



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

**– 46<sup>th</sup> Meeting –  
– Ordinary Session –**

**Thursday, 8 October 2020, 09:00 — 13:30**

**Trg Republike 3, Ljubljana – Slovenia  
- ONLINE MEETING -**

***MINUTES***

## I. LIST OF ATTENDEES

The following Members and Alternates of the Administrative Board were present at the meeting:

Dr Jochen PENKER,	<i>Member</i>	Dr Jurijs SPIRIDONOVŠ,	<i>Vice-Chair</i>
Dr Romana JORDAN,	<i>Member</i>	Ms Edit HERCZOG,	<i>Member</i>
Mr Bogdan CHIRIȚOIU,	<i>Member</i>	Ms Karin LUNNING	<i>Member</i>
Mr Michel THIOLLIÈRE,	<i>Member</i>	Mr Florian ERMACORA,	<i>Alternate</i>
Mr Pal KOVÁCS,	<i>Alternate</i>	Mr Vaclav BARTUŠKA,	<i>Alternate</i>
Ms Britta THOMSEN,	<i>Alternate</i>	Mr Zhecho STANKOV,	<i>Alternate</i>

Mr Florian ERMACORA submitted proxies by Ms Ditte JUUL JØRGENSEN and Ms Anne MONTAGNON.

Mr Christian Pilgaard ZINGLERSEN (*Director*) and Ms Clara POLETTI (*Chair of the Board of Regulators*) were present at the meeting, acting as observers.

Mr Juan-Ignacio DE DIOS MORALES, acting as advisors, was present at the meeting.

The secretariat was provided by the Agency.

## **II. SUMMARY OF CONCLUSIONS OF THE 46<sup>th</sup> MEETING OF THE ADMINISTRATIVE BOARD**

At the 46<sup>th</sup> meeting, the Administrative Board:

- (1) welcomed and expressed appreciation for the submission of the proposal on the communication strategy of the Agency and the enhancement of the website's functionalities;
- (2) invited the Director to address the comments provided in the course of the discussion and submit for discussion at the 47th meeting of the Administrative Board the related communication and dissemination plans for the years 2021 and 2022: (i) identifying the proposed communication activities by favouring the employment of digital tools (social media, webinars), (ii) planning adequately the timing for communication in light of most impactful deliverables, and (iii) providing a concrete assessment of the resources involved - possibly alongside the programming documents of the Agency so as to ensure the timely involvement of the Board of Regulators;
- (3) stressed the need to ensure that the Agency will finally be provided with the appropriate financial and human resources in order to adequately fulfil the tasks assigned to it under REMIT and invited the Director to focus already on the budget negotiations for the year 2022;
- (4) encouraged the European Commission to involve the Administrative Board in the process for the appointment of the next Members and Alternates of the Board of Appeal, so as to define beforehand the profiles needed to fulfil the mandate attributed to the Board of Appeal;
- (5) expressed concerns for the potential impact of the budget constraints faced by the Agency in ensuring that the Board of Appeal can fulfil its tasks at an adequate level;
- (6) congratulated with Ms BORISSOVA for the actions undertaken in greening the Agency's operations and invited the Agency to establish an action plan for the years 2021-2022 aimed at reducing further the carbon footprint of the Agency;
- (7) invited the Director to reconsider the proposal for amendments of the rules of procedure for the internal functioning of the working groups of the Agency as regards the composition of the working groups and the location of meetings, by addressing the indications provided in the course of the discussion and ensuring full compliance with Regulation 942/2019;
- (8) congratulated with the staff, the management, and the Director for having ensured continuity of service and having proven to have been able to maintain high productivity also during the crisis brought about by the Pandemic;
- (9) encouraged the Director to ensure that staff maintains an appropriate balance between professional and private life according to the Staff Regulations, putting staff in the condition to disconnect from work;
- (10) invited the Director to maintain high the engagement of staff during the pandemic and welcomed the adoption of more flexible working arrangements, ensuring the well-being of staff.

### III. MINUTES

#### SESSION I

##### **SECTION I – OPENING**

The 46<sup>th</sup> meeting of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators was convened, in ordinary session, on 8 October 2020. The meeting started at 09h00.

Upon invitation of the Chair to the present Members and Alternates of the Administrative Board to declare any actual or potential interest that could be considered prejudicial to their independence with respect to the items on the agenda, no actual or potential interest was declared nor reported.

