

## **MINUTES**

### **33<sup>rd</sup> ACER Administrative Board meeting**

**Thursday, 14 December 2017, 8.30 - 14.30**

**Ljubljana, Trg republike 3, 6th floor meeting room**

#### **Present:**

Dr Romana Jordan, Chair, Member,

Mr Rene Tammist, Member,

Mr Jochen Penker, Vice-Chair, Member,

Mr Georgios Shammias, Member,

Mr Edmund Hosker, Member,

Ms Agnieszka Kaźmierczak, Member, with proxy from Mr Dominique Ristori,

Mr Pál Kovacs, alternate member, with voting right,

Prof Dr Uwe Leprich, alternate member, without voting right,

Mr Garrett Blaney, the BoR Chair, Observer,

Mr Alberto Pototschnig, Director of ACER, Observer,

Ms Marie-Christine Jalabert, Adviser.

Ms Anne-Cecile Swinnen, Adviser.

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#### **Main conclusion of the meeting**

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| 1.) Dr Jordan was appointed Chair, by unanimity and acclamation, for the two-year period starting on 28 January 2018. The new Vice-Chair will be appointed at the next AB meeting in 2018.                       |
| 2.) The Board adopted, by unanimity, the Decision on the Permission to the Director to engage in academic cooperation with the Florence School of Regulation in 2018 (ANNEX 1).                                  |
| 3.) The Board adopted, by unanimity, the ACER Budget 2018 and the establishment plan (ANNEX 2). The Chair declared the urgency for the launching of the written procedure regarding the Revision of the 2018 PD. |

The multi-annual budget for REMIT will be presented at the next meeting.
4.) The Board adopted, by unanimity, the Decision on the Transfer of Appropriations in the Budget of the Agency for 2017 (ANNEX 3).
5.) The Board adopted, by unanimity, the Teleworking rules (ANNEX 4), asking the Director that, in their implementation and operation, the interest of the service be paramount, and to report back in a year.
6.) The Board endorsed the new IAS Mission Charter.
7.) The AB will discuss the IAS report on HR management audit at the next meeting. The final report will be circulated as soon as received.
8.) The AB concluded to hold a discussion on the recovery site at its next meeting. A comparison of the current Agency system to the system of the NRAs will be discussed.
9.) The Board will revert to discussing the REMIT strategy at its next meeting.
10.) The Board underlined the importance of the budget structure, planning and implementation issue (differentiated vs. non-differentiated) and requested an objective analysis, prepared together with the Commission, to be discussed at the June 2018 AB meeting.
11.) The Board agreed on the practical arrangements, including the evaluation grid, for the selection of the new Director. The Board nominated dr Jordan as the observer at the BoR hearings and Saša Borko Grgič as teller and note-taker at the AB selection procedure.
12.) The Board held a strategic discussion on the Draft Programming Document 2019-2021.
13.) The format and level of detail of the minutes will be discussed at the next AB meeting

## Opening

The Chair announced that Ms Anne Montagnon has become the new alternate member appointed by the Commission, with her mandate running until 31.03.2021. The Chair said that she expects that the new members appointed by the Council and the EP will be soon announced.

## 1. Approval of the Agenda

The Commission proposed to limit point 12 only to the election of the Chair, postponing the election of the Vice-Chair to when the Agency receives the notification of the EP and the Council about the new appointed members.

The following agenda was adopted:



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**DRAFT AGENDA V4**

Agenda Topics	Accompanying documents	Rapporteur
<b>Opening and reporting (8.30 - 10.30)</b>		
<b>1.</b> Approval of the agenda/declarations of interest	Doc 1 for approval	AB Chair
<b>2.</b> Minutes of the 32 <sup>nd</sup> ACER Administrative Board	Doc 2.1 for approval Doc 2.2 for information	AB Chair
<b>3.</b> Report on AB Decisions, by delegation of the Administrative Board to the Chairman via Decision AB 05bis/2010 of 21 September 2010	Docs 3.1-3.3 for information	AB Chair
<b>4.</b> Report on the written procedure	Oral update	ACER Director
<b>5.</b> Report on ACER developments and on the activities of the Board of Regulators, including on budget implementation	Oral update followed by discussion	ACER Director BoR Chair

Agenda Topics	Accompanying documents	Rapporteur
<b>6.</b> Summary on discussions with ECA regarding budget implementation (differentiated versus undifferentiated)	Oral update	ACER Director
<b>7.</b> Report on the outside activities of the Director in 2017	Doc 7 for consideration	ACER Director
<b>Items for adoption (10.30 - 11.30)</b>		
<b>8.</b> Permission to the Director to engage in academic cooperation with the Florence School of Regulation in 2018	Doc 8 for adoption	ACER Director
<b>9.</b> ACER Budget 2018 and establishment plan	Doc 9 for adoption Doc 9.2 for strategic discussion	ACER Director
<b>10.</b> Decision on the Transfer of Appropriations in the Budget of the Agency for 2017	Doc 10 for adoption Doc 10.1 for information	ACER Director
<b>11.</b> Model decision on teleworking	Doc 11 for adoption	ACER Director
<b>Items for decision (11.30 - 14.00, including a short lunch break)</b>		
<b>12.</b> Election of the new Chair	Oral decision	AB Chair
<b>13.</b> Procedure and practical arrangements for the appointment of the Director	Doc 13 for endorsement	AB Chair
<b>14.</b> IAS Mission Charter	Doc 14 for endorsement	AB Chair
<b>Items for discussion (14.00 - 14.25)</b>		
<b>15.</b> Draft Programming document 2019-2021	Doc 15 for strategic discussion	ACER Director
<b>Items for Information (14.25 - 14.30)</b>		
<b>16.</b> Confirmation of AB meeting dates in 2018	Doc 16 for information	AB Chair

The Commission also asked about the state of play of the IAS HR audit. The Director replied that the final report should be received soon and will be circulated as soon as received.

