

DIRECTOR DECISION 2017-02

**of 18 January 2017
on rules governing the election of the Staff Committee**

THE DIRECTOR 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 the Agency for the Cooperation of Energy Regulators¹ (hereafter referred to as the “Agency”), and, in particular, Article 17(5) thereof;

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union ('CEOS') laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and, in particular, Articles 9 and 10a and Article 1 of Annex II to the Staff Regulations and Article 7 of the CEOS;

Having regard to Decision AB N° 15/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 22 September 2016 on setting up a Staff Committee, and, in particular, Article 9 on electoral rules thereof;

Having regard to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data²;

Whereas:

- (1) Decision AB N° 15/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 22 September 2016 repealed Decision AB N° 27/2011 of 22 September 2011 of the Administrative Board of the Agency for the Cooperation of Energy Regulators on setting up a Staff Committee.
- (2) Pursuant to Article 9 of the newly adopted Decision AB N° 15/2016, it is necessary to adopt the rules governing the election of the Staff Committee in order to ensure full transparency and fair elections, and to present the electoral procedure to all staff of the Agency for the Cooperation of Energy Regulators (hereinafter ‘the Agency’). To that end, these draft rules were laid down as rules of electoral procedure at the general meeting of the staff of the Agency on 12 January 2016.
- (3) In the interest of clarity and legal certainty, Director Decision N° 24/2011 of the Agency for the Cooperation of Energy Regulators of 29 November 2011 on rules governing the

¹ OJ L 211, 14.8.2009, p.1.

² OJ L 8, 12.1.2001, p. 1.

election of the Staff Committee, based on the repealed Decision AB N° 27/2011, should be also repealed and replaced by this Decision,

HAS ADOPTED THIS DECISION:

Article 1
Election Committee

1. Three months before the end of the term of office of an existing Staff Committee the Director shall appoint an Election Committee, composed of three members.
2. The Director shall invite those staff members that are not planning to stand for the elections to express their interest in serving in the Election Committee.
3. Members of the Election Committee shall be entitled to vote but not stand for election.
4. When appointing the Election Committee, the Director shall also appoint its Chairperson and Deputy Chairperson.
5. The Election Committee shall supervise the voting activities and count the votes after the voting has been closed.

Article 2
Election Date

1. The Staff Committee elections shall be organised not later than one month before the end of the term of the Staff Committee in office.
2. The exact date for the regular voting and the arrangements for advance and postal voting shall be determined in agreement between the Director and the Chairperson of the Election Committee.
3. The Election Committee shall publish an election notice at least 15 working days before the elections, specifying:
 - the dates, place(s) and time for elections, and
 - a call for candidates indicating the application form referred to in Article 4(3) of this Decision, by which the candidates should present themselves.
4. The Election Committee may decide that the voting lasts one or two working days, taking into account practical arrangements and the working agenda of the Agency.

Article 3
Arrangements for the Voting

1. A ballot box and a voting area ensuring privacy for casting the votes shall be installed in the Agency's headquarters.

2. The Election Committee shall organise:

- (i) '*advance voting*' in person for those staff members that are on missions, on leave or otherwise not in the office on the date/dates of elections;
- (ii) '*postal voting*' for staff members serving in locations outside the Agency's headquarters in Ljubljana, and
- (iii) '*regular voting*' in person for all other staff members that shall take place during working hours, including lunch time.

3. When voting in advance, as referred to in paragraph (2(i)) above, staff members shall cast the voting ballot in a designated ballot box that shall be securely stored at the Agency's premises under the responsibility of the Election Committee Chairperson. The advance vote shall be registered in one of the two lists referred to in Article 5 of this Decision.

4. When voting via post, as referred to in paragraph (2(ii)) above, staff members shall receive from the Chairperson of the Election Committee, via official communication channels of the Agency, a voting ballot in advance to allow for ballot papers to be returned by post in time. They shall return it in a sealed unidentified envelope, placed and sealed in another envelope indicating staff member's name. The Election Committee shall add the postal ballot to the designated ballot box if it is received at the latest by 17.00 hours Ljubljana time of the last day of the election. The postal vote shall be registered in one of the two lists referred to in Article 5 of this Decision.

Article 4

Eligibility to Vote and to Stand as a Candidate for the Staff Committee membership

1. Staff members covered by the CEOS and: (i) whose contract are for an indefinite period, or for one year or more, and (ii) whose contracts are for less than one year provided they have been employed by the Agency for at least six months, shall be entitled to vote.

2. Staff members covered by the CEOS with a contract of one year or more, or with an indefinite contract shall be entitled to stand for election to the Staff Committee.

3. Staff members shall express their intention to stand as a candidate in writing by submitting an application form to the Chairperson of the Election Committee not later than 10 working days prior to the confirmed first day of voting in the election.

4. The list of candidates and their application forms shall be make public for the Agency's staff no later than one working day following the closing date for expression of interest.