##### **(1) Approval of the Agenda**

The Agenda of the 46<sup>th</sup> meeting of the Administrative Board was approved as follows:

<i>OPENING</i> 09:00 - 09:10	<b>Opening of the 46<sup>th</sup> Meeting of the Administrative Board</b> <i>Adoption of the Agenda and Declaration of Interests</i>
<i>STRATEGIC DISCUSSION</i> 09:10 - 10:00	<b>A Communication Strategy for the Agency</b> <i>Presentation by the Director of the Agency and the Strategy Delivery and Communication Team of the communication strategy for the Agency.</i> <i>Roundtable Discussion</i>
10:00-10:45	<b>Budget 2021 – way forward</b> <i>Presentation by the Agency on budgetary developments and the action plan to engage with the relevant stakeholders involved in the budgetary negotiations</i> <i>Roundtable Discussion</i>
11:00-11:45	<b>The Board of Appeal – Lessons Learnt and way forward</b> <i>Presentation by the Agency’s Legal Services</i> <i>Roundtable Discussion</i>
11:45-12:15	<b>Sustainable ACER initiative (further “greening” of ACER’s own activities)</b> <i>Presentation by the Agency</i> <i>Roundtable Discussion</i>
<i>REPORTING, INFORMATION, AND INTERNAL FUNCTIONING</i>	<b>Report on the activities of the Board of Regulators</b> <i>Presentation by the Chair of the Board of Regulators</i>

*OF THE  
AGENCY  
12:15-13:30*

**Rules of Procedure of the Working Groups – Amendment**

*Presentation by the Director and the Chair of the Board of Regulators*

*Roundtable Discussion*

**The Effects of the pandemic on the Agency's operations and the future opportunities**

*Presentation by the Agency*

*Roundtable Discussion*

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*CLOSURE  
13:30-13:40*

**Invitation to the 47<sup>th</sup> Meeting of the Administrative Board**

**AoB**

**SECTION II – STRATEGIC DISCUSSION**

**(2) A Communication Strategy for the Agency**

The Chair of the Administrative Board recalled that, after the discussions held during the 44<sup>th</sup> and the 45<sup>th</sup> meetings, and in particular, after the presentation by the Director on his vision of the future for the Agency, the Administrative Board invited the Agency to submit a proposal for a communication strategy. In particular, the Chair recalled that the Administrative Board invited the Agency to reach out further and more effectively stakeholders, contributing from a regulatory perspective to the political debate. The Chair stressed that the Administrative Board invited the Agency to increasing its visibility showing more clearly the EU added value of its activities and how its activities contribute to the wider political agenda of the Union.

Mr Bart VEREECKE, Team Leader of the Strategy Delivery and Communication Team, presented the proposal. In particular, it was reported that the Communication Strategy has two dimensions. The first dimension is related to the refinement of the internal communication towards a more horizontal approach to stakeholder engagement at all levels of the Agency, ensuring an effective and harmonised communication with the Agency's stakeholders and partners. The second dimension is related instead to the innovation of the communication practices of the Agency, starting from the Agency's website.

Mr VEREECKE emphasised that the main objective of the proposed Communication Strategy is to increase the engagement with stakeholders in line with the enlarged mandate of the Agency. In particular, the centre of the communication activities should follow those domains and areas where decision-making powers have been shifted from the national to the European dimension. In this context, it was clarified that the Agency should render manifest its inherent added value. The proposal therefore envisages the possibility to contribute from a regulatory perspective to topics interrelated with the broader energy policy of the Union, in particular where issues related to future market design and market developments are considered. It was stressed that such contribution would maintain a regulatory focus and would take place only where the Agency has a role and can therefore bring its added value. It was maintained that the Agency would frame those communications activities within its purpose of fostering the cooperation of National Regulatory Authorities – which are constituents of the Agency itself.

The presentation focused further on the upgrade of the Agency's website with the following objectives: (i) improving the Agency's visual identity, (ii) offering an improved navigation experience to the public, and (iii) reducing the workload in managing the website towards a faster and more interactive website management.

Additional information were provided about the plans of the Agency with regard to the use of innovative communication and software tools to modernise ways of working, sharing knowledge and engaging more effectively with a vast number of stakeholders.