The Chair asked members to declare interest. Mr Kovacs informed about his new responsibilities.

## **2. Minutes of the 32<sup>nd</sup> ACER Administrative Board**

The Chair went through the action points from the previous meeting, confirming achievement of outstanding actions. The Director stated that the Revision of the AWP 2018 would be submitted to the AB, following a dedicated management meeting in January.

The Chair reported that by the closing date for comments, 14 November 2017, the Agency had received a comment from Lord Mogg regarding the apologies he had sent. The comment has been included in the final version of the minutes.

The Commission-appointed member commented that the current minutes are too detailed, at the same time they do not reflect all statements *verbatim*. She would have preferred more general minutes with action points.

Some members expressed preference for more detailed minutes to have insights in case they are unable to attend the meeting. A suggestion was made to discuss the format of the minutes at the next meeting.

Conclusion: The 32<sup>nd</sup> AB meeting minutes were approved with two abstention votes from the members appointed by the Commission.

Conclusion: The format and level of detail of the minutes will be discussed at the next AB meeting.

## **3. Report on AB Decisions, by delegation of the Administrative Board to the Chairman via Decision AB 05bis/2010 of 21 September 2010**

The Chair reported on the appointment decisions she had taken since the last meeting, in line with the delegation of the AB to the Chair via Decision AB 05bis/2010 of 21 September 2010.

On 25 October 2017, she appointed Ms Maria Cristina Portugal to become the Portuguese member of the Board of Regulators and Mr Alexandre Santos to become the Portuguese alternate member of the Board of Regulators.

On 29 November 2017, she appointed Mr Mark Copley as the British member of the Board of Regulators and Mr Andrew Burgess as the British alternate member of the Board of Regulators.

On 29 November 2017, she appointed Mr Marian Záhora as the Slovak alternate member of the Board of Regulators.

Conclusion: The Administrative Board took note of these appointments.

#### **4. Report on the written procedure**

The Director reported on the written procedures that had taken place since the last AB meeting. The only written procedure that had taken place since the last AB meeting was regarding the Decision on the Adoption of the Transfer of Appropriations in the Budget of the Agency for the Cooperation of Energy Regulators for the financial year 2017.

As no objections were raised by the deadline, it was adopted on 16 October 2017.

Conclusion: The Administrative Board took note of the Director's oral report on the recent written procedure.

#### **5. Report on ACER developments and on the activities of the Board of Regulators, including on budget implementation**

The Director updated the Administrative Board on the Agency's activities, both administrative and regulatory, including on budget implementation.

On staffing, he presented the statistics and reported that the ongoing recruitment procedures are planned according to the 2017 amending budget procedure and the 2018 budget - EC Statement of Estimate: the two vacant positions in ADMIN (AST3) are being changed in AD5 in the 2018 budget. Two temporary agents in the Gas and Electricity Departments are confirmed to join in January 2018. With his Director's Decision 2017-23 of 25 October 2017 on the duration and renewal of contracts for TAs and CAs, the Agency intends better to define and streamline the management of employment contracts. He mentioned the two open calls (for SNEs and trainees). Currently the Agency hosts 13 trainees.

Mr Blaney, the BoR representative, underlined the importance of acquiring the training experience at the Agency.

The staff engagement survey has been postponed to Q1 2018 and will be contracted to the Faculty of social science of the University of Ljubljana. He reported positive developments on the annual salary adjustment, which is + 1.5%, and on the country coefficient, which for Slovenia is set at 81.5% as of 1st July 2017 (compared to 80.7% in the previous year).

He presented the state of play of the implementation of the model decisions.

On European school, the Director presented the Slovenian government's roadmap of the accreditation process. The government plans to start with the Primary school (P1 and P2 levels) in the school year 2018/2019. In the following school years, higher classes will gradually open year by year. The

seventh class of the Secondary school (S7) with the first European Baccalaureate is envisaged in 2024/2025. The language sections are going to be Slovenian and English. A meeting with the Agency's parents took place on 11 December 2017. The headmaster of the school will be appointed in January 2018. An open day of the school premises will be organised on 15 December.

The IAS audit on HR Management took place from 15 to 19 May, focusing on all the main HRM areas: HR planning, staff policies, recruitment, performance appraisal, and learning and development. The Advance Draft Report with the main findings, opinions and recommendations was received by the Agency in October 2017, the Agency commented on it extensively. The draft Report was received on 16 November, the Agency sent its reply by the end of November, as required. The final report will be discussed at the next AB meeting.

Conclusion: The AB will discuss the IAS report on HR management audit at the next meeting. The final report will be circulated as soon as received.

The Director provided an update on budget implementation. He was confident the Agency would reach the C8 payment appropriations target for 2017 (95 %). A budget transfer was initiated to achieve the most effective use of commitment and payment appropriations allowing for a partial payment for REMIT licencing in 2018. The Commission-appointed member expressed concerns regarding the Agency's budget system and called for a structural change.

The Director provided an overview of the network codes implementation and underlined that 140 decisions need to be taken regarding the implementation of Capacity Allocation Congestion Management (CACM) Guideline only. These are the decisions the NRAs need to agree upon, otherwise the Agency is called to decide.

The BoR representative underlined that the Agency, since its establishment, had already adopted approx. 160 decisions, most of which required the BoR favourable opinion. He underlined this figure illustrated how effective and phenomenally successful the process had been, especially in the light of recent discussions regarding the BoR-Director relationship. He warned about changing the delicate balance, as it works well.

