



EUROPEAN
COMMISSION

Brussels, 24.4.2018
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COMMISSION DECISION

of 24.4.2018

**on giving the Commission's *ex ante* agreement to the adoption by decentralised agencies
and joint undertakings of implementing rules on middle management staff**

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THE EUROPEAN COMMISSION,

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'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 110(2) of the Staff Regulations,

Whereas:

- (1) On 26 September 2014 Communication C(2014) 6543 from Vice - President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies was adopted.
- (2) Pursuant to Article 13 of the Rules of Procedure of the Commission², and the Rules giving effect to the Rules of Procedure³, the Commission may empower one of its Members to take management or administrative measures on its behalf.
- (3) On 8 October 2014 the Commission adopted Decision C(2014) 7229⁴ empowering the Member of the Commission responsible for staff issues to adopt, on behalf of the Commission and under its responsibility, the decisions referred to in the third and fifth subparagraphs of Article 110(2) of the Staff Regulations.
- (4) The acts establishing all agencies refer to the Staff Regulations and the CEOS as the common legal framework for staff matters. Implementing rules lay down technical measures relevant to individual cases and supporting the consistent application of the Staff Regulations and the CEOS in the agencies.
- (5) Pursuant to Article 110(2) of the Staff Regulations, implementing rules adopted by the Commission to give effect to the Staff Regulations are to apply by analogy to the agencies. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules. The Commission may, instead of

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 Rules of Procedure of the Commission C(2000) 3614 of 29 November 2000 (2000/773/EC) (OJ L 308, 8.12.2000, p.26), as last amended by Commission Decision C(2011) 9000/2 of 9 November 2011 (OJ L 296, 15.11.2011, p. 58).

³ Rules giving effect to the Rules of Procedure C(2001) 1 final of 12 January 2001, as last amended by Commission Decision C(2013) 3837 of 24 June 2013.

⁴ Commission Decision C(2014) 7229 final of 8 October 2014 on the exercise of certain powers in respect of the agreement to be given by the Commission to the agencies before the adoption of implementing rules giving effect to the Staff Regulations in accordance with Article 110(2) thereof.

accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission.

- (6) Pursuant to Point 2.B of Communication C(2014)6543, the Commission may inform the agencies of its agreement to rules which are different from its own rules, without the agencies having to submit a formal request.
- (7) On 8 July 2016, the Commission informed the agencies that it adopted Decision C(2016)3288 of 15 June 2016 concerning middle management staff, hereinafter 'Commission Decision C(2016)3288'.
- (8) Commission Decision C(2016)3288 is suitable to apply to the decentralised agencies and joint undertakings if it is adapted to their peculiarities. Those peculiarities concern in particular temporary staff referred to in Article 2(f) CEOS, the parties involved in the selection procedure of middle managers, differentiation between an internal, inter-agency and external publication, and non-compulsory mobility.
- (9) The Commission has concluded that in view of the agencies' particularities there is sufficient justification for a significant number of them to obtain authorisation to adopt rules which are different from those adopted by the Commission. Therefore, the Commission, with the assistance of the standing working party, has drafted a model decision for adoption by the agencies.
- (10) Point 2.B of Communication C(2014)6543 states that *ex ante* agreements must set out in detail the conditions and circumstances that must be met by agencies for them to be allowed to make use of such agreements.
- (11) The *ex ante* agreement given by this Decision does not preclude an agency from submitting to the Commission, for its agreement, implementing rules that differ from the model decision,

HAS DECIDED AS FOLLOWS:

Article 1

1. Pursuant to Article 110(2) of the Staff Regulations and Communication C(2014)6543, the Commission gives its *ex ante* agreement to agencies, referred to in Article 4, which decide not to apply by analogy Commission Decision C(2016)3288 and to adopt rules on middle management staff that are identical to the model decision laid down in Annex I to this Decision. Any agency wishing to do so shall be deemed to have received the Commission's agreement, as referred to in Article 110(2) of the Staff Regulations, without having to submit a formal request.
2. The *ex ante* agreement referred to in paragraph 1 also serves as the Commission's reply in cases where an agency submits implementing rules for the Commission's agreement that are identical to the model decision laid down in Annex I to this Decision.

Article 2

An agency may make use of the *ex ante* agreement referred to in Article 1 if all of the following conditions are met:

- (a) if it adopts rules on middle management staff which are laid down in Annex I to this Decision;
- (b) if the rules referred to in subparagraph (a) above are identical⁵ to the model decision laid down in Annex I to this Decision, with the exception of the parts in square brackets which shall be adapted to the agency's specific situation according to the relevant instructions.

Article 3

- 1. This Decision shall cease to apply where a new Commission Decision concerning middle management staff is adopted and notified to agencies. The Commission may nevertheless uphold this Decision.
- 2. In the event of any significant change in the way an agency operates, such as might for example ensue from a change in the act or acts establishing it, in its tasks or in its organisation, the agency shall assess whether it still meets the conditions laid down in Article 2. If those conditions are no longer met, the agency shall adopt appropriate measures to bring its rules implementing the Staff Regulations into line with the new conditions that apply.

Article 4

- 1. This Decision is addressed the decentralised agencies and joint undertakings.⁶
- 2. Annex II lists the decentralised agencies and joint undertakings which exist on the date of adoption of this Decision.
- 3. The Commission shall inform any agency set up after the adoption of this Decision of the latter's existence.

Done at Brussels, 24.4.2018

For the Commission
Günther OETTINGER
Member of the Commission



⁵ Except for such technical adjustments as may be necessary to ensure compliance with the act(s) establishing the agency. These adjustments shall not alter the *ratio legis* of the model decision.