The Administrative Board welcomed and expressed appreciation for the submission of the proposal and the enhancement of the website's functionalities. It noted the need to be conservative in the approach to budget expenditures for communication activities, ensuring efficiencies to the maximum extent possible and avoiding that communication activities would be detrimental to the effective exercise of the operational tasks assigned to the Agency. In this regard, the Administrative Board expressed the need to limit human resources dedicated to communication activities due to the already limited FTEs available to perform the operational tasks assigned to the Agency.

In this respect, the Administrative Board invited the Director to identify the key stakeholders with whom the Agency wishes to interact, grouping them and defining appropriate targeted communication plans, the communication approach, the means and the level of interaction. In this respect, the Administrative Board invited the Agency to modernise further the communication technics according to the target groups, translating, whenever needed, technical content into more usable content for the identified audience.

The Administrative Board invited the Director to consider modelling the communication plans of the Agency employing as main perspective how the Agency fulfils the EU priorities and provides added value to the EU citizens and consumers. In addition, it was stressed the need to highlight further the importance of the internal energy market and the role of the Agency as engine for the internal energy market, contributing to the Green Deal, security of supply, and affordability. In this context, emphasis was put on the need to engage in the greening of the Agency and publicise the results at all levels to maximise impact.

The Administrative Board further invited the Director to synchronise communication efforts with other EU institutions and international organisations – whenever the mandate of the Agency allows so – possibly involving specific stakeholders associations as channel to amplify the impact of communication on their constituent members increasing overall efficiency.

In this respect, also with the support of the Chair of the Board of Regulators, the Administrative Board invited the Director to consider seeking synergies with National Regulatory Authorities (i) identifying those areas where the Agency can provide added-value in its communication plans and where NRAs should instead take the lead, and (ii) at the same time, seeking convergence of communication strategies in so far as possible – possibly giving resonance to the Agency in the national constituencies.

The Director was also invited, once more, to consider the opportunity to engage the Administrative Board more actively in the budgetary negotiations. In this regard, the Director clarified the importance of the Administrative Board in supporting the Agency in interacting with Member States, being the latter key stakeholders to whom the added-value of the Agency in the political challenges ahead should become more evident, especially following the Green Deal.

*Conclusion:* (1) The Administrative Board welcomed and expressed appreciation for the submission of the proposal on the communication strategy of the Agency and the enhancement of the website's functionalities.

- (2) The Administrative Board invited the Director to address the comments provided in the course of the discussion and submit for discussion at the 47<sup>th</sup> meeting of the Administrative Board the related communication and dissemination plans for the years 2021 and 2022: (i) identifying the proposed communication activities by favouring the employment of digital tools (social media, webinars), (ii) planning adequately the timing for communication in light of most impactful deliverables, and (iii) providing a concrete assessment of the resources involved - possibly alongside the programming documents of the Agency so as to ensure the timely involvement of the Board of Regulators.

### **(3) *Budget 2021 – way forward***

The Chair introduced the report and the discussion on the budget developments. He recalled that the Administrative Board, in many instances, offered its support in the budgetary negotiations and invited the Agency to set up a plan for the engagement of the Board in the outreaching effort towards the Member States and the European Institutions to get support for the budget needs of the Agency. In the course of the summer, the Agency provided updates on the budget negotiations as well as information on the needs of the Agency and its inherent value, information to be further employed in any circumstance deemed appropriate by the individual Members and Alternates.

The Chair further informed the Administrative Board about the outreaching efforts put in place, in the course of the summer, by the Director, with the support of NRAs and of individual Members and Alternates of the Administrative Board, to engage with Member States in the attempt to support the additional budget requests of the Agency for the year 2021.

The Director reported that the Commission's proposal for the 2021 Budget was estimating an increase of overall budget for the Agency compared to the year 2020, passing from EUR 16,868,810 for the year 2020 to EUR € 19,548,810, a substantial part of which composed by planned revenues from REMIT fees (EUR 4,730,075). In terms of human resources, the Commission's proposal has envisaged the attribution to the Agency of three (3) contract staff in Function Group IV. The Director thanked the Commission, and especially DG ENER, for the effort and the support given and expressed understanding for the approach taken. At the same time, it was reported that the very conservative requests of the Agency for the same year 2021 amounted to EUR 21,434,793 and, therefore, a substantial part of the budget needed to perform the mandated tasks in 2021 is still missing.

