

DIRECTOR DECISION 2017-35

of 21 December 2017

On the publication of information on meetings with organisations or self-employed individuals

THE DIRECTOR OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹, and, in particular, Article 10 and 13 thereof,

Whereas:

- (1) In accordance with Article 11(1) and (2) of the Treaty on European Union (TEU), the institutions must, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action. They are also required to maintain an open, transparent and regular dialogue with representative associations and civil society. Further, in accordance with Article 10 of Regulation (EC) No 713/2009, the Agency for the Cooperation of Energy Regulators (hereinafter “the Agency”) has to consult widely in carrying out its tasks.
- (2) In accordance with Article 298 of the Treaty on the Functioning of the European Union (TFEU), in carrying out their missions, the institutions, bodies, offices and agencies of the Union must have the support of an open, efficient and independent European administration.
- (3) The Agency is committed to the highest level of transparency on contacts with organisations or self-employed individuals.
- (4) Citizens have already a right of access to documents of the institutions as provided for in Regulation (EC) No 1049/2001². This Decision does not concern access to documents, nor the application of Regulation (EC) No 1049/2001.
- (5) On 25 November 2014, the Commission, following the Political Guidelines of 15 July 2014 laid down by the President, adopted Commission Decision 2014/839/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals, whereby the Members of the Commission are required to make public the information on meetings held by them or members of their Cabinets with organisations or self-

¹ OJ L 211, 14.8.2009, p. 1.

² Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ([OJ L 145, 31.5.2001, p. 43](#))

- employed individuals on issues relating to policy-making and implementation in the Union. The Agency intends to adhere to the same transparency standards.
- (6) The Agency's Director may have meetings with organisations or self-employed individuals for similar purposes as the meetings referred to in the above-mentioned Commission Decision. It is therefore appropriate to apply similar transparency standards to such meetings.
 - (7) The Agency should therefore make public information on meetings held by the Director with organisations or self-employed individuals on issues relating to the activities of the Agency.
 - (8) Meetings with representatives of other Union or Energy Community institutions or bodies, which reflect the ordinary course of inter-institutional relations, are not covered by this Decision. Meetings with representatives of public authorities of the Member States and their National Regulatory Authorities (NRAs) are not covered by this Decision as those authorities pursue the general interest and contribute to the work of the Agency under the principle of sincere cooperation. In order to protect the international relations of the Union, meetings with representatives of public authorities of third countries and of international organisations are not covered by the present Decision.
 - (9) The Agency encourages organisations or self-employed individuals to register in the Transparency Register prior to having meetings with the Director. However, in view of the specific role of political parties recognised by Article 10(4) TEU, and given that the Inter-institutional Agreement between the European Parliament and the European Commission of 16 April 2014 on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation³ provides that the register does not apply to political parties, meetings with representatives of political parties should also not be covered by this Decision.
 - (10) Since, in certain specific cases, making information on a meeting public may undermine the protection of the life, the integrity or privacy of an individual, the financial, monetary or economic policy of the Union, the market stability or sensitive commercial information, the proper conduct of court proceedings or inspections, investigations, audits or other administrative procedures, or the protection of any other important public interest recognised at Union level, the publication of information on such meetings should be withheld in such cases.
 - (11) In accordance with Article 5(a) of Regulation (EC) No 45/2001⁴, the names of representatives of organisations attending the meetings are published if they have

³ [OJ L 277, 19.9.2014, p. 11.](#)

⁴ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([OJ L 8, 12.1.2001, p. 1](#)).

unambiguously given their consent. As appropriate, requests for personal data transfers may be evaluated by the Agency also in accordance with relevant case law⁵.

- (12) This Decision is without prejudice to enhanced transparency requirements or commitments resulting from Union legislation or international agreements concluded by the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The Agency shall make public information on all meetings held by the Director with organisations or self-employed individuals on issues relating to the activities of the Agency, in accordance with the provisions of this Decision.
2. The information to be made public shall consist of the date and location of the meeting, the name of the organisation(s) and/or self-employed individual(s) and the subject of the meeting.

Article 2

For the purpose of this Decision, the following definitions shall apply:

- a) 'meeting' means an encounter, organised at the initiative of an organisation or self-employed individual or of the Agency, to discuss an issue related to the activities of the Agency and which takes place at the presence of the Director. Conferences, workshops or other similar events with a wider participation are excluded from this notion. Encounters taking place in the context of an administrative procedure established by Union acts, which falls under the direct responsibility of the Director, as well as encounters of a purely private or social character or spontaneous encounters are also excluded from this notion.
- b) 'organisation or self-employed individual' means any organisation or individual, irrespective of their legal status, engaged in activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the Agency, irrespective of where these activities are undertaken and of the channel or medium of communication used.

This notion does not include other Union institutions or bodies, national, regional and local authorities of Member States and of third countries and international organisations. However, it covers any association or network created to represent regions or other sub-national public authorities collectively.

⁵ See ECJ judgment of 16 July 2015, *ClientEarth and PAN Europe v EFSA*, C-615/13 P, EU:C:2015:489.

Article 3

This Decision shall not apply to meetings held with representatives of political parties.

Article 4

1. The information set out in Article 1(2) shall be published in a standardised format on the Agency's websites within a period of two weeks following the meeting.
2. The publication of the information may be withheld where such publication could undermine the protection of one of the interests referred to in Article 4(1), (2) and (3) of Regulation (EC) No 1049/2001, in particular the life, the integrity or privacy of an individual, the financial, monetary or economic policy of the Union, the market stability or sensitive commercial information, the proper conduct of court proceedings or inspections, investigations, audits or other administrative procedures; or the protection of any other important public interest recognised at Union level.

Article 5

The names of individuals (acting on behalf of organisations or self-employed individuals) attending meetings shall be made public if they have unambiguously given their consent.

Article 6

The organisations or self-employed individuals shall be informed of the fact that the information set out in Article 1(2) will be made public.

Article 7

This Decision shall enter into force on 1 January 2018.

Done at Ljubljana on 21 December 2017.


Alberto Pototschnig
Director