⁶ Decentralised agencies and joint undertakings are the bodies referred to in paragraph 2 of Article 1(a) of the Staff Regulations, with the exception of executive agencies within the meaning of Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, p. 1).

ANNEX I

**Model decision for decentralised agencies and joint undertakings on implementing rules
on middle management staff**

To reflect an agency's specific circumstances, text in [xxx] should be revised in line with the instructions in square brackets e.g. replace [Management Board] with 'Governing Board'.

[Name of AGENCY] DECISION

of [date]

on middle management staff

[THE MANAGEMENT BOARD or the equivalent body referred to in the act(s) establishing the Agency],

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials (hereinafter 'Staff Regulations') and the Conditions of Employment of Other Servants of the European Union (hereinafter 'CEOS') laid down by Regulation (EEC, Euratom, ECSC) No 259/68 of the Council¹, and in particular Articles 2, 4, 5, 7 and 29 of the Staff Regulations and Articles 6, 10(1) and 53 of the CEOS,

Having regard to [Council Regulation (EC) / European Parliament and Council Regulation (EC) / Council Decision / Commission Decision] No [] of [date] establishing [name of AGENCY],

Having regard to Communication C(2014)6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof,

Having regard to [the Agency's] Decision of [date] laying down general implementing provisions on the procedure governing the engagement and use of temporary staff under Article 2(f) of the CEOS (hereinafter 'GIPs on temporary staff 2(f)'),

Having regard to the [Commission Decision of 16 December 2013 on types of post and post titles² applied by analogy in [the Agency] or [the Agency]'s Decision of [date] on types of post and post titles],

[Having regard to the rules of procedure of [name of Agency] and in particular Article [] thereof,]

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],

[For agencies which have established a Staff Committee: After consulting the Staff Committee, or for agencies which do not have a Staff Committee in place: After informing the staff],

Whereas:

¹ OJ L 56, 4.3.1968, p.1.

² [C(2013) 8979, Administrative Notice No 70-2013].

- 1) On [8 July 2016], the Commission informed [name of Agency] that it adopted Decision C(2016)3288 of 15 June 2016 on middle management staff.
 - 2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 1 shall apply by analogy to the [name of Agency]. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission.
 - 3) Commission Decision C(2016)3288 is suitable to apply to [name of Agency] if it is adapted to the peculiarities of the [name of Agency]. Those peculiarities concern in particular temporary staff referred to in Article 2(f) CEOS, the parties involved in the selection procedure of middle managers, differentiation between an internal, inter-agency and external publication, and non-compulsory mobility.
 - 4) The [name of Agency]'s managers are central to the [name of Agency]'s talent management efforts as they are both responsible for charting new course of action, driving change and achieving operational priorities and responsible for the management and development of their staff. Middle managers should not only have a very good knowledge of their subject areas, they should also be outstanding in managing work, people or financial resources.
 - 5) Mobility between management functions should be encouraged and mobility between management and non-management functions should be facilitated by making it possible for [officials, or] temporary staff who opted out from a middle management function to return to a [head of unit *or an equivalent term used in the Agency*, hereinafter 'head of unit'] function without having to undergo a new selection procedure.
 - 6) The legal framework established by the present Decision will be complemented by additional measures, in particular effective information on the managerial performance, development initiatives (through training, mentoring, coaching, 360°/180° feedback mechanism) and talent management for both [heads of unit] in place and [officials,] temporary agents aspiring to become middle managers.
- [7] [Ultimately, it is also necessary to adapt the [name of Agency] rules on middle management staff to the revised Staff Regulations, which entered into force on 1 January 2014.]
- [8] [In the interest of clarity and legal certainty, the [name of Agency] Decision of [date] [on middle management staff] should be repealed and replaced by this Decision],

HAS DECIDED AS FOLLOWS:

SECTION 1. GENERAL PRINCIPLES

Article 1: Aims³

The purpose of this Decision is to establish a legal framework setting out the internal rules of the [name of the Agency] concerning:

- procedures for the selection and appointment of middle managers;
- the role and position of [heads of unit];
- the arrangements for reassigning [heads of unit] to non-management functions in certain circumstances;
- the trial period for staff appointed to a middle management function in the [name of the Agency] for the first time.

This Decision shall apply to all [name of Agency] services.

Article 2: Middle management functions

1. Middle management functions and staff

Middle management functions shall mean a function which meets both of the following criteria:

- it involves the permanent and continuous management of an administrative [unit or an equivalent term used in the Agency];
- is referred in [Commission Decision on types of post and post titles applied by analogy in [the Agency] or [the Agency]'s Decision of [date] on types of post and post titles] as [head of unit and head of department] as well as others equivalent mentioned in this Decision.

A person assigned to a function which satisfies both of these criteria at the same time is thereby a member of the middle management staff.

This means that the functions of [head of unit and head of department or other equivalent term] are hereby defined as middle management functions and are covered by this decision.

For the purposes of this decision, the term '[head of unit, or another equivalent term used in the Agency]' shall refer to all middle management functions.

- [2.] [For agencies having permanent posts (hereinafter ('for officials')): In the case of a permanent post, as an exceptional measure, a middle management function may be filled by the engagement of a member of the temporary staff referred to in Article 2(b) of the CEOS in accordance with the relevant Agency's rules on engagement and use of that category of staff.]

- [3.⁴] Functions not covered by this Decision

³ Any reference in this Decision to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice versa, unless the context clearly indicates otherwise.