The Director explained that the current proposal, although beneficial for the performance of REMIT related activities (with an increase of budget of EUR 2,680,000, compared to the year 2020) resulted to be provisional only as it is still conditional on the actual income that the Agency would have been able to receive from the collection of REMIT fees and will be subject to a deduction from EU contribution. The Director further warned the Administrative Board that, according to the Agency's services, the current proposal is limited, as it does not take into account the full costs for REMIT being finally put on a sound financial footing (i.e. the political compromise reached on the REMIT Fee model under the Clean Energy Package). It also does not consider the dramatically increasing costs for the appeals failed against the Agency's decisions and the rise in translation costs for the Agency.

The Director stressed the importance of ensuring additional financial and human resources for the Agency. In particular, he highlighted that two areas need particular support: REMIT and the Legal Services.

As regards REMIT, the Director recalled that the aim of introducing the possibility of raising fees for REMIT under the Clean Energy Package was to place REMIT on a sound financial footing. In this respect, according to the Director, the Commission's budget proposal may increase the risks not to achieve this goal in practice. In fact, he stressed that the Agency needs a reinforced team to enhance market surveillance efforts to an adequate level.

As regards the increased need for legal support, the Director highlighted that the significant enlargement of the powers of the Agency, tackling increasingly sensitive issues, brought as a consequence an unexpected increase in appeals. This year will likely see a ten-fold increase in legal appeals; seemingly a sign of things to come per the current experience of national regulatory agencies.

The Director stressed that the Agency needs to be able to spend REMIT fees collected for the improvement of REMIT services and it also needs an increase in the proposed EU budget subsidy to tackle existing challenges. To this end, an increase of the EU budget subsidy to €16,309,983 and five additional temporary staff are necessary, thus adding to the overall budget ceiling for ACER.

The Director therefore reported about the efforts made by the Agency's services to engage with key stakeholders to increase awareness about the Agency's broader value proposition and broaden the number of supporters in the budget negotiations to try to bridge the gap, in the course of the budget negotiation, between the level of subsidies proposed and the conservative and justified requests made by the Agency.

Mr ZULEGER, Head of the Market Integrity and Transparency Department, intervened to provide an update on the process for the establishment of REMIT fees. He first provided an overview on the model employed for setting fees. In this context, he stressed that the model attempts to ensure proportionality and non-discrimination while providing a simple, transparent and feasible mechanism for fee collection. He therefore explained that to implement the model the Agency shall first identify, each year, the total eligible costs, covering HR and IT (non-HR) REMIT expenditures, in the Programming Document. On the basis of the total eligible costs adopted in the Programming Document, the Agency calculates a fee for each registered reporting mechanism, based on a fix "enrolment fee" and a "records-based fee". In any case, should the sum of all fees be higher than the total eligible costs, the individual fees are reduced pro-rata. The invoices are expected to be send out in January of each year to comply with the budget cycle and be able to commit and spend the revenues generated within the year.

Mr ZULEGER highlighted the risk of potential funding gaps (e.g. due to market developments or changes of reporting behaviour) due to the very nature of the scheme being connected to records of transactions. He therefore stressed the need to ensure a continuous monitoring of RRM's reporting behaviour to ensure consistency with the invoicing. To that hand, 2 of the 3 additional Contract Agents foreseen in the proposal for the Budget 2021 will be deployed for REMIT fee implementation monitoring and no longer to provide better services to RRM's. The remaining Contract Agent will be employed for the financial implementation of the REMIT fee scheme.

*Conclusion:*

- (1) The Administrative Board took note of the report provided and thanked the Director for the effort in embracing in a new strategy to attempt to seek sufficient support in the course of the budget negotiations to bring the Agency on a sound financial footing on the year to come.
- (2) The Administrative Board advised the Director to bring already forward in the budgetary negotiations the Agency's needs for 2022.



- (3) The Administrative Board encouraged the European Commission to make sure that the scheme for REMIT fees, as well as, the underlying methodology, ensure that the Agency's eligible REMIT regulatory costs are covered at full, avoiding any potential funding gap of ACER's REMIT activities.
- (4) The Administrative Board stressed the need to ensure that the Agency will finally be provided with the appropriate financial and human resources in order to adequately fulfil the tasks assigned to it under REMIT.

