



Decision No 7/2020

of 24 March 2020

of the Management Board

of the European Labour Authority concerning the annual appraisal, probationary and management trial period of the Executive Director of the Authority

THE MANAGEMENT BOARD OF THE EUROPEAN LABOUR AUTHORITY,

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 ('CEOS') of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 43, 44 and 46 of the Staff Regulations and Articles 14, 15 and 20 of the CEOS,

Having regard to Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344² (hereinafter 'the Regulation' and 'the Authority'), and in particular Articles 18(1) paragraphs (l) and (m), 30 and 31(1) thereof,

Having regard to the Commission's Decision giving its agreement pursuant Article 110(2) of the Staff Regulations C(2020)6273 of 29 September 2020.

After informing the Staff,

Whereas:

- (1) Pursuant to Article 30 of the Regulation, the Staff Regulations and the CEOS are applicable to the staff of the Authority.
- (2) Pursuant to Article 18(1), paragraph (l) of the Regulation, rules implementing the Staff Regulations and the CEOS are adopted by the Management Board in accordance with Article 110 of the Staff Regulations.
- (3) The Executive Director of the Authority is a temporary agent engaged under Article 2(a) of the CEOS, pursuant to Article 31(1) of the Regulation.
- (4) The Executive Director of the Authority should be subject to an annual appraisal, a probationary period and a management trial period. These procedures aim to assess the Executive Director with regard to his/her ability, efficiency and conduct in the service.

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 186, 11.7.2019, p.21.

- (5) It is necessary to lay down specific rules, which govern the various appraisals, to which the Executive Director should be subject, in order to determine the role of each actor and identify the various stages to be achieved in order to ensure the transparency of these procedures.

HAS DECIDED AS FOLLOWS:

TITLE I **Annual Appraisal**

Article 1 *Scope*

1. The Executive Director of the Authority is hereinafter referred to as 'the jobholder'.

Every year an appraisal report shall be drawn up for the jobholder, covering the reference period from 1 January to 31 December of the preceding year, provided that the jobholder was in active employment for a continuous period of at least one month during the reference period.

2. The objective of the annual appraisal is to assess the ability, efficiency and conduct in the service of the jobholder³ and whether the performance level of the jobholder has been satisfactory.
3. For the first appraisal exercise after engagement, the annual appraisal report concerns the period which is not covered by the probationary period report referred to under Article 14 of the CEOS.

Article 2 *Role of the various actors*

1. The appraisers, hereinafter referred to as 'reporting officers', shall carry out an appraisal of the jobholder. After the dialogue held in accordance with Article 6(3), they shall draw up a report and sign it.
2. In case of appeal, the appeal assessor makes the final decision on the report of the jobholder after consultation of the Management Board of the Authority.

Article 3 *Designation of the reporting officers and the appeal assessor*

1. The Management Board shall designate at three reporting officers from among its members, including one representative of the European Commission. Reporting officers cannot be designated to any other functions within the appraisal procedure of the Executive Director of the Authority.
2. The appeal assessor shall be the Chairperson of the Management Board.

³ Pursuant to Article 43 of the SR applicable by virtue of Article 15(3) of the CEOS

Article 4
Carryover

1. A carryover shall consist of drawing up a report whose content is identical to the preceding annual appraisal report. A carryover must be agreed between the jobholder and the reporting officers. In that case the procedure set out in Article 6 shall not apply, except for the dialogue specified in paragraph 3 which shall apply *mutatis mutandis*.
2. The carryover shall be authorised if there has been no significant change in the efficiency, competencies and/or conduct in the service of the jobholder. An annual appraisal report may not be carried over more than once.

Article 5
Content and form of the annual appraisal report

1. The annual appraisal report shall appreciate simultaneously the ability, efficiency, and conduct in the service of the jobholder. That report shall state whether or not the performance level of the jobholder has been satisfactory.
3. Without prejudice to Article 5(1), the content and the form of the annual appraisal report can, if necessary, be amended by a decision of the Management Board on a proposal from the reporting officers.

Article 6
Annual appraisal procedure

1. The annual appraisal takes place, to the extent possible, at the beginning of the year following the reference period.
2. The jobholder establishes, within ten working days after the reporting officer's request, a self-assessment, which is incorporated into the annual appraisal report.
3. At the latest ten working days after the self-assessment is communicated by the jobholder, the reporting officers and the jobholder hold a formal dialogue. If the jobholder refuses to finalise his/her self-assessment within the required time, the reporting officers can decide to hold the dialogue when the deadline referred to in paragraph 2 has expired.

The dialogue shall cover the following elements:

- a. the reporting officers examine the jobholder's efficiency based on the fulfilment of objectives and the carrying out of the implementation of the Authority work programme, demonstrated abilities and the conduct in the service of the jobholder for the reference period.
 - b. the jobholder and the reporting officers set the objectives for the following reference period and, if necessary, a training plan which takes into account the objectives linked to the Authority work programme and the personal development goals.
4. At the latest ten working days after the formal dialogue, the reporting officers shall

draw up an annual appraisal report. This report shall comprise a general appraisal, which takes into account the assessments given on the ability, efficiency and conduct in the service of the jobholder, in accordance with the criteria defined in the appraisal report, and it shall establish whether the performance level of the jobholder has been satisfactory.

5. The report shall be notified in writing to the jobholder.
6. The jobholder has five working days to accept the report without making any comments, accept it after adding comments in the appropriate section of the report, or refuse the report by justifying the reason for the refusal in the appropriate section. If the report is accepted by the jobholder, the report is closed. A report is deemed to be accepted in case of absence of reaction of the jobholder within the time foreseen.
7. The closed report shall be transmitted to the chairperson of the Management Board for information.