On other regulatory activities, the Director noted that the most important Opinions were issued on the PCIs (Electricity and Gas).

After providing the overview on the appeals, he said that in March 2018 he will make a proposal for the Agency to support the work of the Board of Appeal (indemnity, the language question etc.). The BoR representative commented the Agency should be prepared for prospective appeals to avoid excessive cost.

On international cooperation, the Director reported that from January 2018, the NRA of Montenegro will join the Agency Working Groups, following the signature of an Administrative Arrangement on 6 December 2017. This year the gas wholesale and retail volumes of the Market Monitoring Report also



covered Energy Community Contracting Parties. Finally, several study visits of non-EU countries took place at ACER (Norway, Georgia).

On REMIT, the 10<sup>th</sup> Workshop on 11 October was turned into the first Energy Market Integrity and Transparency Forum taking place in Ljubljana.

The Agency bought the currently used equipment from the previous hosting provider and hosts it in-house with the support of IT consultants mainly from joined Commission framework contracts from DG DIGIT. At the moment the Agency does not have a disaster recovery site. A discussion took place on the need for the robustness of the system.

The Director reminded that the Commission's team visited the Agency earlier in the year and confirmed the budget necessary to implement REMIT from an IT perspective (€2.8M). Given the lack of sufficient resources, the Director presented the two scenarios (system reliability vs data monitoring). He underlined the need for the Smarts licensing and that a postponement of the replacement of the ICT equipment represents a risk. Most of the NRAs rely on the Agency for monitoring.

The AB discussed the strategy. It will revert to it at its meeting in February.

The Director reported on the statistics regarding REMIT potential cases notified by/to the Agency. The pipeline of pending cases is increasing.

Conclusion: The AB concluded to hold a strategic discussion on risks related to the REMIT implementation, including the recent closure of the recovery site, and of possible mitigating measures, at its next meeting. A comparison of the current Agency system to the system of the NRAs will be discussed.

## **6. Summary on discussions with ECA regarding budget implementation (differentiated versus undifferentiated)**

The Director recalled that at the September meeting of the Administrative Board, the Agency presented a paper on the difference between differentiated and non-differentiated appropriations. In parallel, and prior to the audit review of the European Court of Auditors (ECA), the Agency started discussions with the team of auditors from ECA on the matter, i.e. carry-overs and differentiated vs. non-differentiated appropriations. However, the ECA team had stated that they were not aware of the practicalities of the differentiated approach and it would be difficult for them to provide practical guidance and advice on the matter.

The Commission-appointed AB member was very critical of the Agency's budget management calling it substandard and having a negative impact on the negotiations with DG BUDG. If continued, it could represent a risk to the Agency. She suggested that the Agency consult another EU Agency or the Commission. She underlined that the new Director should get an objective overview of the situation.



The Director replied that the Agency so far has difficulties in finding anyone with relevant expertise in the implementation of differentiated appropriations in similar situations. Other EU agencies may not have a lot of experience in this matter. If a structural change is indeed required, it should change for the better. He remains unconvinced that the loss of flexibility would be beneficial for the Agency, but promised to provide an objective overview to the new Director.

Conclusion: The Board underlined the importance of the budget structure, planning and implementation issue (differentiated vs. non-differentiated) and requested an objective analysis, prepared together with the Commission, to be discussed at the June 2018 AB meeting.

## **7. Report on the outside activities of the Director in 2017**

The Administrative Board, with its Decision AB no 34/2011 of 2 December 2011, granted permission to Mr Pototschnig to engage in academic cooperation with the Florence School of Regulation (FSR) in 2012. Since then, the Administrative Board granted permission to the Director to continue in his role of adviser to the Director of the School and with his activities of instructor at the School on a yearly basis. Last year the permission was granted for the period from 1 January 2017 to 31 December 2017.

The Director reported on his activities. The BoR representative welcomed the Director's work at the School from the NRAs perspective. The Commission underlined that this derogation from the general rule was specifically allowed only for Alberto Pototschnig.

Conclusion: The Board took note of the Director's report on the outside activities in 2017.

## **8. Permission to the Director to engage in academic cooperation with the Florence School of Regulation in 2018**

Conclusion: The AB adopted, by unanimity, a Decision granting Permission to the Director to engage in academic cooperation with the Florence School of Regulation in 2018 (ANNEX 1).

## 9. ACER Budget 2018 and establishment plan

The Director indicated that the Board is asked formally to adopt the 2018 budget for the Agency as it had been agreed during the conciliation process in November 2017 and later confirmed by the budgetary authority. He remarked that the budget is significantly lower than the one requested by the AB through its Decision AB 02/2017 of 27 January 2017 on the Draft Programming Document 2018-2020 (€13.5m compared to €19.6m). A reduction of one temporary agent post has also been imposed on the Agency. A paper has been prepared discussing different options concerning REMIT. This budget will be an enormous challenge for REMIT and some actions will need to be delayed. At the moment the Agency is trying to implement all tasks, however some actions (reports of little value) could be delayed. He was asking for the guidance from the Board on prioritisation.

The BoR representative, said the BoR was of the opinion that the consumer protection should be given priority (MMR, PCI). However, some opinions of little value could be deprioritised.

The Commission-appointed AB member wanted the Agency to focus on the core business – IEM. The thinking about prioritising should come already at the time of the draft EU budget proposed by the Commission and not in December. In her view, supported by several members, legally binding formalities should be implemented, but the level of effort could be minimised in documents with low impact. She requested that the Agency prepares a multiannual budget for REMIT, which would help them preparing for post-2020 MFF. She also proposed that a written procedure on the revision of the 2018 PD be launched early in 2018, as the PD constitutes the financing decision to cover ACER financial transactions.