Article 5 **Voting Procedure**

1. The Election Committee shall verify each voting staff member's eligibility to vote in line with the master list of eligible staff provided by Agency's HR team. The HR team of the Agency shall produce a list of staff members eligible to vote in two copies from the master list to be used for the advance, postal and regular voting. The two lists shall be signed on every page by each member of the Election Committee and stamped on each page by the official stamp of the Agency before voting begins.
2. Every staff member wishing to vote (hereinafter the 'voting staff member') shall be obliged to present to the members of the Election Committee, as the means of identification, his/her official staff member's badge or ID card, notwithstanding his or her position in the Agency or his/her years of service.
3. Following the identification referred to in paragraph (2) above, the Election Committee shall provide to the voting staff member a ballot paper containing the list of candidates in an alphabetical order.
4. The voting staff member should select at least one candidate from the list of candidates by crossing once the box beside the name of the candidate. The maximum number of candidates that may be selected from the list shall be equal to the number of vacant seats to be filled in each election. The voting staff member shall be required to sign the voting list next to his/her name.
5. A ballot paper containing more crossed boxes than the number of vacant seats to be filled or bearing signs which would clearly identify the voting staff member or other marks or comments other than the crossed name of the candidate referred to in paragraph (4) shall be rendered invalid.
6. The election will be rendered valid if the number of votes casted corresponds to two thirds of the number of staff members eligible to vote.
7. If the election is invalid due to the number of votes casted not reaching two thirds of the number of staff eligible to vote, a second run of the elections shall be organised without a delay and within 10 working days, at the latest, following the day the election is rendered invalid.
8. The second run of the elections referred to in paragraph (7) above shall be valid if the number of the votes casted corresponds to 50% plus one of the number of staff members eligible to vote.

Article 6 **Counting the Votes**

1. The Chairperson of the Election Committee shall organise the counting of the votes on the first day following the end of the elections.

2. All ballot papers shall be verified for validity in accordance with Article 5(5) of this Decision before counting the votes casted.
3. Candidates shall be ranked according to the number of votes they receive.
4. The candidates receiving the highest number of votes shall automatically become members of the Staff Committee.
5. The next highest-ranking candidate(s) shall be appointed as alternate members.
6. If two or more candidates receive the same number of votes, priority shall be given in the following order:
 - (i) Firstly, to the candidate representing a category/group of staff that otherwise would not be represented in the Staff Committee:
 - 1) Temporary Staff in function group AD,
 - 2) Temporary Staff in function group AST,
 - 3) Contract Staff, and other types of staff mentioned in Article 1 of CEOS, if any;
 - (ii) Secondly, to the candidate representing the gender that otherwise would have the minority in the committee, taking into account the total number of members and alternate members; and
 - (iii) Thirdly, to the candidate with the highest seniority in terms of total months of service in the Agency, taking into account all types of contracts held to that date.

Article 7 **Publication of the Results**

1. The Chairperson of the Election Committee shall inform the Director and all staff members of the Agency of the draft results of the vote at the latest on the second working day following the end of the vote.
2. Any staff member eligible to vote, may submit a substantiated written complaint to the Director if he/she finds that the elections were not fair and regular, within five working days following the publication of the outcome of the election.
3. If no complaint is submitted by the end of the period referred to in paragraph (2), the Director confirms the final election result by informing the Chairperson of the Election Committee and all staff.
4. If a complaint is submitted, the Director notifies the Chairperson of the Election Committee of his conclusions, within five working days, at the latest, from the date on which the complaint was lodged.
5. If following a complaint or on his/her own initiative the Director concludes that the elections were not fair and regular, he/she shall cancel the results of the elections, appoint a

new Election Committee within one month of this decision and call for new elections without delay.

6. If the Director concludes – due to a reasoned complaint – that there was possibly an unintentional mistake, while calculating the votes, he/she may propose that the Election Committee recounts the votes in the presence of the three candidates that received the highest number of votes according to the draft results and/or other interested staff member/s.

7. In the case referred to in paragraph (6), the Election Committee shall inform the Director of the result of the recount. The Director shall then publish these results as final, unless during five days of the publication, a reasoned complaint is submitted against these results. In case of a reasoned complaint, the Director shall cancel the elections and organise new elections.

Article 8 Data Protection by default

1. Prior to processing personal data in accordance with this Decision, the HR team shall seek the advice of the Data Protection Officer, shall carry out a security or data protection risk assessment as appropriate and in line with the overall security policy of the Agency, and shall ensure that data subjects are informed of their rights in an intelligible and easily accessible form, using clear and plain language.

2. The HR team shall implement appropriate technical and organisational measures to ensure a level of security of personal data processed that is appropriate to the risks detected. The HR team shall register this Decision, the information provided to data subjects, risk assessment and any other relevant information and document(s) in the appropriate registration system of the Agency.

Article 9 Final Provisions

1. Director Decision N° 24/2011 of the Agency for the Cooperation of Energy Regulators of 29 November 2011 on rules governing the election of the Staff Committee is hereby repealed.

2. This decision shall be brought to the attention of the staff and shall enter into force on the day following that of its adoption.

Done at Ljubljana on 18 January 2017.


Alberto Pototschnig
Director