Article 7
Appeal procedure

1. The jobholder's reasoned refusal to accept the report in accordance with Article 6(6) shall automatically mean referral of the matter to the appeal assessor. The jobholder may withdraw his/her reasoned refusal to accept the report at any time.
2. Upon the request by the jobholder expressed in his/her reasoned refusal to accept the report, which is transmitted to the appeal assessor, the latter shall give his/her opinion to the jobholder within five working days as from the date of the reasoned refusal.
3. After consultation with the Management Board, the appeal assessor shall confirm or amend the report. When the appeal assessor departs from the opinion of the Management Board, he/she shall justify his/her decision. The reporting officer shall be excluded from these consultations.
4. The report is then closed and communicated to the jobholder and to the Management Board.

Article 8
Time limits

1. The time limits referred to in Articles 6 and 7 as they concern the jobholder shall be calculated only from the time when the relevant decision has been notified to the person concerned or, at the latest, when the latter, acting as a diligent agent, may be expected to be aware of the content of that decision and the reasons for it.
2. These time limits shall be suspended, however, if and for as long as the jobholder is unable to access the decision concerned.

TITLE II

Probationary period and management trial period

Article 9

Scope of the probationary period and the management trial period

1. A newly engaged Executive Director shall be subject to a probationary period, in accordance with Article 14 of the CEOS.
2. The Executive Director of the Authority concerned is hereinafter referred to as “the probationer”.
3. The probationer shall serve a nine-month probationary period. When, during the probationary period, the probationer is prevented, by sickness, maternity leave or accident, from performing his/her duties for a continuous period of at least one month, the reporting officers may propose to the authority authorised to conclude contracts of employment (AACC)⁴ to extend his/her probationary period for the corresponding length of time. The total length of the probationary period shall in no circumstances exceed 15 months.
4. Subject to Article 9(3), a newly engaged Executive Director shall serve a management trial period of nine months, unless he/she has already successfully passed such a trial period in a previous function in any other European institution or body.

Article 10

Role and designation of the various actors

Articles 2 and 3 shall apply *mutatis mutandis*.

Article 11

Content and form of the probationary report

1. The probationary report aims to appreciate simultaneously the ability, efficiency and the conduct in the service of the probationer within the probationary period. It should also include the assessment of the management skills, unless the management trial period has already been successfully passed as indicated in Article 9(4).
2. Subject to Article 11(1), the content and form of the probationary report can, if necessary, be amended by decision of the Management Board on a proposal from the reporting officers.

Article 12

Procedure for the probationary period and the management trial period

1. During the month which follows the first day of entry into service, the reporting officers shall meet the probationer in order to comment on his/her job description,

⁴ In that case, the Authority's Management Board represented by its Chair

to set the objectives and to agree, in writing, on how these objectives and the performance level expected from the probationer will be assessed during his/her probationary period. The assessment will particularly take into account the efficiency based on fulfilment of objectives and carrying out of the implementation of the work plan, demonstrated abilities and conduct in the service of the Executive Director of the Authority in particular with regard to Title II of the Staff Regulations applicable to temporary agents by virtue of Article 11 of the CEOS.

2. In case of obvious inaptitude, a report may be drawn up at any time of the probationary period. Further proceedings of the AACC in such a case are stipulated in Article 14(2) of the CEOS.
3. At the latest one month before the expiry of the probationary period, a report shall be drawn up by the reporting officers on the efficiency of the probationer, on his/her abilities to perform the duties pertaining to his/her post including the probationer's management skills as determined by Article 9(4), and on his/her conduct in the service. The probationer and the reporting officers shall hold a formal dialogue on the report.
4. At the latest ten working days after the formal dialogue, the reporting officers shall make a single proposal to the AACC, in the final report, either establishment, extension, according to Article 9(3) of the probationary period, or dismissal of the probationer, which shall be based on the probationer's ability, efficiency, conduct in the service and senior management skills.
5. After having been notified of the report in writing, the probationer has eight working days to accept the report without making any observations, accept it after adding comments in the appropriate section of the report, or refuse the report justifying the reason of the refusal in the appropriate section in conformity with the procedure foreseen in Article 13 of this decision. If the report is accepted by the probationer, the appraisal report is closed. A report is deemed to be accepted in case of absence of reaction of the probationer within the time foreseen.

*Article 13
Appeal procedure*

Articles 7 and 8 shall apply *mutatis mutandis*.

*Article 14
Final decision*

1. After the acceptance of the report by the probationer, or, if applicable, at the end of the appeal procedure or possible extension of the probationary period, the AACC shall decide on the action to be taken, namely establishment, extension of the probationary period pursuant to Article 9(3), or dismissal of the probationer. In the case of dismissal, the AACC shall decide after hearing the probationer.

The reporting officers and, if applicable the appeal assessor, shall be excluded from the decision referred to in paragraph 1.

Article 15
Management allowance

1. The management allowance is paid after written confirmation of the probationer's capacity to fulfil his/her management functions satisfactorily in the report referred to in Article 11 once the latter is closed.
2. The management allowance is paid retroactively as from the date of appointment of the probationer.

Article 16
Entry into force

The present Decision shall take effect on the day following that of its adoption.

Done at Bratislava, 24 March 2020

For the Management Board

Tom BEVERS
Chairperson of the Management Board