⁴ [For agencies which do not have permanent post: '2'.]

Advisers are not covered by this decision as they do not carry out management functions.

[Deputy heads of unit or an equivalent term used in the Agency and heads of sector or an equivalent term used in the Agency] are not covered by this decision.

Article 3: [For officials: Appointing authority, or] authority authorised to conclude contracts of employment ('AACC') [For agencies having chosen the rapporteur in Article 17(5) of this model decision: and rapporteurs]

1. [Appointing Authority, or] AACC

Except where otherwise provided for and without prejudice to the [Management Board] decision on delegation of the Appointing Authority and AACC powers, the [appointing authority, or the] AACC powers according to this decision, including the decisions on appointments to middle management functions whose level has been fixed at AD 12-AD 14 shall be exercised by the Head of the Agency as referred to in the act(s) establishing the Agency ('[the Director⁵]').

[For agencies having chosen the rapporteur in Article 17(5) of this model decision:

2. Rapporteur

In cases of reassignment to a non-management function the [Director] shall designate a rapporteur for the procedure. The rapporteur shall be chosen from the established [heads of unit] of the Agency who shall not be in any conflict of interest.]

Article 4: Role of [heads of units]

The role of [heads of unit] is regarded as particularly important. They shall possess specific management (i.e. work organisation, people management and, where relevant, financial resources management) competencies and an appropriate degree of specialist knowledge and technical expertise.

The role and responsibility of [heads of unit] shall comprise essentially three aspects, including, but not limited to:

- the [head of unit] shall issue guidelines for policies and actions to his [unit] on the basis of the mission statement, strategic plan and annual management/work programme of the Agency [*or for agencies having a structure with more than one organisational level: department or another equivalent structure*]. He shall define the [unit] work programme, coordinate work within the [unit] and with other units and represent the [unit] at important meetings;
- the [head of unit] shall be the main channel for the exchange of information between senior⁶ management and the [unit]'s members;
- the [head of unit] shall be directly responsible for the management of the human resources of the [unit] and, in many cases, also its financial resources.

⁵ [The title shall be adapted to that referred to in the act(s) establishing the Agency.]

⁶ Senior manager functions are manager functions above middle management.

Article 5: Determining the level of a function and filling it

1. As a general rule, the level of [head of unit] functions is fixed at AD 9-AD 14 as regards internal and inter-agency publications and AD9/AD12 as regards external publication.

For internal and inter-agency publications, the level of a function can be fixed at AD 12-AD 14 only by the [Director] depending on the importance of the tasks, the number of staff reporting to the function in question and/or the level of budgetary resources managed.

2. *[For agencies that do not employ officials:*

The functions shall be filled in accordance with the GIPs on temporary staff 2(f). A temporary staff may be reassigned to a [head of unit] function in the interest of the service in accordance with Article 7(1) of the Staff Regulations⁷ when the conditions set out in Article 8(1) and Article 10(1) of this Decision are met.

Or

For agencies employing both officials and temporary staff:

As regards officials, functions shall in principle be filled by publication in accordance with Article 29 of the Staff Regulations and, in respect of temporary staff, in accordance with the GIPs on temporary staff 2(f).

A[n official, or]temporary staff may be reassigned to a [head of unit] function in the interest of the service in accordance with Article 7(1) of the Staff Regulations⁸ when the conditions set out in Article 8(1) and Article 10(1) of this Decision are met.]

Article 6: Options to fill a post

Article 2 of the GIPs on temporary staff 2(f) shall apply.

**SECTION 2. FILLING [HEAD OF UNIT] FUNCTIONS AT LEVEL AD 9-AD 14 –
INTERNAL, INTER-AGENCY MOBILITY**

Article 7: Reassignment and publication of a function

1. Articles 3, 4 and 7 of the GIPs on temporary staff 2(f) shall apply respectively.
2. If a post is to be published, the [Agency entity in charge of human resources *or an equivalent Agency entity*] shall draw up a vacancy notice that is agreed by the [Director] and then shall publish it.
3. The vacancy notice may be simultaneously published for transfer and reclassification. *[For officials:* The vacancy notice of a permanent post may be simultaneously published under points (i) and (iii) of Article 29(1)(a) of the Staff Regulations.]

⁷ Applicable to temporary staff by virtue of Article 10(1) of the CEOS.

⁸ Applicable to temporary staff by virtue of Article 10(1) of the CEOS.

Article 8: Eligibility

1. In the case of reassignment to a middle management function in the interest of the service within the Agency (according to Article 7(1) of the Staff Regulations), the person must:

- be a[n official or] temporary staff referred to in Article 2(f) CEOS;
- be in grade AD 9, AD 10, AD 11, AD 12, AD 13 or AD 14;
- already occupy a middle management function or have occupied such a function in the EU Institutions or Agencies.

Only [officials or] temporary staff who were appointed to a middle management function on the basis of a selection procedure that was equivalent to the selection procedures applied by [name of the Agency] at that time may be reassigned to a middle management function in accordance with this paragraph.

Reassignment shall be excluded for [officials or] temporary staff who ceased to exercise management duties due to an unsuccessful trial period (Article 17) or due to insufficient managerial ability (Article 20(1)) and for [officials or] temporary staff who opted out voluntarily from a middle management function before they successfully completed their trial period.