#### **(4) *The Board of Appeal – Lessons Learnt and way forward***

The Chair of Administrative Board recalled that the term of office of the Board of Appeal of the Agency will be expiring on 17 October 2021. As a result, a new procedure should be launched by the European Commission for the selection of the next Members and Alternates of the Board of Appeal. Upon request, the Legal Services of the Agency provided a short presentation on the role of the Board of Appeal, its composition, pointing also to the main issue that the Administrative Board should consider discussing. In particular, the Legal Services highlighted the need to consider the professionalisation of the Board of Appeal, also by providing compensation for the handling of appeals, and the provision of adequate financial resources to ensure that the Board of Appeal can rely upon legal and technical expertise.

In addition, the Legal Services stressed the need to (i) ensure that potential or actual conflict of interests are carefully assessed at the time of the screening of the application and (ii) appoint Members and Alternates with significant experience in litigation especially given the trend of appeals and the eagerness of appellants to proceed further in litigation before the General Court.

The Administrative Board recalled the importance to reach a consensual outcome with regard to the definition of the profiles and the selection of candidates called to fulfil the mandate attributed to the Board of Appeal. In this context, the Administrative Board encouraged the European Commission to consider involving the Administrative Board in the definition of the criteria to be included in the public call for expression of interest and in the further screening of profiles.

- Conclusion:*
- (1) The Administrative Board encouraged the European Commission to involve the Administrative Board in the process for the appointment of the next Members and Alternates of the Board of Appeal so as to define beforehand the profiles needed to fulfil the mandate attributed to the Board of Appeal.
  - (2) The Administrative Board expressed concerns for the potential impact of the budget constraints faced by the Agency in ensuring that the Board of Appeal can fulfil its tasks at an adequate level;
  - (3) The Administrative Board invited Mr Andris PIEBALGS, Chair of the Board of Appeal of the Agency, to attend the 47<sup>th</sup> meeting of the Administrative Board.

#### **(5) *Sustainable ACER initiative (further “greening” of ACER’s own activities)***

The Chair of the Administrative Board introduced the discussion on the initiatives to be implemented in the effort to reduce the carbon footprint of the Agency as part of the overall strategy of the Agency to contribute to the objectives of the Union starting from concrete actions toward a more green Union.

The Chair recalled his speech at the time of taking up the duties as Chair where he explained that the greening up of the Agency constitutes one of the main priorities of his mandate together with fostering inclusiveness and openness, which are all paradigms of a modern European institution. He therefore stressed how it is important to provide signals towards the modernisation of the towards a truly green organisation, finding also efficient green solutions in the performance of its activities.

Upon invitation from the Chair, Ms BORISSOVA, Head of Corporate Services, presented the efforts already put in place at the Agency to increase its contribution to sustainability and the future plans to reach efficiency gains via sustainable solutions, touching upon potential ways forward to become a green Agency.

As regards the efforts put already in place, following the best practices from other Agencies, a number of digitalised workflows have been implemented combining the need to reduce the carbon footprint of the Agency and the establishment of more efficient handling of processes. Those processes relate to the financial workflow, the management of documents and of human resources. At the same time, a green ambassador group has been create to stimulate the discussion and propose concrete solutions to reduce the carbon footprint of the Agency. In this context, Ms BORISSOVA introduced the newly appointed sustainability officer of the Agency. Ms BORISSOVA further highlighted how the pandemic has brought the Agency to anticipate the implementation of other more green solutions, such as e-recruitment with the full digitalisation of the selection procedures. It also favoured the rapid development of more cost-effective and environmentally friendly interaction with stakeholders with the employment of webinars and web-conferences arrangements.

In addition, Ms BORISSOVA highlighted that the Agency is already in the process of greening further the management of missions and procurement procedures (green procurement, e-tendering, and e-submissions) with the full digitalisation of the Agency's administrative functions. In this respect, it was reported that e-submissions and MIPS' tools will be in place before the end of the year 2020. She also stressed how the Agency has been taking advantage of the current situation to revise its current protocols for catering, with the employment of on-site catering, the minimisation of waste, the reduction of plastic usage and the curtailment of CO<sub>2</sub> emissions. The Agency is also in the process of implementing a system of promotion of the use of public transports. The Agency further aims at providing also an environmental training to staff and replacing its IT equipment towards more environmentally efficient solutions.

Ms BORISSOVA finally clarified the limitations faced by the Agency in environmental management due to the limited human resources available. Ms BORISSOVA recalled how, despite these limitations, the Agency has made significant improvements in reducing its carbon footprint, also thanks to the help of the green network of the EU Agencies.