The Director remarked that, since last year, a clear prioritisation structure had been included in the PD already in the draft submitted in January of the previous year, and, in fact, that draft is extremely clear as to what might happen in case the confirmed budget is below the requested level. This draft was endorsed by the AB in January 2017 and approved in September 2017. Now it is mostly a matter of taking stick of the available budget and to act according to the already approved approach. He warned about believing that quality deliverables can be prepared with minimum effort and the Agency has always aimed at maintaining high quality in its work.

A number of members expressed the opinion that the reliability of data should not be jeopardised.

Conclusion: The Board adopted the ACER Budget 2018 and the establishment plan by unanimity (ANNEX 2), indicating that legally binding deliverables shall be produced with different level of effort depending on the impact of the task. The Chair declared the urgency for the launching of the written procedure regarding the Revision of the 2018 PD. The multi-annual budget for REMIT will be presented at the next meeting.

## **10. Decision on the Transfer of Appropriations in the Budget of the Agency for 2017**

The Director presented proposed transfers, saying that at the beginning of December, the Agency received the calculation of staff salaries, including the indexation and adjusted country coefficient. The overall impact was lower than initially estimated for the year and resulted in budgetary savings of appropriations within Title 1. Additional minor savings were identified within Title 2 and 3. These can be made available to purchase the licences necessary to operate the SMARTS system for the second half of 2018.

In order to ensure an efficient use of the available resources the Board is invited to approve the proposed budget transfer by adopting the decision on the Transfer of Appropriations in the Budget of the Agency for 2017.

The Commission appointed member said the Commission had requested more details on the document, which were provided by the Agency.

Conclusion: The Board adopted, by unanimity, the Decision on the Transfer of Appropriations in the Budget of the Agency for 2017 (ANNEX 3).

## **11. Model decision on teleworking**

The Director explained that the Agency's current rules on teleworking are working well (occasional teleworking). However, a Model Decision on Teleworking has been adopted by the Commission. Initially the management leaned towards allowing only for occasional teleworking. They concluded that structural teleworking is incompatible with the work of the Agency. However, the Agency received information that derogation from the Model decision would be possible only in exceptional circumstances.

The Commission-appointed member observed that teleworking indeed worked well in the Commission. The new Model decision is challenging for the management and requires a change in management style and mindset. It is a right to ask, not a right to have teleworking granted. The interest of the service must be always taken into account.

A number of members were of the opinion that teleworking is a growing trend, and structural teleworking could be an opportunity to attract talented people, who would otherwise not come to Ljubljana.

The Director reiterated that the Agency already had a generous teleworking policy which had worked well for many years and the Agency is fully equipped to support teleworking - e.g. all Agency's processes are paperless. He stressed that the problem is not teleworking as such, but structural teleworking, which the Agency's management believes is incompatible with the interest of the service. The Agency's activities are hectic. Therefore, the introduction of structural teleworking could become a problem.

The Chair expressed some concerns, underlining the risk of lacking the team atmosphere, complexity of tasks, and the security of documents. She asked the Director to implement the decision in a way to prioritise the operability of the Agency and to report the AB on implementation in one year.

Conclusion: The Board unanimously adopted the Teleworking rules (ANNEX 4), asking the Director that, in their implementation and operation, the interest of the service be paramount, and to report back in a year.

## **12. Election of the new Chair**

The current Chair stated that as the two years of her mandate and that of the Vice-Chair, Mr Penker, come to an end on 27 January 2018, the Administrative Board needs to appoint a new Chair among its members for the two-year period starting on 28 January 2018. On proposal from the Commission, the election of the Vice-Chair was postponed to the next meeting.

The AB Rules of procedure stipulate that nominations for the Chair and the Vice-Chair shall be submitted either by the candidates themselves or by other members of the Administrative Board. The elections shall be by secret ballot unless the Administrative Board decides by unanimity.

Members were invited to submit nominations. The current Chair expressed willingness to run again.

Conclusion: Dr Jordan was appointed Chair by unanimity and acclamation, for the two-year period starting on 28 January 2018. The new Vice-Chair will be appointed at the next AB meeting in 2018.

## **13. Procedure and practical arrangements for the appointment of the Director**

Conclusion: The Board agreed on the practical arrangements, including the evaluation grid, for the selection of the new Director. The Board nominated Dr Jordan as the observer at the BoR hearings and Saša Borko Grgič as teller and note-taker at the AB selection procedure.

## **14. IAS Mission Charter**

The Chair explained that the new Internal Audit Service (IAS) mission charter replaces the previous charter and sets out the mission, objectives, reporting and working arrangements essential to the proper fulfilment of the IAS's role to

the Union bodies for which the Internal Auditor of the European Commission performs the internal audit function according to Article 208 of the Financial Regulation.

The mission of the IAS is to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight. The IAS helps the Agency accomplish its objectives by bringing a systematic, disciplined approach in order to evaluate and improve the effectiveness of risk management, control and governance processes. The IAS work in the Agency is performed under the authority of the Administrative Board.

Conclusion: The Board endorsed the new IAS Mission Charter.

## **15. Draft Programming document 2019-2021**

The Director presented the document, underlining that the multiannual section of the Programming Document 2019-2021 has been updated, as has the Strategic Outlook for 2019, providing an indicative overview of the Agency's human resources and budgetary needs in 2019.

The Agency estimates that 31 additional Temporary Agents, 4 additional Contract Agents and €19.7M are needed in 2019 in order to ensure that it can perform its tasks in line with its current legal mandate.

