



DECISION OF THE GOVERNING BOARD

Concerning the annual appraisal, probationary and management trial period of the Executive Director of the Shift2Rail Joint Undertaking

N° 02/2018

THE GOVERNING BOARD OF THE SHIFT2RAIL JOINT UNDERTAKING,

Having regard to Council Regulation (EU) No 642/2014 of 16 June 2014 establishing the Shift2Rail Joint Undertaking¹ (hereinafter 'S2R JU'), in particular Article 6(1) and 6(3) thereof and to Article 8(j) and (r) and Article 9(2) of the Annex to that Regulation (Statutes of the S2R JU) (hereinafter 'S2R JU Founding Regulation'),

Having regard to the Staff Regulations of Officials of the European Union (hereinafter 'Staff Regulations') and the Conditions of Employment of Other Servants of the European Union (hereinafter 'CEOS'), laid down by Council Regulation (EEC, EURATOM, ECSC) n° 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 C(2018) 590 final of 29 January 2018,

After consulting the Staff Committee,

WHEREAS:

- (1) Pursuant to Article 6(1) of the S2R JU Founding Regulation, the Staff Regulations and the CEOS are applicable to the staff of the S2R JU.
- (2) Pursuant to Article 6(3) of the S2R JU Founding Regulation, rules implementing the Staff Regulations and the CEOS are adopted by the Governing Board in accordance with Article 110 of the Staff Regulations.

¹ Council Regulation (EU) No 642/2014 of 16 June 2014, OJ L 177, p.9 .

² 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).

- (3) The Executive Director of the S2R JU is a temporary agent engaged under Article 2(a) of the CEOS, pursuant to Article 9(2) of the Annex to the S2R JU Founding Regulation.
- (4) The Executive Director of the S2R 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 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 S2R 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 reporting period.

2. The objective of the annual appraisal is to assess the ability, efficiency, the conduct in the service of the jobholder 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 in Article 14 of the CEOS.

Article 2: Role of the various actors

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

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

1. The Governing Board shall designate at least two reporting officers from among its members. The reporting officers should equally represent the European Commission and the industry partners. Reporting officers cannot be designated to any other functions within the appraisal procedure of the S2R JU Executive Director.
2. The appeal assessor shall be the Vice-Chairperson 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. The report to be drawn up is closed if the jobholder and the reporting officers agree on the carryover. In that case the procedure set out in Article 6 shall not apply, except for the dialogue specified in Article 6(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 officers.

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 five working days after the reporting officers' request, a self-assessment which is incorporated into the annual appraisal report.
3. At the latest ten working days after the self-assessment is communicated by the jobholder, the reporting officers and the jobholder hold a formal dialogue. If the jobholder refuses to finalise his self-assessment within the required time, the reporting officers can decide to hold the dialogue when the deadline referred to in paragraph 2 has expired.

The dialogue shall cover the following elements:

- a) the reporting officers examine the jobholder's efficiency based on fulfilment of objectives and carrying out of the implementation of the S2R JU work plan adopted each year by the S2R JU, demonstrated abilities and the conduct in the service of the jobholder for the reference period.
 - b) the jobholder and the reporting officers set the objectives for the following reference period and, if necessary, a training plan which takes into account the objectives linked to the S2R JU work plan and the personal development goals.
4. At the latest ten working days after the formal dialogue, the reporting officers shall draw up an annual appraisal report. This report shall comprise a general appraisal which takes into account the assessments given on the ability, efficiency and conduct in the service of the jobholder, in accordance with the criteria defined in the appraisal report, and it shall establish whether the performance level of the jobholder has been satisfactory.
 5. The report shall be notified in writing to the jobholder.
 6. The jobholder has five working days to accept the report without making any comments, accept it after adding comments in the appropriate section of the report, or refuse the report by justifying the reason for the refusal in the appropriate section. If the report is accepted by the jobholder, the report is closed. A report is deemed to be accepted in case of absence of reaction of the jobholder within the time foreseen.
 7. The closed report shall be transmitted to the chairperson of the 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 reasoned refusal to accept the report at any time.
2. Upon the request by the jobholder expressed in his reasoned refusal to accept the report, which is transmitted to the appeal assessor, the latter shall give his 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 shall justify his decision. The reporting officers 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

Article 9: Scope of the probationary period

1. The newly engaged S2R JU Executive Director shall be subject to a probationary period, in accordance with Article 14 of the CEOS.
2. The S2R 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 duties for a continuous period of at least one month, the reporting officers may propose to the authority authorised to conclude contracts of employment (‘AACC’) to extend the former probationary period for the corresponding length of time. The total length of the probationary period shall in no circumstances exceed 15 months.

Article 10: Managerial trial period

Subject to Article 9(3), a newly engaged S2R JU 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 11: Role and designation of the various actors

Articles 2 and 3 shall apply *mutatis mutandis*.

Article 12: 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 10.
2. Subject to Article 12(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 officers.

Article 13: Procedure for the probationary period

1. During the month which follows the first day of entry into service, the reporting officers shall meet the probationer in order to comment on his 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 probationary period. The assessment will

particularly take into account the efficiency based on fulfilment of objectives and carrying out of the implementation of the S2R JU work plan, demonstrated abilities and conduct in the service of the S2R 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 officers on the efficiency of the probationer, on his abilities to perform the duties pertaining to his post including the probationer's management skills as determined by Article 10, and on his conduct in the service. The probationer and the reporting officers shall hold a formal dialogue on the report.
4. At the latest ten working days after the formal dialogue, the reporting officers shall make a single proposal to the AACC, in the final report, either establishment, extension, according to Article 9(3) of the probationary period, or dismissal of the probationer, which shall be based on the probationer's ability, efficiency, conduct in the service and, subject to Article 10, 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 14 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 14: Appeal procedure

Articles 7 and 8 shall apply *mutatis mutandis*.

Article 15: Final decision

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.

Article 16: Management allowance

1. The management allowance is paid after written confirmation of the probationer's capacity to fulfil his management functions satisfactorily in the report referred to in Article 12 once the

latter is closed.

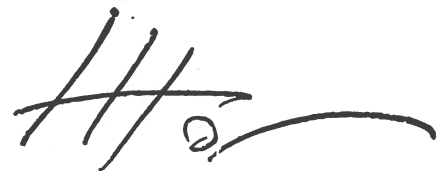
2. The management allowance is paid retroactively as from the date of appointment of the probationer.

Article 17: Final provisions

This decision shall take effect on the day following that of its adoption.

Done at Brussels, on

For the Governing Board

A handwritten signature in black ink, consisting of several vertical strokes followed by a horizontal line and a small circular flourish.

Henrik HOLOLEI
The Chairperson