2. In the case of publication of a vacancy notice, applicants must, on the closing date for the receipt of applications:

- be established [officials or] temporary staff referred to in Article 2(f) CEOS. As regards inter-agency publication, Article 9 of the GIPs on temporary staff 2(f) shall apply;
- be in grade
 - AD 9, AD 10, AD 11, AD 12, AD13 or AD 14, or
 - in case of a[n official or] temporary agent of the same agency where the vacancy is to be filled simultaneously for reclassification, to be in grade AD 8 and have a seniority of at least two years in that grade;
- possess the qualifications specified in the vacancy notice; and
- possess the competencies set out in the Annex to this Decision.

Article 9: Selection and appointment

1. Selection:

In the case of publication of a vacancy notice, the stages in selection to be followed by the [appointing authority, or the] AACC shall be

[Either

as follows:

- (a) Assessment of applications by the pre-selection panel

The [Director] shall set up a pre-selection panel comprising at least *[two or three]* members of a grade and management function equal *[if exists in the*

Agency structure: or superior] to that of the function to be filled[*where Departments, or equivalent level above Units exist within the Agency:*, including one member from another Department. *Where Departments or equivalent level above units do not exist within the Agency:* including one member from another agency]. Where there are no [officials or] temporary agents in the agency fulfilling the requirement of management function and grade, the [Director] may decide to designate officials or temporary agents from another agency or institution who fulfil that condition. The [Director] may invite other persons to the pre-selection panel as observers. The [Director] concerned must ensure, whenever possible, that there is a balanced representation of men and women in the pre-selection panel.

Using assessment checklists, the pre-selection panel shall consider all applications received having regard to the vacancy notice. Where appropriate, it shall conduct interviews. It shall draw up a shortlist of the applicants who most correspond to the profile sought, giving reasons for its choices.

- (b) Invitation to the interviews with the [Director] and [X- *not less than one*] members of a grade and management function equal [*if exists in the Agency structure: or superior*] to that of the function to be filled.

The applicants [on the shortlist] shall be invited to an interview with the [Director] and the members mentioned above. [The [Director] may decide to invite also other eligible applicants.]

- (c) Assessment centre

All applicants invited to the interviews with the [Director] and the other members shall take part in an assessment centre, unless they have already taken part in such an assessment centre in the course of the two years preceding the closing date for the receipt of applications. If an applicant has taken part in an assessment centre within this two-year period, but not within the 18 months preceding the closing date for the receipt of applications, he may at his request be admitted to the assessment centre.

The assessment centre shall evaluate the applicants' potential and shall provide an in-depth analysis of managerial skills, adaptability and other core competencies. It shall comprise individual and/or group exercises as well as in-depth interviews focussed on management skills. The result of the assessment centre shall be taken into consideration by the appointing authority.

- (d) Interviews conducted by the [Director] and the members mentioned in point (b).

The [Director] and the members mentioned in point (b) shall interview the invited applicants.

Or:

For agencies wishing to issue an internal notice describing the process applicable to all internal and inter-agency selection procedures:

those described in the internal notice issued by the [appointing authority or the] AACC regarding the process applicable to all internal and inter-agency selection procedures. The internal notice shall include the following stages:

Points (b), (c) and (d) of the paragraph 1, above⁹.]

2. Appointment:

- (a) The selected candidate shall be appointed in his current grade, except for candidates in grade AD 8 who shall be appointed in grade AD 9.
- (b) Articles 6(2) and Article 10 of the GIPs on temporary staff 2(f) shall apply respectively to the selected candidates of the same and a different agency.

SECTION 3. SPECIAL PROCEDURE FOR FILLING [HEAD OF UNIT] FUNCTIONS AT LEVEL AD12-AD 14 – INTERNAL, INTER-AGENCY MOBILITY

Article 10: Eligibility

1. In the case of reassignment to a middle management function in the interest of the service within the Agency (according to Article 7(1) of the Staff Regulations), the person must:

- be a[n official or] temporary agent referred to in Article 2(f) CEOS;
- be in grade AD12, AD13 or AD 14;
- have already occupied a middle management function in the Institutions or Agencies for at least two years.

Only [officials or] temporary agents who were appointed to a middle management function on the basis of a selection procedure that was equivalent to the selection procedures applied by the [name of the Agency] at that time may be reassigned to a middle management function in accordance with this paragraph.

Reassignment shall be excluded for [officials, or] temporary agents who ceased to exercise management duties due to an unsuccessful trial period (Article 17) or due to insufficient managerial ability (Article 20(1)) and for [officials, or] temporary agents who opted out voluntarily from a middle management function before they successfully completed their trial period.

2. In the case of publication of a vacancy notice, applicants must, on the closing date for the receipt of applications:

- be established [officials, or] temporary staff referred to in Article 2(f) CEOS. As regards inter-agency publication, Article 9 of the GIPs on temporary staff 2(f) shall apply;
- be in grade

⁹ *The content of this part of the decision should be identical to the points (b), (c) and (d) of Article 9(1) of this decision,*

- AD12, AD13 or AD 14, or
- in case of an official or temporary agent of the same agency where the vacancy is to be filled simultaneously for reclassification, to be in grade AD 11 and have a seniority of at least two years in that grade;
- have at least two years of experience in a middle management function in the EU Institutions/Agencies¹⁰;
- possess the qualifications specified in the vacancy notice; and
- possess the competencies set out in the Annex to this decision.

Article 11: Selection and appointment

1. Selection:

In the case of publication of a vacancy notice, the selection procedure shall be the same as for [head of unit] functions at grades AD 9-AD14.

2. Appointment:

(a) [Director] shall appoint the selected applicant. The selected candidate shall be appointed in his current grade, except for candidates in grade AD 11 who shall be appointed in grade AD 12.

(b) Articles 6(2) and Article 10 of the GIPs on temporary staff 2(f) shall apply respectively to the selected candidates of the same and a different agency.