While the exact date of entry into force of the legal acts foreseen in the "Clean Energy for all Europeans" package is not yet known, it is likely that some provisions will come into force already in 2019 or that the Agency will have to start preparatory work in that year, and therefore affect the Work Programme of the Agency for that year. The Agency, on the basis of the Commission's proposals of November 2016, assesses that 20 new staff members will be needed in 2019 for the purposes of the "Clean Energy for all Europeans" package. This number is to increase to 28 in 2020. The staff necessary to implement the legal acts of the package has not been included in the Full Time Equivalents' breakdown for 2019 and in the overall budget needs for 2019.

The Director stressed that the Agency budget is unfortunately still determined on the basis of the 2013 Commission Communication on the Programming of human and financial resources for decentralised agencies 2014-2020, and has not reflected the changes in the role of the agency in the energy sector since then. He asked the Commission to involve the Agency in the discussions on post-2020 MFF in order to provide the essential arguments. The Director also mentioned a letter received from the BoA Chair raising the issue of adequate resourcing of the Board.

Members held a discussion on the Programming Document and pointed out that Brexit should be mentioned therein. The AB Chair also stress the need to ensure adequate resourcing of the BoA. The AB and the BoR should work together to meet the legal requirements. The Members asked the Director to

take a balanced approach to mitigating the risks, however properly informing the decision-makers about them. The Commission-appointed member elaborated on the budgetary process. Renewed argumentation and narrative are imperative to convince the decision makers to support ACER's request, given the past unsuccessful attempts."

Conclusion: The Board held a strategic discussion on the Draft Programming document 2019-2021.

## **16. Confirmation of AB meeting dates in 2018**

The Chair proposed the following dates for the AB meetings in 2018: 15-16 March, 7-8 June, 20 September, and 13 December. In addition, a meeting in February will be sought to meet the new AB members, and prepare for the selection of the Director, as well as elect the new Vice-chair.

## **AOB**

Mr Tammist briefly presented the new AB members that were in the process of being appointed by the EP. He thanked everyone and wished the Agency plenty of success in the future. The Chair thanked him for his high-level contribution to the Agency and wished him best of luck.

## **ANNEX 1**

**DECISION AB n° 22/2017**  
**OF THE ADMINISTRATIVE BOARD**  
**OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS**  
**of 14 December 2017**

**granting permission to the Director of the Agency for the Cooperation of Energy  
Regulators to engage in outside activities for the year 2018**

THE ADMINISTRATIVE BOARD 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  
Regulators, and, in particular Article 28 thereof,

Having regard to the Staff Regulations of Officials of the European Union, and in  
particular Article 12b and 55 thereof, and to the Conditions of Employment of Other  
Servants of the European Union, and in particular Article 11 thereof,

Having regard to Commission Decision C(2013) 9037 final of 16 December 2013 on  
outside activities and assignments, and in particular Articles 6 and 9 thereof;

Whereas:

- (1) Mr Alberto Pototschnig, Director of the Agency for the Cooperation of Energy  
Regulators (hereinafter referred to as 'the Agency'), has been cooperating with  
the Florence School of Regulation (hereinafter referred to as the 'School') since  
its foundation in 2004.
- (2) The School of Regulation is a partnership between the European University  
Institute – Robert Schuman Centre for Advanced Studies, the Council of the  
European Energy Regulators and the Independent Regulators Group, and it  
works closely with the European Commission. It is a European forum dedicated  
to economic regulation.
- (3) The objectives of the School are of non-commercial nature, being focused on  
the i) the organisation of policy events on key regulatory issues, ii) the  
provision of state-of-the-art training for practitioners, iii) the production of  
analytical and empirical research in the field of regulation, and iv) the



promotion of networking, through documents and ideas exchanges.

- (4) Through its activities, the School contributes to enhancing and spreading best practices in regulated markets, including the energy sector.
- (5) The Administrative Board of the Agency, with its Decisions AB n° 34/2011 of 2 December 2011, AB n° 24/2012 of 5 December 2012, AB n° 23/2013 of 12 December 2013, AB n° 18/2014 of 18 December 2014, AB n° 24/2015 of 17 December 2015 and AB n° 19/2016 of 15 December 2016, granted permission to Mr Alberto Pototschnig to engage in outside activities with the School for the years 2012, 2013, 2014, 2015, 2016 and 2017, respectively. The permission granted covered the same kind of outside activities for which is sought permission for the year 2018.
- (6) At the School, Mr Alberto Pototschnig will be acting as Adviser to the Director of the School with regard to the activities in the energy policy area. Mr Alberto Pototschnig will also participate in teaching and other educational, academic and research activities organised by the School.
- (7) The role of adviser to the Director of the School ensures that the School focuses on the most relevant issues in the regulation of the European energy sector, thus ensuring that the activities of the School also benefit the Agency. Similarly, the involvement in educational, academic and research activities at the School ensures that the Agency can gather experience from the academic fora.
- (8) It is therefore clearly in the utmost interest of the Agency that Mr Pototschnig maintains its role as Adviser to the Director of the School and is involved in other related educational, academic and research activities, including lecturing in training courses organised by the School.
- (9) Given the governance and the non-commercial mission of the School, the activities for which permission is granted do not raise any conflict of interest.
- (10) It is necessary to encourage external mobility to enable staff to acquire new skills and knowledge which are of benefit to the staff itself and to the Agency.
- (11) Mr Pototschnig will end its term of office as Director and his employment at the Agency on 15 September 2018.
- (12) Given the importance for the Agency of Mr Pototschnig's activities as Adviser to the Director of the School, exceptional circumstances are deemed to exist for permission to be extended to include academic and research activities as well, up to a total of 140 hours for the period 1 January – 15 September 2018,

HAS DECIDED AS FOLLOWS:

### Article 1

1. Mr Alberto Pototschnig is granted permission to engage in outside activities during the period 1 January – 15 September 2018, to act as adviser to the Director and lecturer at the Florence School of Regulation.
2. The activities for which permission is granted shall be carried out for a maximum of one hundred and forty (140) hours during the period 1 January – 15 September 2018.
3. The activities for which permission is granted, to the extent that they are carried out during working hours with a limit of 70 hours, are considered to be carried out in the interest of the Agency.

