

DECISION No 14/2019

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

of 14 September 2019

**on the delegation to the Director of the European Union Agency for the Cooperation of
Energy Regulators of the powers conferred by the Staff Regulations on the Appointing
Authority and by the Conditions of Employment of Other Servants of the European
Union on the Authority Empowered to Conclude Contracts of Employment**

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

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 2(1), 110(2) of the Staff Regulations and Article 6 of the CEOS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators² (hereinafter referred to as 'the Agency Regulation'), and in particular Article 19(1)(h) and Article 19(2) thereof,

Having regard to the Rules of Procedures of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators, and in particular Article 9 thereof,

Having regard to the Commission Decision giving its agreement pursuant to Article 110(2) of the Staff Regulations C(2019) 6148 of 23 August 2019,

After consulting the Staff Committee,

Whereas:

- (1) By virtue of Article 19(1)(h) of the Agency Regulation, the powers of the appointing authority and the authority empowered to conclude contracts of employment are conferred on the Administrative Board of the Agency.
- (2) Pursuant to Article 19(2) of the Agency Regulation, the Administrative Board should adopt, in accordance with Article 110(2) of the Staff Regulations and the CEOS, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the CEOS delegating the relevant appointing authority powers to the Director of the Agency and defining the conditions under which that delegation of powers can be suspended. The Director is authorised to sub-delegate those powers and should inform the Administrative Board of such sub-delegations.

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 158, 14.06.2019, p. 22

- (3) Pursuant to the third sub-paragraph of Article 19 of the Agency Regulation, where exceptional circumstances so require, the Administrative Board may decide to suspend temporarily the delegation of appointing authority powers to the Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Director. The exceptional circumstances are to be strictly limited to administrative, budgetary or managerial matters, without prejudice to the Director's full independence concerning his tasks pursuant to point (c) of Article 24(1) of the Agency Regulation.
- (4) Pursuant to the sixth subparagraph of Article 110(2) of the Staff Regulations and Article 19(1)(i) of the Agency Regulation, the Administrative Board is to adopt, in agreement with the Commission, the implementing rules for giving effect to the Staff Regulations and the CEOS.
- (5) According to Article 26(2) of the Agency Regulation, the members of the Board of Appeal are independent. As far as they are not staff covered by the Staff Regulations or the CEOS, the powers referred to in Recital (1) should not be applicable to them.
- (6) Decisions on the daily management of the Agency, and in particular decisions in individual staff matters should be taken at the most appropriate level.
- (7) The Director manages the Agency and should be, in particular, responsible for the day-to-day administration of the Agency.
- (8) On the basis of Service Level Agreements, certain appointing authority powers of a technical nature could be sub-delegated by the Director to the services of the European Commission services, in particular to the Paymaster's Office or the Directorate-General for Human Resources and Security, notably when those services are not available within the Agency.
- (9) It is therefore necessary to adopt a decision delegating the relevant competences in the area of staff management to the Director,

HAS DECIDED AS FOLLOWS:

Article 1

This Decision concerns the exercise of the powers of the appointing authority and the authority empowered to conclude contracts of employment in respect of the staff of the Agency, except:

- a. the Director;
- b. the appointment of the accounting officer.

Article 2

1. Within the limits of Article 1, the powers conferred by the Staff Regulations on the appointing authority and by the CEOS on the authority empowered to conclude contracts of employment shall be delegated to the Director of the Agency, except for the adoption of the implementing rules to give effect to the Staff Regulations and the CEOS.

2. The powers referred to in paragraph 1 are conferred on the Director without prejudice to other competences of the Administrative Board as provided for in the Agency Regulation.
3. In case the accounting officer is a staff member of the Agency, decisions related to the extension of his contract, termination of contract, appraisal and reclassification shall be subject to the approval of the Administrative Board.
4. The powers referred to in paragraph 1 concerning Article 90(2) of the Staff Regulations are exercised by the Chairperson of the Administrative Board, when the contested decision was taken at the level of the Director.

Article 3

1. The Director may sub-delegate, by way of a formal decision, the powers referred to in Article 1 to a member of temporary staff by reference to appropriate criteria, such as their function group, position and job assignment, which they hold in the Agency. In such case, the Director may not exercise him- or herself the power, unless he or she has taken back the sub-delegation by way of a formal decision.
2. The Director shall inform the Administrative Board of such sub-delegations.
3. Agents to whom powers are sub-delegated under paragraph 1 may be designated by their position in the Agency or *ad personam*.
4. Sub-delegations shall be brought to the attention of the staff in a suitable form.
5. The Director, may sub-delegate the relevant powers referred to in Article 1 to the services of the Commission. The sub-delegation shall be carried out in writing and brought to the attention of the staff.

Article 4

Where a person to whom powers have been conferred pursuant to Article 2 or Article 3(1) is unable to act, those powers shall be exercised in accordance with the rules on deputising³ set out in the Agency's internal rules.

Article 5

1. Where exceptional circumstances so require, the Administrative Board may, by way of a decision, suspend temporarily the delegation of appointing authority powers to the Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Director. The delegate shall report to the Administrative Board on the exercise of such a delegation.
2. The exceptional circumstances referred to in paragraph 1 are to be strictly limited to administrative, budgetary or managerial matters, without prejudice to the Director's full independence concerning his tasks pursuant to point (c) of Article 24(1) of the Agency Regulation.

³ Decision No 15/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 17 September 2015 laying down the policy and procedure for deputising.

3. The powers referred to in paragraph 1 may then be sub-delegated as necessary, in which case Article 3 shall apply *mutatis mutandis*.
4. The suspension shall be decided in accordance with the following provisions:
 - a. before adopting a decision on suspension, the Administrative Board shall carefully consider any possible impacts on the functioning of the Agency. The suspension shall be limited to the duration and extent necessary to achieve its objective;
 - b. the decision on suspension shall be taken according to the voting rules of the Administrative Board provided for in the Agency Regulation;
 - c. the decision on suspension shall be communicated to the Director in writing and shall clearly define the powers being suspended, the exact duration of the suspension and any conditions thereto;
 - d. the decision on suspension shall automatically suspend any related sub-delegation, unless explicitly stated otherwise in the decision;
 - e. the decision on suspension shall specify who shall exercise the relevant powers during the period of suspension;
 - f. the decision on suspension shall be brought to the attention of staff in a suitable form.

Article 6

This Decision shall take effect on 15 September 2019 and it shall be brought to the attention of the staff of the Agency in a suitable form.

Done at Ljubljana, 14 September 2019.

For the Administrative Board

The Chair

Dr. R. JORDAN