SECTION 4: FILLING [HEAD OF UNIT] FUNCTIONS THROUGH ENGAGEMENT FOLLOWING EXTERNAL SELECTION

[FOR OFFICIALS:

SECTION 4.1: OFFICIALS

Article 12

Article 29 of the Staff Regulations shall apply.

SECTION 4.2: TEMPORARY STAFF REFERRED TO IN ARTICLE 2(F) OF THE CEOS]

Article [12¹¹]: General provisions

1. Without prejudice to specific provisions of the present Decision, Articles 11, 13, 14 and 15 of the GIPs on temporary staff 2(f) shall apply.

¹⁰ For this eligibility criterion, heads of cabinet and deputy heads of cabinet with two years of experience in those functions are considered to have the requisite experience.

¹¹ [For agencies applying Sections 4.1 and 4.2, Articles should be renumbered accordingly.]

2. Any selection procedure shall be organised at one single grade out of the grades AD9, AD10, AD11, or AD12.

Article [13]: Eligibility

1. On the closing date for the receipt of applications, applicants must:
 - without prejudice to Article 14(1) of the present Decision, fulfil the requirements referred to in Article 13(1) of the GIPs on temporary staff 2(f);
 - possess the qualifications specified in the vacancy notice;
 - possess the competencies set out in the Annex to this Decision.

Article [14]: Selection and appointment

1. Without prejudice to Article 9(1) of the present decision, Articles 1, 2 and relevant provisions of Article 3 of the Annex to the GIPs on temporary staff 2(f) shall apply.
2. As regards the minimum number of professional experience corresponding to each grade, at least two years should have been acquired as a manager.

Article [15]: Engagement

1. Article 12 of the GIPs on temporary staff 2(f) shall apply.

SECTION 5. COMMON PROVISIONS CONCERNING THE APPLICATION OF ARTICLE 8(1) OF THE CEOS

Article [16]: Duration of contracts and succession of contracts in case of inter-agency mobility

Articles 16 and 17 of the GIPs on temporary staff 2(f) shall apply.

SECTION 6. TRIAL PERIOD

Article [17]: Trial period

1. **Scope and duration**

All newly appointed [heads of unit] shall serve a management trial period of nine months as a ‘probationer [head of unit]’, unless they have already successfully passed such a management trial period in a previous function in the EU institutions as referred in the Article 1(a) paragraph 2 of the Staff Regulations.
2. **Training**

Newly appointed [heads of unit] must have completed a management induction course at the latest three months after having taken up their duties. Management courses listed in the Commission’s/Agency's training catalogue [or offered by the

European School of Administration] and followed by an applicant during the five years prior to the appointment may be validated by the appointing authority as management induction courses.

3. Assessment

Continuous assessment shall be ensured through a mid-term review after four months and a final assessment at the end of the trial period. This two-phase evaluation shall be different from the annual report required under Article 43 of the Staff Regulations¹² for all grades and functions and provide the first opportunity to check whether the person being assessed has the qualities needed to carry out the management role effectively.

The mid-term review and the final assessment shall be drawn up by the reporting officer. In case of unsatisfactory mid-term review and/or final assessment, it/they shall, unless the reporting officer is the [Director], be countersigned by a countersigning officer. If there is disagreement, the countersigning officer shall bear final responsibility for these reports.

The reporting officer shall be the same as the reporting officer in charge of the annual report. The countersigning officer shall, where applicable, be the reporting officer's direct superior.

4. Mid-term review after four months

The mid-term review shall be conducted on the basis of a previously agreed statement incorporating objectives and performance indicators (linked to standard management tasks/skills) for the individual and/or the unit which he is managing.

If there is disagreement on the conclusions of the mid-term review, the probationer head of unit may request the [Director] to designate two [heads of unit] in the Agency who are the most senior in the highest grade to give their opinions to the [Director]. The mid-term review, as confirmed or modified by the [Director], after receiving this opinion, shall be considered final.

5. Final assessment for [officials, or] temporary agents already in service

The final assessment shall be drawn up no later than one month before the expiry of the management trial period. This final assessment shall provide a formal opportunity to make a definitive judgement as to whether the [official, or the] temporary staff has the necessary managerial ability and can remain in his function.

Where, during the management trial period, a[n official, or a] temporary staff member is prevented, by sickness, maternity leave under Article 58 of the Staff Regulations¹³ or accident, from performing his duties for a continuous period of at least one month, the [Director], may, after hearing the [official, or the] temporary staff member, extend the management trial period by the corresponding length of time. The total length of this period shall in no circumstances exceed 15 months.

¹² Applicable to temporary staff by virtue of Article 15(2) of the CEOS.

¹³ Applicable to temporary staff by virtue of Article 16 of the CEOS.

The final assessment shall be communicated to the probationer [head of unit], who shall have the right to submit his comments in writing within a period of eight working days.

In cases of a reassignment, an internal or an inter-agency mobility, if the trial management period is deemed to have been unsuccessful, the [Director], shall propose, subject to establishment plan availabilities and the technical profile of the probationer [head of unit], reassignment to a non-management function.

The [Director] shall take the final decision, after hearing the [official, or] temporary staff concerned and [*Agencies may choose:* consulting the rapporteur or the Chair of the [Management Board] has given its opinion on the [Director]'s proposal].

