



EuroHPC JOINT UNDERTAKING
DECISION OF THE GOVERNING BOARD OF THE EuroHPC JOINT
UNDERTAKING No 8/2020

Authorisation of the Interim Executive Director to request ex art. 110(2) of the Staff Regulations the Commission's agreement on implementing rules concerning the annual appraisal, probationary and management trial period of the Executive Director of the EuroHPC Joint Undertaking

THE GOVERNING BOARD,

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 of the European Union (CEOS), and in particular to Articles 2(1), 110 (2) of the Staff Regulations and Article 6 of the CEOS,

Having regard to Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing (EuroHPC) Joint Undertaking (hereinafter "Regulation")¹ and in particular Article 16 thereof,

Having regard to the Statutes of the EuroHPC Joint Undertaking ('EuroHPC JU') annexed to the Council Regulation (EU) 2018/1488 (thereinafter 'Statutes'), and in particular Articles 7(3) paragraphs (f) and (k), 8(2) thereof,

After informing the Staff,

WHEREAS

- (1) Pursuant to Article 16 of the Regulation, the Staff Regulations and the CEOS are applicable to the staff of the EuroHPC Joint Undertaking.
- (2) Pursuant to Article 7(3) of the Statutes of the EuroHPC Joint Undertaking, rules implementing the Staff Regulations and the CEOS are adopted by the Governing Board in accordance with Article 110 of the Staff Regulations.
- (3) Pursuant to Article 110 (2), 6th subparagraph, of the Staff Regulations, the Management Board, or the equivalent body referred to in the act establishing an agency, shall adopt the implementing rules to the Staff Regulations;
- (4) Pursuant to Article 110(2) of the Staff Regulations, implementing rules adopted by the Commission to give effect to these Staff Regulations are to apply by analogy to the agencies. An agency may also submit to the Commission, for its agreement, implementing rules which are different from the implementing rules adopted by the Commission.

¹ OJ L 252, 08.10.2018, p. 1

- (5) The rules in force at the Commission regarding the annual appraisal, probationary period and management trial period for managers are laid down in many documents. They cannot be applied by analogy to the agencies and joint undertakings because the organisational structures of the latter are different compared to the Commission's ones. However, the main principles of the Commission's rules on the matter are included in the relevant EuroHPC JU draft rules, annexed to this Decision.
- (6) It is necessary to adopt a Decision to empower the Interim Executive Director to request the Commission's agreement to apply the implementing rules in the annexed text concerning the annual appraisal, probationary and management trial period of the Executive Director of the EuroHPC Joint Undertaking as per the annexed text.

HAS ADOPTED THIS DECISION:

Article 1

The Interim Executive Director is empowered to request the Commission's agreement to apply the implementing rules in the annexed text concerning the annual appraisal, probationary and management trial period of the EuroHPC JU Executive Director.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Luxembourg, on 17 June 2020

For the Governing Board

[signed]

Herbert Zeisel

The Chair

Annex: Draft Decision concerning the annual appraisal, probationary and management trial period of the EuroHPC JU Executive Director



EuroHPC JOINT UNDERTAKING
DECISION OF THE GOVERNING BOARD OF THE EuroHPC JOINT
UNDERTAKING
No XX/2020

concerning the annual appraisal, probationary and management trial period of the Executive Director of the EuroHPC Joint Undertaking

THE GOVERNING BOARD OF THE EUROHPC JU;

Having regard to Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing (EuroHPC) Joint Undertaking (hereinafter ‘Regulation’, and in particular Article 16(1) thereof,

Having regard to the Statutes of the EuroHPC Joint Undertaking annexed to the Council Regulation (EU) 2018/1488 (hereinafter ‘Statutes’), and in particular Articles 7(3) paragraphs (f) and (k), 8(2) thereof,

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 259/68², and in particular Articles 43, 44 and 46 of the Staff Regulations and Articles 14, 15 and 20 of the CEOS,

Having regard to the agreement of the European Commission, pursuant to Article 110(2) of the Staff Regulations [reference number of the Commission’s Decision] of [date],

After informing the staff,

Whereas:

- 1) Pursuant to Article 16 of the Regulation, the Staff Regulations and the CEOS are applicable to the staff of the EuroHPC Joint Undertaking.
- 2) Pursuant to Article 7(3) of the Statutes of the EuroHPC Joint Undertaking, rules implementing the Staff Regulations and the CEOS are adopted by the Governing Board in accordance with Article 110 of the Staff Regulations.

2 OJ L 56, 4.3.1968, p. 1

- 3) The Executive Director of the EuroHPC Joint Undertaking is a temporary agent engaged under Article 2(a) of the CEOS, pursuant to Article 8(2) of the Statutes of the EuroHPC Joint Undertaking.
- 4) The Executive Director of EuroHPC JU shall be subject to an annual appraisal, to a probationary period and to a management trial period. These various procedures aim to assess the Executive Director with regard to his/her ability, efficiency and conduct in the service.
- 5) It is necessary to lay down specific rules which govern the various appraisals, to which the Executive Director shall 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 EuroHPC JU 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 Reporting Panel 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 Governing Board.

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

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

1. The Reporting Panel shall be composed of three members of the Governing Board. The members of the Reporting Panel cannot be designated to any other functions within the appraisal procedure of the EuroHPC JU Executive Director.
2. The appeal assessor shall be the Chair of the Governing Board.

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 Panel. 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.
2. Without prejudice to Article 5(1), the content and the form of the annual appraisal report can, if necessary, be amended by decision of the Governing Board on a proposal from the Reporting Panel.

Article 6 - Annual appraisal procedure

1. The annual appraisal takes place, to the extent possible, in the beginning of the year following the reference period.
2. The jobholder establishes, within ten working days after the Reporting Panel'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 Panel and the jobholder hold a formal dialogue. If the jobholder refuses to finalise his/her self-assessment within the required time, the Reporting Panel 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 Panel examine the jobholder's efficiency based on fulfilment of objectives and carrying out of the implementation of EuroHPC JU work plan, demonstrated abilities and the conduct in the service of the jobholder for the reference period.

b) the jobholder and the Reporting Panel set the objectives for the following reference period and, if necessary, a training plan which takes into account the objectives linked to EuroHPC JU work plan and the personal development goals.

4. At the latest ten working days after the formal dialogue, the Reporting Panel 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 EuroHPC JU Governing 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 Governing Board, the appeal assessor shall confirm or amend the report. When the appeal assessor departs from the opinion of the Governing Board, he/she shall justify his/her decision. The Reporting Panel shall be excluded from these consultations.

4. The report is then closed and communicated to the jobholder and to the Governing 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 EuroHPC JU Executive Director shall be subject to a probationary period, in accordance with Article 14 of the CEOS.
2. The EuroHPC JU Executive Director 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 Panel 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

Article 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 Governing Board on a proposal from the Reporting Panel.

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 Panel shall meet the probationer in order to comment on his/her job description, 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

4 In that case, EuroHPC JU Governing Board represented by its Chair

and carrying out of the implementation of the EuroHPC JU work plan, demonstrated abilities and conduct in the service of the EuroHPC JU Executive Director 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 Panel 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 Panel shall hold a formal dialogue on the report.

4. At the latest ten working days after the formal dialogue, the Reporting Panel 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.

2. Should dismissal be recommended, the report shall be transmitted immediately by the EuroHPC JU Governing Board to the Commission. The probationer may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission in accordance with Article 8(6) of the EuroHPC JU Regulation.

The Reporting Panel 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

This decision shall enter into force on the day following its adoption.

Done at Luxembourg, on XX/2020.

For the Governing Board

Herbert Zeisel

The Chair