The Members and Alternates of the Board recalled the importance of minimising carbon emissions in the context of the EU priorities and communicate widely the results accordingly. The Chair invited the Agency to adopt checklists for green events and assess with the building owner the opportunity to switch energy suppliers to favour the employment of renewable energy. He also encouraged the Agency to implement e-signatures and possibly include environmental aspects in the future tenders of the Agency.

*Conclusion:*

- (1) The Administrative Board invited the Agency to establish an action plan for the years 2021-2022 aimed at reducing the carbon footprint of the Agency;
- (2) The Administrative Board invited the Agency to report on the progress made as part of the quarterly reports submitted to the Board.

### **SECTION III – REPORTING, INFORMATION, AND INTERNAL FUNCTIONING OF THE AGENCY**

## **(6) Report on the Activities of the Board of Regulators**

Ms Clara POLETTI, the Chair of the Board of Regulators ('the BoR Chair'), was invited to report on the most recent activities of the Board of Regulators. In this context, the Administrative Board was informed about the publication of the joint ACER-CEER<sup>1</sup> paper on the revision of the Trans-European Energy Networks (TEN-E) Regulation and Infrastructure Governance<sup>2</sup> containing recommendations to the European Commission<sup>3</sup>. Ms POLETTI clarified that the recommendations put forward represent a joint effort of ACER and CEER and were based on the experience gained in the context of the implementation of the above-mentioned Regulation. Within the framework of the out-reaching efforts of the Agency and CEER, the results of the position paper were presented to a wide audience in the course of September 2020.

The BoR Chair further reported on the establishment of a task-force tasked with the study of solutions to improve physical and virtual meetings through e-voting applications. The task-force identified the need for a customised solution to be potentially shared with other bodies or institutions across the Union.

*Conclusion:* The Administrative Board took note of the report of the Chair of the Board of Regulators and thanked the Agency and the Board of Regulators for the activities performed.

## **(7) Rules of Procedure of the Working Groups – Amendment**

The Chair recalled that, in the course of the summer, a proposal for the amendment of the rules of procedure for the internal functioning of the working groups of the Agency was tabled by the Director on the basis of the input received from the Board of Regulators. The proposal was based on the experience of the first year of application of Decision No 10 – 2019 of 4 July 2019 introducing those rules. The Chair highlighted that objections were raised in the course of the endorsement procedure at the commenting phase. The objections raised concerned the composition of the working groups and the location of meetings. The Chair explained that since both objections raised concerns of potential lack of compliance with the Agency's Regulation, the written procedure was withdrawn to ensure discussion in the course of the ordinary meeting of the Administrative Board.

Upon invitation of the Chair, the Legal Services of the Agency provided an overview of the current provisions, the concerns raised and the potential divergences with the Agency's Regulation.

Upon invitation, the BoR Chair intervened and clarified the rationale of the proposal. In particular, she highlighted the need to ensure flexibility, cost-efficiency and accessibility to meetings to allow the Agency to perform its mandate of ensuring the cooperation of the National Regulatory Authorities especially in light of the difficulties in reaching Ljubljana under normal circumstances.

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<sup>1</sup> The Council of European Energy Regulators.

<sup>2</sup> [http://www.acer.europa.eu/Official\\_documents/Position\\_Papers/Position%20papers/ACER\\_CEER\\_paper\\_on\\_TEN\\_E.pdf](http://www.acer.europa.eu/Official_documents/Position_Papers/Position%20papers/ACER_CEER_paper_on_TEN_E.pdf)

<sup>3</sup> The Position paper was published as a response to the European Commission public consultation on how effective the TEN-E Regulation has been, notably with regard to Europe's long-term decarbonisation commitment and the principle of prioritising energy efficiency in all planning, policy and investment decisions. The Commission is expected to propose revised guidelines later this year

The BoR Chair also explained that, as a result of the pandemic, virtual meetings will become a more standard practice. In this respect she further substantiated that should strict provisions be maintained, the overall capability of the Agency in ensuring its cooperative mandate could be put at risk. She also expressed the concern that as a natural consequence of maintaining physical meetings in Ljubljana, NRAs would naturally switch to virtual attendance, due to the lack of appropriate travel connections and the high travelling costs. As a result, the possibility of the Agency to enhance its out-reaching efforts will be impaired ultimately leading to a potential lower engagement of NRAs.