6. Final assessment for newly recruited [heads of unit]

For 'probationer [heads of unit]' recruited following [*for officials:* an open competition, or] an external selection procedure the final assessment shall incorporate the normal probation report provided for in [*for officials:* Article 34(3) of the Staff Regulations as regards officials, or, as regards temporary staff] Article 14(3) of the CEOS. The decision to establish a newly recruited [head of unit] shall be taken on the basis of this assessment as well as on the basis of elements at the disposal of the [appointing authority, or the] AACC relating to the probationer [head of unit]'s conduct with regard to Title II of the Staff Regulations¹⁴.

The final assessment shall be drawn up no later than one month before the expiry of the trial period. Where, during the management trial period, [an official, or] a temporary staff is prevented, by sickness, maternity leave under Article 58 of the Staff Regulations or accident, from performing his duties for a continuous period of at least one month, the [Director] concerned may, after hearing the [official, or] temporary staff, extend the management trial period by the corresponding length of time. The total length of this period shall in no circumstances exceed 15 months.

The final assessment shall be communicated to the probationer [head of unit], who shall have the right to submit his comments in writing within a period of eight working days. [*For officials:* As regards officials, if it recommends dismissal or, in exceptional circumstances, extension of the management trial period in accordance with the preceding paragraph, the appointing authority shall, within three weeks, consult the Joint Reports Committee on the action to be taken.]

[*For agencies having not chosen the rapporteur in Article 17(5) of this model decision:* If at the end of the process the probation is deemed to have been unsuccessful, the [Director] shall propose termination of the employment. The Chair of the [Management Board] shall give its opinion on any proposal.

Following the opinion of the Chair of the [Management Board], the [Director] shall take the final decision for persons recruited externally, after hearing the [official, or temporary staff] concerned.

Or:

¹⁴

Applicable to temporary staff by virtue of Article 11 of the CEOS.

For agencies having chosen the rapporteur in Article 17(5) of this model decision: If at the end of the process the probation is deemed to have been unsuccessful, the [Director] shall terminate the employment contract after hearing the [official, or temporary staff] concerned.]

SECTION 7: A CAREER IN MIDDLE MANAGEMENT

Article [18]: Mobility

The following rules on mobility shall apply.

1. Mobility is encouraged for all [heads of unit]. This shall in no way restrict the right of the [appointing authority, or the] AACC to make use of Article 7(1) of the Staff Regulations (reassignment in the interest of the service).

The mobility of [heads of unit] from horizontal [Departments, *or another equivalent entity*] to operational [Departments, *or another equivalent entity*] – and vice versa – is strongly recommended. Similar moves from horizontal to operational functions (and vice versa) within a given [Departments, *or another equivalent entity*] are also encouraged.

Article [19]: Voluntary opt-out

A [head of unit] may opt out from a management function at any stage during his career, either by applying for an adviser, senior expert or administrator function (following the publication of this function) or by requesting to be reassigned to a non-management function in the interest of the service (under Article 7(1) of the Staff Regulations). He shall continue to be entitled to the benefit provided for in the second paragraph of Article 44 of the Staff Regulations for a period of one year.

Article [20]: Reassignment to a non-management function

[Heads of unit] may be reassigned to a non-management function whilst keeping their grade. Reassignment to a non-management function shall be possible in the following cases.

1. Insufficient managerial ability as a [head of unit]
 - (a) In cases of a reassignment, an internal or an inter-agency mobility, reassignment following the trial period.

A newly appointed [head of unit] may be reassigned to a non-management function in accordance with Article 17(5).

- (b) Reassignment at any stage during a managerial career.

[For officials: Without prejudice to Article 51 of the Staff Regulations,] a procedure for reassignment to a non-management function may be launched by the [Director] if the performance of a [head of unit] or his managerial performance has been evaluated as unsatisfactory in the last annual report provided for in Article 43 of the Staff Regulations. It must be launched by the

[Director] if the performance or managerial performance has been evaluated as unsatisfactory in two of the last three annual reports. Furthermore, the procedure may be launched by the [Director] in exceptional and duly justified cases.

[For agencies having chosen the rapporteur in Article 17(5) of this model decision: Procedure to be followed:

Before a decision is taken, the case shall be further assessed by the rapporteur who shall issue an opinion in which it may:

- whenever possible, suggest that the [official, or the] temporary staff be offered another management function. In this case, the [official, or the] temporary staff could be offered additional training related to possible deficiencies in management ability;
- confirm that the [official, or the] temporary staff be reassigned to a non-management function.

Final decision: following the opinion of the rapporteur,] the [Director] shall take the final decision, after hearing the [official, or the] temporary staff concerned.

Or

For agencies having not chosen the rapporteur in Article 17(5) of this model decision:

The [Director] shall take the final decision, after hearing the [official, or the] temporary staff concerned and consulting the Chair of the [Management Board]].

2. Reassignment in case of revision of the organisation chart or in case of mobility encouraged by Article 18:
 - (a) Where the function occupied by a [head of unit] ceases to exist as a consequence of a revision of the organisation chart of the Agency, the [Director] may, after having examined the possibilities of to a vacant [head of unit] function in the Agency, reassign him to a non-management function.
3. In the cases referred to in paragraph 2, the [officials, or the] temporary staff concerned shall be heard before the decision on the reassignment is taken. The [officials, or the] temporary staff concerned shall continue to be entitled to the benefit provided for in the second paragraph of Article 44 of the Staff Regulations for a period of one year.

