the interest of the service pursuant to Article 7 of the SR.

3. Voluntary opt-out

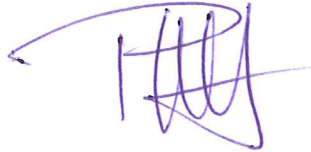
A Head of Department may ask to be allowed to opt out of a management position at any stage during his or her career. The request shall include a detailed explanation of the reasons for wishing to opt out, and implies a formal acceptance of reassignment to a unit under the supervision of a Head of Department. Where a staff member who has opted out under this paragraph subsequently reapplies for a management post he shall go through the standard selection procedure set out above.

Article 8
Entry into force

This decision shall take effect on the day following that of its adoption.

Done at Ljubljana, on 22 September 2011

For the Administrative Board:



Piotr Woźniak

Chairman of the ACER Administrative Board

Annex I to the Decision AB n° 24/2011
ABILITIES REQUIRED TO APPLY FOR A MIDDLE MANAGEMENT POST

The abilities referred to in Articles 6 are the following:

I – The **core abilities** are:

- *General management skills*, including:
 - Ability to set and revise objectives for the department within the overall strategic framework of the Agency.
 - Ability to determine and focus on priorities and to monitor and evaluate the progress made towards achieving the objectives set, in cooperation with the members of the team.
 - Ability to choose co-workers suited to the efficient pursuit of the department's objectives.
 - Ability to empower members of the team while ensuring that they understand what is expected of them and how their work contributes to the department's objectives.
 - Ability to motivate members of the team to achieve the desired results and also to enable them to achieve their objectives and greatest potential.
- *Communication skills*
 - Ability to communicate clearly and present complex subjects simply, both orally and in writing, including to the members of the team.
- *Interpersonal skills*
 - Ability to deal with people effectively and courteously and to build productive and cooperative working relationships with other departments and colleagues.
- *Negotiation skills*
 - Ability to steer discussions and generate the best possible results without compromising productive working relationships with the other parties involved.

II - **Technical qualifications** include points of the following type:

- *Familiarity with administrative, financial and oversight issues.*
 - Staff members must have a good knowledge of the administrative and financial circuits within the ACER and, ideally, experience of them. Knowledge of the relevant procedures would clearly be an additional asset. A high degree of competence in handling budgetary resources could be of key importance, depending on the post in question.

III - **Specialist knowledge** comprises points such as:

- *Knowledge of Community policies, languages, legislation and programmes*, where relevant to the post in question.

Occupying a Head of Department post efficiently and effectively requires possession of these competencies to a high degree. The relative weighting of the various elements will depend largely on the particular features of each post.

Annex II to the Decision AB n° 24/2011

PROBATIONER HEAD OF DEPARTMENT ASSESSMENT SHEET

**FINAL ASSESSMENT OF MANAGEMENT CAPACITIES
 FOR PROBATIONER HEAD OF DEPARTMENT**

Probationer Head of Department:

Surname and first name(s):
Personnel number:
Current position:
Starting date in Head of Department position:
Department:
Contract (TA), Category and Grade: AD
Number of staff in the Department:
Management trial period:
From: xx.xx.201x to: xx.xx.201x

Reporting Officer:

Surname and first name(s):
Function:

Opinion of the Reporting Officer:

<u>Managerial competencies</u>	Exceeds expectations	Meets expectations	Does not meet expectations
Leadership skills <i>(initiative, credibility, assertiveness, setting example, coaching, emotional intelligence)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
People Management <i>(performance management, motivation, individual and team development, knowledge management)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strategic management <i>(aligning work to strategic priorities, setting SMART goals and KPIs, being accountable)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Project and Resource Management <i>(efficient use of finance, equipment, staff, efficient project management)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cross-functional collaboration <i>(across levels, units and jobs)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Delivered results <i>(quality of work and ability to deliver results)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Communication skills <i>(cross-cultural management, negotiation skills, feedback giving, conflict management, networking)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Overall assessment:</u>	<input type="checkbox"/> Satisfactory managerial performance <input type="checkbox"/> Unsatisfactory managerial performance		
<u>Comments:</u>			
Date:	Signature:		

Comments of the Probationer Head of Department:

Date: _____	Signature: _____

Decision of the Director:

<p><input type="checkbox"/> Confirmation as Head of Department</p> <p><input type="checkbox"/> Extension of the management trial period, for duration of:</p> <ul style="list-style-type: none"><input type="checkbox"/> 3 months (max. extension for newly-recruited external staff or internal staff in AST function group)<input type="checkbox"/> 6 months (max. extension for internal staff in AD function group) <p><input type="checkbox"/> Re-assignment to a non-managerial function</p> <p><input type="checkbox"/> Termination of the contract</p>	
Date: _____	Signature: _____