In this regard, the BoR Chair recalled that NRAs experts attending the working groups are not reimbursed by the Agency. The high travelling costs for attendance to the meetings in Ljubljana represent a significant burden for the already stretched budgets of NRAs.

The Director supported the position of the BoR Chair and explained the relevance of ensuring a balanced approach so as to guarantee engagement and participation of all NRAs and favor the out-reaching activities of the Agency, having an ultimate positive impact on the Agency's decision-making process. In this context, the Agency further reported that, as a natural development of the pandemic, after having experienced the efficient handling of activities of the working groups, the current plans for the future would see a reduction of the overall number of physical meetings of the working groups.

The Director further clarified that the proposed amendments to the rules of procedure aims also at further building trust with NRAs, enhancing the cooperative spirit within the Agency and ensuring to the maximum extent possible the engagement of the NRAs in the governance structure of the Agency. In light of that, he explained the need to look for a trade-off between the location of meetings and the budget savings for the Agency on the one side and the need to reach out NRAs and fulfill the Agency's mandate, on the other side.

In the first place, the Administrative Board expressed concerns in term of process. The Director and the Board of Regulators were invited to maintain the roles and responsibilities as envisaged by the Agency's Regulation with regard to the decision-making process related to the adoption of this act. In particular, it was stressed that the proposal is an act of the Director that shall ensure that the proposal respects at full the rules applicable at the Agency.

The Administrative Board expressed understanding for the balancing exercise performed in the definition of the location of meetings. However, it conveyed its concerns with regard to the proposal of reducing the overall number of meetings at the Agency's premises in Ljubljana, in particular taking into account that meetings from remote will have a significant impact in the future working arrangements of the Agency with a consequent significant reduction of physical meetings.

The Administrative Board further emphasized that the decision about the location of the Agency's premises – as for the other Institutions, agencies, bodies and offices of the Union – goes at the very essence of the European construction in terms of solidarity, decentralisation and redistribution of welfare.

As a result, the Administrative Board considered that the Agency shall implement those general principles and make sure that its activities and statutory functions are performed at the seat of the Agency, allowing flexibility in duly justified circumstances.

In this regard, the Administrative Board stressed that all Member States adopted Decision 2009/913/EU<sup>4</sup> and therefore the consequent need to ensure financial support to National Regulatory Authorities to perform their duties within the Agency was taken into consideration at that stage.

Finally, the Administrative Board highlighted that meetings taking place out of the Agency's premises do have financial implications for the Agency itself. Those expenses should be carefully considered especially given the significant structural budget constraints that the Agency is facing and which are putting at risk the full performance of its mandate. The Administrative Board therefore maintained to be parsimonious in allowing expenditures for statutory functions taking place out the premises of the Agency, being its seat in Ljubljana. In this context, it was emphasised that it is for the Director to undertake a cost-benefit analysis identifying, on one side, the costs in terms of expenditures and time loss for missions of staff to travel to other destinations for the meetings and the expected benefits, on the other side. In this assessment due consideration shall be given to the the forecasted limited number of physical meetings that will take place in the future, reinforcing the need to maintain the remainder of the meetings in Ljubljana. A report of such analysis shall be provided to the Administrative Board.

The Administrative Board therefore invited the Director to reconsider the proposal in light of the indications provided in the course of the discussion and the concerns raised with particular regard to the composition of the working groups and the location of meetings and resubmit it for endorsement to the next meeting of the Administrative Board. In this regard, the Administrative Board expressed its preference to maintain the responsibility for the choice of the location of meetings with the Director, being ultimately responsible for the financial implementation of the budget before the Administrative Board.

- Conclusion:*
- (1) The Administrative Board invited the Director to reconsider the proposal for amendments of the rules of procedure for the internal functioning of the working groups of the Agency as regards the composition of the working groups and the location of meetings;
  - (2) The Administrative Board invited the Director to take into account the indications provided in the course of the discussion and ensure full compliance with Regulation 942/2019.

#### **(8) *The Effects of the pandemic on the Agency's operations and the future opportunities***

Upon invitation of the Chair, Dennis HESSELING, Head of the Gas Department, provided an overview of the measures put in place at the Agency to ensure continuity of business in the course of the pandemic. He also provided insights on the positive effects that the crisis brought in terms of more dynamism in the Agency's activities.