SECTION 8—SPECIFIC CASES AND FINAL PROVISIONS

Article [21]: Seconded [heads of unit]

1. A function of ‘seconded [head of unit]’ may be created to make it possible to second a [head of unit] in the interest of the service (under Articles 37(a) and 38 of the Staff Regulations¹⁵).
2. The function of seconded [head of unit] shall be created in the Agency of origin of the person concerned, in accordance with the applicable rules on modification of organisation charts. This function shall automatically cease to exist when, either at the end of the secondment or at the latest 12 months afterwards, the [official, or the] temporary staff is reassigned or appointed to a different function.
3. At the end of the secondment, the seconded [head of unit] shall return to the Agency of origin and occupy the function of seconded [head of unit], pending reassignment in the interest of the service or appointment (following the publication of a function) to a middle management function within 12 months.

If, at the end of that 12-month period, the [official, or the] temporary staff has not been reassigned or appointed to a middle-management function, the [Director] shall, after hearing the [official, or the] temporary staff, reassign him to a non-management function.
4. A seconded [head of unit] shall be entitled to the benefit provided for in the second paragraph of Article 44 of the Staff Regulations, unless the remuneration carried by the function to which he is seconded exceeds his remuneration as head of unit.

Article [22]: Final provisions

- [1.] [The [name of Agency] Decision of [date] [on middle management] is repealed. However, [Article numbers] of that Decision shall continue to apply for selection procedures which are published before the date of effect of the present Decision]. [Commission Decision C(2004) 1597 of 28 April 2004 on middle management staff¹⁶ shall no longer apply to [name of Agency]. However, Article 7(2), Article 8, Article 9(2) and Article 10 of Decision C(2004) 1597 shall continue to apply for selection procedures which are published before the date of effect of the present Decision].
- [2.] Commission Decision C(2016)3288 does not apply by analogy to [name of Agency].
- [3.] The [Agency entity in charge of human resources or an equivalent Agency entity] shall be responsible for monitoring the implementation of this Decision.

Article [23]: Date of effect and transitional provisions

This Decision shall take effect on [date] [the day following that of its adoption].

¹⁵ Applicable to temporary staff referred to in Article (2f) of the CEOS by virtue of Article 51 thereof.

¹⁶ As last amended by Decision C(2008) 5028 of 10 September 2008.

Done at [CITY], on [DATE]

For [Name of AGENCY]

ANNEX

COMPETENCIES REQUIRED TO APPLY FOR A MIDDLE MANAGEMENT POST

The list below further details the essential competencies middle managers need to have, acquire or develop, including essential people management skills, in order to perform effectively in their functions and to ultimately enhance organisational performance.

1. THESE REQUIRED CORE COMPETENCIES ARE:

- General *management* skills, including:
 - The ability to set and revise objectives for the [unit] within the overall strategic framework and priorities of the Agency;
 - The ability to determine and focus on priorities and to monitor and evaluate the progress made towards achieving the unit's and team members' objectives set, in cooperation with the members of the team;
 - The ability to organise, assign and manage the unit's work among the members of the team and to set them challenging but realistic objectives;
 - The ability to empower members of the team while ensuring that they understand what is expected of them and how their work contributes to the unit's objectives;
 - The ability to choose co-workers and to build strong teams with complementary strengths suited to the efficient pursuit of the unit's objectives;
 - The ability to motivate members of the team to achieve the desired results and also to provide regular feedback, acknowledge success and the need for improvement in order to enable them to achieve their objectives and greatest potential;
 - The ability to develop and support career development and learning opportunities for the members of the team.
- Communication skills
 - The ability to communicate clearly and present complex subjects simply, both orally and in writing, including to the members of the team;
 - The ability to solicit inputs from and listen to staff, partners, and stakeholders.
- Interpersonal skills
 - The ability to deal with people effectively, respectfully and courteously;
 - The ability to build productive and cooperative working relationships with hierarchy and other units and colleagues;
- Negotiation skills

- The ability to steer discussions and generate the best possible results without compromising productive working relationships with the other parties involved;
- Previous mobility within the institution
 - Proven ability to carry out the functions in different environments and/or overall knowledge of the Institution, gained notably through inter-Agency mobility, should constitute an important advantage and might be deemed essential for the appointment to certain head of [unit posts].

2. TECHNICAL QUALIFICATIONS INCLUDE POINTS OF THE FOLLOWING TYPE:

- Familiarity with administrative, financial and oversight issues
 - [Officials, or] temporary staff must have a good knowledge of the administrative and financial circuits within the Agency and, ideally, experience of them. A high degree of competence in handling budgetary resources and/or in organising work, resources and procedures to achieve operational efficiencies and value for money could be of key importance, depending on the post in question.

3. SPECIALIST KNOWLEDGE COMPRISES POINTS SUCH AS:

- Knowledge of EU policies, languages, legislation and programmes, particularly those relevant to the post in question
 - Occupying a [head of unit] 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

List of agencies

A. DECENTRALISED AGENCIES

(1) **Agency for the Cooperation of Energy Regulators (ACER)**

Trg republike 3,
1000 Ljubljana, SLOVENIA

(2) **Body of European Regulators for Electronic Communications and the Office (BEREC)**

BEREC Office
Z. A. Meierovica Bulv. 14, 2nd Floor
Riga LV-1050, LATVIA

(3) **Translation Centre for the Bodies of the European Union (CDT)**

Bâtiment Drosbach
Rue Guillaume Kroll, 12e
1882 Luxembourg, LUXEMBURG

(4) **European Centre for the Development of Vocational Training (CEDEFOP)**

Europe 123,
570 01 Thessaloniki (Pylea), GREECE

(5) **European Union Agency for Law Enforcement Training (CEPOL)**

Ó Utca 27
1066 Budapest, HUNGARY

(6) **Community Plant Variety Office (CPVO)**

3 Boulevard Maréchal Foch
FR-49000 Angers, FRANCE

(7) **European Aviation Safety Agency (EASA)**

Konrad-Adenauer-Ufer 3
D-50668 Cologne, GERMANY

(8) European Asylum Support Office (EASO)