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<sup>4</sup> Decision taken by common agreement between the Representatives of the Governments of Member States of 7 December 2009 on the location of the seat of the Agency for the Cooperation of Energy Regulators (OJ L 322, 9.12.2009, p. 39)

As regards the measures put in place at the Agency, Mr HESSELING, first highlighted how the pandemic required continuous coordination between the European Commission, the Slovenian Authorities and the Agency's continuity management team to ensure business continuity during the uncertain times brought about by the pandemic. The lock-down represented a significant challenge for the IT equipment of the Agency. Resilience, stability and continuous developments of the Agency's IT infrastructure proved to be essential to ensure continuity of operation and maintain internal cohesion. In addition, it was stressed how the pandemic entailed significant challenges in ensuring also the health and safety of the Agency's premises in a shared building, with the need to allow staff at times to access the Agency's premises on a need basis.

In particular, it was recalled that the Agency's staff has been moved to a full teleworking regime. The teleworking regime has proven to be successful both in terms of overall productivity of staff and stability of the IT equipment of the Agency as it allowed simultaneous teleworking of all members of the staff. REMIT monitoring activities were successfully maintained also during teleworking, despite the challenges of ensuring handling of confidential data from remote. In order to maintain cohesion, internal communication efforts were fostered with the employment of online webinars, video messages from the Director, all staff meetings and info-sharing meetings.

The remote and virtual interaction has proven to be very effective also in the handling of meetings of the Board of Regulators and Working Groups, increasing participation and engagement of NRAs, with the result that input from NRAs has significantly improved, increasing the overall quality of the Agency's output. As a result, physical meetings are envisaged to be reduced in number after the pandemic possibly to a maximum of four meetings per year. Mr HESSELING though maintained the need to ensure that physical meetings still take place as means to ensure that communication is enhanced and cohesion with the National Regulatory Authorities is strengthened.

In a similar manner, outreaching activities through webinars allowed interaction with an increasing number of stakeholders, bridging the gap created by the remoteness of the Agency's premises. In particular, Mr HESSELING highlighted the increasing number of participants to the webinars organized by the Agency to present the results of its activities.

In addition, it was reported how, despite the Agency has successfully managed to ensure overall continuity of business, the need to ensure stability of the IT equipment generated a significant peak of workload showing a gap in human and financial resources. In addition, onboarding of new staff was impaired due the impossibility to undergo all the necessary procedural steps before entry into service.

Mr HESSELING further identified the future opportunities stemming from the experience gained through the pandemic. In first place, it was recalled how operational activities at the Agency proved to be capable to be rendered remotely. As a result, also many of the meetings, also of statutory character, that the Agency organises or attends each year proved to remain effective also in virtual format. He therefore stressed the inherent financial advantage of those format, with the possibility to redeploy savings to cover other more compelling needs.

Mr HESSELING highlighted the inherent opportunity coming from the positive response of the Agency's staff and operation during the pandemic to reconsider the working arrangements at the Agency moving to a more flexible working model. Under this new model, remote and flexible working arrangements would be given priority, reducing overall office spaces and creating a physical working environment that can create value through physical interaction whenever needed. In this context, Mr HESSELING also highlighted the need to ensure an appropriate work-life balance, which may be challenging whenever normal working patterns disappear.

Mr HESSELING finally concluded by highlighting the potential for the remote and flexible working arrangements to allow the redeployment of resources wherever are more needed and the opportunity to become more attractive in the market as an employer, overcoming the drawbacks deriving from the remote location of the Agency's premises.

- Conclusion:*
- (1) The Administrative Board congratulated with the Director and the Agency for having ensured continuity of service and having proven to have been able to maintain high productivity;
  - (2) The Administrative Board invited the Director to ensure the engagement of staff during the pandemic and afterwards with the adoption of more flexible working arrangements and ensure the well-being of staff. In particular, the Administrative Board encouraged the Director to ensure that staff maintains an appropriate balance between professional and private life according to the Staff Regulations, putting staff in the condition to disconnect from work.

### **CLOSING**

The Administrative Board, after discussion, invited the Agency to ensure that items put to written procedure are grouped so as to maintain an efficient working of the Board.

In the absence of any other business to be treated, the Chair closed the 46<sup>th</sup> meeting at 13:30.