MTC Block A, Winemakers Wharf,
Grand Harbour Valletta,
MRS 1917, MALTA

(9) European Banking Authority (EBA)

One Canada Square (Floor 46)
Canary Wharf
London E14 5AA, UNITED KINGDOM

(10) European Centre for Disease Prevention and Control (ECDC)

Tomtebodavägen 11a
171 65 Solna, SWEDEN

(11) European Chemicals Agency (ECHA)

Annankatu 18
00120 Helsinki, FINLAND

(12) European Environment Agency (EEA)

Kongens Nytorv 6
1050 Copenhagen K, DENMARK

(13) European Fisheries Control Agency (EFCA)

Edificio Odriozola, Avenida García Barbón 4
36201 Vigo, SPAIN

(14) European Food Safety Authority (EFSA)

Via Carlo Magno 1A
43126 Parma, ITALY

(15) European Institute for Gender Equality (EIGE)

Gedimino pr. 16
01103 Vilnius, LITHUANIA

- (16) **European Insurance and Occupational Pensions Authority (EIOPA)**
Westhafenplatz 1
60327 Frankfurt am Main, GERMANY
- (17) **European Institute of Innovation and Technology (EIT)**
Infopark 1/E, Neumann Janos utca
1117 Budapest, HUNGARY
- (18) **European Medicines Agency (EMA)**
30 Churchill Place
Canary Wharf
London E14 5EU, UNITED KINGDOM
- (19) **European Maritime Safety Agency (EMSA)**
Praça Europa 4, Cais do Sodré
1249-206 Lisbon, PORTUGAL
- (20) **European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)**
Praça Europa 1, Cais do Sodré
1249-289 Lisbon, PORTUGAL
- (21) **European Union Agency for Network and Information Security Agency (ENISA)**
Science and Technology Park of Crete (ITE)
Vassilika Vouton
700 13 Heraklion, GREECE
- (22) **European Union Agency for Railways (ERA)**
120 rue Marc Lefrancq
59300 Valenciennes, FRANCE
- (23) **European Securities and Markets Authority (ESMA)**
103 Rue de Grenelle
75007 Paris, FRANCE
- (24) **European Training Foundation (ETF)**
Villa Gualino
Viale Settimio Severo 65

10133 Torino, ITALY

(25) **European Union Intellectual Property Office (EUIPO)**

Avenida de Europa, 4
03008 Alicante, SPAIN

(26) **European Agency for the operational management of the large-scale IT systems in the area of freedom, security and justice (eu-LISA)**

EU House
Rävala pst 4
10143 Tallinn, ESTONIA

(27) **European Agency for Safety and Health at Work (EU-OSHA)**

12 Santiago de Compostela (Edificio Miribilla), 5th floor
48003 Bilbao, SPAIN

(28) **European Foundation for the Improvement of Living and Working Conditions (EUROFOUND)**

Wyattville Road, Loughlinstown,
Co. Dublin D18 KP65, IRELAND

(29) **European Union's Judicial Cooperation Unit (EUROJUST)**

Johan de Wittlaan 9
2517 JR The Hague, THE NETHERLANDS

(30) **European Union Agency for Law Enforcement Cooperation (EUROPOL)**

Eisenhowerlaan 73
2517 KK The Hague, THE NETHERLANDS

(31) **European Union Agency for Fundamental Rights (FRA)**

Schwarzenbergplatz 11
1040 Vienne, AUSTRIA

(32) **European Border and Coast Guard Agency (FRONTEX)**

Plac Europejski 6
00-844 Warsaw, POLAND

(33) **European GNSS Agency**

Janovského 438/2

170 00 Praha 7 - Holesovice, CZECH REPUBLIC

(34) **Single Resolution Board (SRB)**

Rue Treurenberg 22

1049 Brussels, BELGIUM

B. JOINT UNDERTAKINGS

(35) Bio-based Industries Joint Undertaking (BBI)

White Atrium Building
Avenue de la Toison d'Or 56-60, 3th Floor
1060 Brussels, BELGIUM

(36) Clean Sky 2 Joint Undertaking (CLEAN SKY 2)

White Atrium Building
Avenue de la Toison d'Or 56-60, 4th Floor
1060 Brussels, BELGIUM

(37) Electronic Components and Systems for European Leadership Joint Undertaking (ECSEL)

White Atrium Building
Avenue de la Toison d'Or 56-60, 5th Floor
1060 Brussels, BELGIUM

(38) Fuel Cells and Hydrogen 2 Joint Undertaking (FCH 2)

White Atrium Building
Avenue de la Toison d'Or 56-60, office 04/21
1060 Brussels, BELGIUM

(39) The European Joint Undertaking for ITER and the Development of Fusion Energy (F4E)

c/ Josep Pla, n° 2
Torres Diagonal Litoral
Edificio B3
08019 Barcelona, SPAIN

(40) Innovative Medicines Initiative 2 Joint Undertaking (IMI 2)

White Atrium Building
Avenue de la Toison d'Or 56-60
1060 Brussels, BELGIUM

(41) SESAR Joint Undertaking (SJU)

Avenue de Cortenbergh 100
1000 Brussels, BELGIUM

(42) Shift2Rail Joint Undertaking (S2R JU)

White Atrium Building, 2nd Floor
Avenue de la Toison d'Or 56-60
1060 Brussels, BELGIUM