### Article 2

1. The permission is granted subject to the condition that no costs shall be incurred by the Agency.
2. Mr Alberto Pototschnig shall not receive remuneration in connection with the activities for which permission is granted to the extent that they are carried out during working hours. To the extent that these activities are carried out outside working hours, Mr Pototschnig shall hand over any remuneration received in excess of EUR four thousand five hundred (4,500). Such limit shall apply to net remuneration and shall exclude any royalties or similar utilities received for publications, as well as any reimbursement of expenses.

### Article 3

The Chairman is mandated to implement this Decision and for any procedural step related to the permission granted with this Decision.

### Article 4

This Decision shall take effect on 1 January 2018.

Done at Ljubljana, on 14 December 2017

*For the Administrative Board:*

*Dr Romana Jordan*  
*Chair*

## **ANNEX 2**

### **DECISION AB n° 23/2017**

#### **OF THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS**

**of 14 December 2017**

#### **on the adoption of the budget for the financial year 2018 and of the establishment plan of the Agency for the Cooperation of Energy Regulators**

THE ADMINISTRATIVE BOARD 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 Regulators<sup>1</sup> and, in particular, Articles 1(1), 3 and 23(5) thereof,

Having regard to Decision AB No 22/2013 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 12 December 2013 on the adoption of the Financial Regulation of the Agency for the Cooperation of Energy Regulators, and, in particular, Articles 26, 33(8), 35, 36, 37 and 38 thereof,

Having regard to Decision AB No 02/2017 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 26 January 2017 on the adoption of the Draft Programming Document 2018-2020, and, in particular, paragraph 3.2.1 and Annex I and II thereof,

WHEREAS:

- (1) Following Decision AB No 02/2017 of the Administrative Board of the Agency for the Cooperation of Energy Regulators (hereinafter referred to as the 'Administrative Board') adopted the draft budget and the establishment plan for the financial year 2018.
- (2) In accordance with Article 23(5) of Regulation (EC) No 713/2009 and Article 33(8) of Decision AB No 22/2013, the budget of the Agency for the Cooperation of Energy Regulators (hereinafter referred to as the 'Agency') together with the establishment plan shall be drawn up and adopted by the Administrative Board, and becomes definitive after the adoption of the general budget of the European Union. Where necessary, the budget and the establishment plan should be adjusted accordingly.

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<sup>1</sup> OJ L 211, 14.08.2009, p. 1.

- (3) It is appropriate that the Administrative Board adopts the budget and the establishment plan of the Agency for financial year 2018,

**HAS ADOPTED THIS DECISION:**

**Article 1**

The budget for financial year 2018 of the Agency and the establishment plan, as detailed in Annex I, are hereby adopted.

**Article 2**

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

Done at Ljubljana, on 14 December 2017

*For the Administrative Board:*

*Dr Romana Jordan*  
*Chair of the Administrative Board*

## Annex I

Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2018	Remarks
<b>9</b>	<b>REVENUE</b>					
<b>90</b>	<b>ANNUAL INCOME</b>					
901	Subsidy from the EU general budget				13,033,117	This represents the annual operating subsidy from the European Union budget.
902	Others				528,883	Other revenue including assigned revenue of year N-2.
903	Bank interest				p.m.	This represents the interest received on the balance of the bank accounts.
	<b>CHAPTER 9 0 — TOTAL</b>				<b>13,562,000</b>	
	<b>TITLE 9 — TOTAL</b>				<b>13,562,000</b>	
	<b>GRAND TOTAL</b>				<b>13,562,000</b>	
	<b>EXPENDITURE</b>					
<b>1</b>	<b>EXPENDITURE RELATING TO STAFF AND RESOURCES</b>					
<b>11</b>	<b>STAFF IN ACTIVE EMPLOYMENT</b>					
<b>110</b>	<b>Temporary staff holding a post provided in the establishment plan</b>					
1100	Basic salaries and correction	3,342,417	3,342,417	3,803,599	4,048,844	Staff Regulations of officials and Conditions of employment of other servants of the European Communities, and in particular Articles 62 and 66 thereof. This appropriation is intended to cover basic salaries and corrections for temporary staff.
1101	Family allowances	600,272	600,272	646,200	678,268	Staff Regulations of officials of the European Communities, and in particular Articles 62, 67 and 68 thereof and section I of Annex VII thereto. This appropriation is intended to cover the household, dependent child and education allowances for temporary staff
1102	Expatriation and foreign residence allowances	598,437	598,437	673,800	705,952	Staff Regulations of officials of the European Communities, and in particular Articles 62 and 69 thereof and Article 4 of Annex VII thereto. This appropriation is intended to cover the expatriation and foreign-residence allowances for temporary staff.
	<b>Article 1 1 0 — Total</b>	<b>4,541,126</b>	<b>4,541,126</b>	<b>5,123,599</b>	<b>5,433,064</b>	
<b>111</b>	<b>Other agents</b>					
1110	Contract agents	1,222,394	1,222,394	1,077,520	1,267,052	Conditions of employment of other servants of the European Communities, and in particular Article 4 and Title IV thereof. This item is intended to cover the remuneration and the employer's share of social security contributions for contract agent staff.
1111	Seconded National Experts	181,146	181,146	188,209	192,000	Various Seconded National Experts are placed at ACER to fulfil the need for assistance to the agency's work programme. This appropriation includes their daily and monthly allowances
	<b>Article 1 1 1 — Total</b>	<b>1,403,540</b>	<b>1,403,540</b>	<b>1,265,729</b>	<b>1,459,052</b>	

Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2018	Remarks
<b>112</b>	<b>Further training, retraining and information for staff</b>					
1120	Training and information for staff	150,000	72,518	154,800	178,000	Staff Regulations of officials of the European Communities, and in particular the third paragraph of Article 24 a) thereof. This also includes costs related to missions for training events and trainer expenses.
	<b>Article 1 1 2 — Total</b>	<b>150,000</b>	<b>72,518</b>	<b>154,800</b>	<b>178,000</b>	
<b>113</b>	<b>Insurance against sickness, accidents and unemployment</b>					
1130	Insurance against sickness	146,156	146,156	172,500	167,500	Staff Regulations of officials of the European Communities, and in particular Article 72 thereof. Rules on sickness insurance for officials of the European Communities, and in particular Article 23 thereof. This appropriation is intended to cover the employer's contribution and the official's contribution of the basic salary.
1131	Insurance against accidents and occupational disease	23,945	23,945	27,600	26,800	Staff Regulations of officials of the European Communities, and in particular Article 73 thereof. This appropriation is intended to cover the employer's contribution to insurance against accidents and occupational disease (0,875 % of the basic salary).
1132	Unemployment insurance for temporary staff	55,190	55,190	69,000	67,000	Council Regulation (ECSC, EEC, Euratom) No 2799/85 of 27 September 1985 amending the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities. This appropriation is intended to insure temporary staff against unemployment.
	<b>Article 1 1 3 — Total</b>	<b>225,291</b>	<b>225,291</b>	<b>269,100</b>	<b>261,300</b>	
<b>114</b>	<b>Miscellaneous allowances and grants</b>					
1140	Birth and death grants	397	397	992	1,024	Staff Regulations of officials of the European Communities, and in particular Articles 70, 74 and 75 thereof. This appropriation is intended to cover: — the childbirth grant, — Death allowances payable in the event of the death of an official.
1141	Annual travel expenses from the place of work to origin	74,116	74,115	96,600	96,895	Staff Regulations of officials of the European Communities, and in particular Article 8 of Annex VII thereto. This appropriation is intended to cover the payment to staff members in each calendar year of a sum equivalent to the cost of travel from the place of employment to the place of origin for themselves and, if they are entitled to the household allowance, for the spouse and dependants.
1142	Schooling fees	245,050	240,458	241,331	249,600	This appropriation is intended to cover the additional schooling fees incurred by staff members for their children's education.
	<b>Article 1 1 4 — Total</b>	<b>319,563</b>	<b>314,970</b>	<b>338,923</b>	<b>347,519</b>	

Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2018	Remarks
<b>115</b>	<b>Overtime</b>					
1150	Overtime	-	-		p.m.	Staff Regulations of officials of the European Communities, and in particular Article 56 thereof and Annex VI thereto. This appropriation is intended to cover flat-rate payments or hourly-rate payments for overtime worked by temporary agents in categories AST 1 - AST4 whom it has not been possible to compensate by flexi-hours.
	<b>Article 1 1 5 — Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>0</b>	
<b>116</b>	<b>Expenses on entering and leaving the service and on transfer</b>					
1160	Expenditure related to Recruitment	58,646	56,646	70,800	44,800	Staff Regulations of officials of the European Communities, and in particular Articles 27 to 31 and 33 thereof. This appropriation is intended to cover the expenditure involved in recruitment procedures.
1161	Travel expenses taking up duty	1,366	1,366	5,000	5,000	Staff Regulations of officials of the European Communities, and in particular Articles 2 and 71 thereof and Article 7 of Annex VII thereto. This appropriation is intended to cover the travel expenses of staff (including members of their families) entering or leaving the service.
1162	Installation, resettlement and transfer allowances	29,153	29,153	48,500	49,000	Staff Regulations of officials of the European Communities, and in particular Articles 20 and 71 thereof and Article 9 of Annex VII thereto. This appropriation is intended to cover the removal costs of staff obliged to change residence after taking up their appointment or when transferred to a new place of work or when they definitively cease their duties and settle elsewhere.
1163	Temporary daily subsistence allowances	36,163	36,163	79,800	82,450	Staff Regulations of officials of the European Communities, and in particular Articles 20 and 71 thereof and Article 10 of Annex VII thereto. This appropriation is intended to cover the daily subsistence allowances due to staff able to prove that they were obliged to change their place of residence after taking up their duties (including transfer).
	<b>Article 1 1 6 — Total</b>	<b>125,328</b>	<b>123,328</b>	<b>204,100</b>	<b>181,250</b>	
<b>117</b>	<b>Supplementary services</b>					
1170	Supplementary clerical and interim services	165,813	133,804	282,100	407,000	This appropriation is intended to cover the services provided by interim agents employed to cover staffing needs where the establishment plan does not cover requirements as well as traineeship expenditure.
1171	Administrative Assistance	70,200	61,060	120,284	136,000	This appropriation is intended to cover the administrative assistance received from PMO in processing the salaries of temporary agents and contract agents, maintenance of the electronic personal files database, accounting services, administrative projects and budget publication in the EU Official Journal.
1172	Trainees	77,167	77,167	132,000	150,000	This appropriation is intended to cover the costs of traineeship for the Agency.
	<b>Article 1 1 7 — Total</b>	<b>313,180</b>	<b>272,031</b>	<b>534,384</b>	<b>693,000</b>	
	<b>CHAPTER 1 1 — TOTAL</b>	<b>7,078,027</b>	<b>6,952,804</b>	<b>7,890,635</b>	<b>8,553,185</b>	



Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2016	Remarks
12	<b>MISSIONS AND DUTY TRAVEL</b>					
120	<b>Mission expenses, travel expenses and incidental expenditure</b>					
1200	Mission expenses Administrative staff	29,660	23,539	42,590	43,000	This appropriation is intended to cover expenditure related to mission of the Administrative department.
1201	Mission expenses - Director	26,668	25,137	30,000	30,000	This appropriation is intended to cover expenditure related to the missions of the Director.
1202	Mission expenses Director office staff	55,626	36,193	40,000	45,000	This appropriation is intended to cover expenditure related to missions of the Director office staff.
	<b>Article 1 2 0 — Total</b>	<b>111,954</b>	<b>84,869</b>	<b>112,590</b>	<b>118,000</b>	
	<b>CHAPTER 1 2 — TOTAL</b>	<b>111,954</b>	<b>84,869</b>	<b>112,590</b>	<b>118,000</b>	
13	<b>SOCIOMEDICAL INFRASTRUCTURE</b>					
130	<b>Medical service</b>					
1300	Medical services and equipment	37,419	33,053	60,495	30,000	Staff Regulations of officials of the European Communities, and in particular Article 59 thereof and Article 8 of Annex II plus purchase of medical supplies and equipment.
	<b>Article 1 3 0 — Total</b>	<b>37,419</b>	<b>33,053</b>	<b>60,495</b>	<b>30,000</b>	
	<b>CHAPTER 1 3 — TOTAL</b>	<b>37,419</b>	<b>33,053</b>	<b>60,495</b>	<b>30,000</b>	
14	<b>SOCIAL SERVICES</b>					
140	<b>Social services</b>					
1400	Special assistance grants					This item is intended to cover assistance in the form of cash which may be granted to an official, former official or survivors of a deceased official who find themselves in difficult circumstances.
1401	Social welfare of staff	26,444	11,732	23,962	25,000	This appropriation is intended to cover expenditure by the Agency on the social welfare activities of its staff, including schooling informative events.
	<b>Article 1 4 0 — Total</b>	<b>26,444</b>	<b>11,732</b>	<b>23,962</b>	<b>25,000</b>	
141	<b>Staff Committee</b>					
1410	Staff Committee	14,910	14,910	15,000	15,000	This appropriation is intended to cover the costs such as missions or other administration costs of the Staff Committee representing the staff of ACER.
	<b>Article 1 4 1 — Total</b>	<b>14,910</b>	<b>14,910</b>	<b>15,000</b>	<b>15,000</b>	
	<b>CHAPTER 1 4 — TOTAL</b>	<b>41,354</b>	<b>26,642</b>	<b>38,962</b>	<b>40,000</b>	
	<b>TITLE 1 — TOTAL</b>	<b>7,268,754</b>	<b>7,097,368</b>	<b>8,102,682</b>	<b>8,741,185</b>	

Title Chapter Article Item	Heading	Executed 2018 commitment appropriation	Executed 2018 payment appropriation	Budget 2017	Total budget for the Financial year 2018	Remarks
2	<b>AGENCY'S BUILDING AND ASSOCIATED COSTS</b>					
20	<b>AGENCY'S PREMISES COSTS</b>					
200	<b>Rental costs</b>					
2000	Rent	651,623	651,623	651,623	651,623	This appropriation is intended to cover the rental costs of ACER premises.
2001	Removal costs	7,400	-	4,500	4,687	This appropriation is intended to cover the costs related to the removal of furniture and equipment to new premises.
	<b>Article 2 0 0 — Total</b>	<b>659,023</b>	<b>651,623</b>	<b>656,123</b>	<b>656,310</b>	
201	<b>Utilities and Services</b>					
2010	Utilities	122,500	108,392	129,000	129,000	This appropriation is intended to cover the utility costs like: water, gas, electricity, waste collection.
2011	Cleaning and maintenance	105,070	94,867	122,600	122,600	This appropriation is intended to cover the costs of cleaning and maintenance of the premises.
	<b>Article 2 0 1 — Total</b>	<b>227,570</b>	<b>203,259</b>	<b>251,600</b>	<b>251,600</b>	
202	<b>Insurance</b>					
2020	Insurance	4,069	4,069	5,000	5,000	This appropriation is intended to cover the insurance policy premiums including insurance of the building occupied by ACER and its assets.
	<b>Article 2 0 2 — Total</b>	<b>4,069</b>	<b>4,069</b>	<b>5,000</b>	<b>5,000</b>	
203	<b>Security of buildings and persons</b>					
2030	Security and surveillance of buildings	58,947	52,940	87,900	87,900	This appropriation is intended to cover expenditure on buildings connected with security and safety in particular loss, theft, unauthorized use or access, and other internal or external threats.
2031	Health and safety at work	4,000	4,000	6,200	6,200	This appropriation is intended to cover for the costs of health and safety issues at the work place.
	<b>Article 2 0 3 — Total</b>	<b>62,947</b>	<b>56,940</b>	<b>94,100</b>	<b>94,100</b>	
204	<b>Other expenditure on buildings</b>					
2040	Other expenditure on buildings	67,630	29,027	20,000	20,000	This item is intended to cover expenditures on buildings, renovations and refurbishment including the upgrade and maintenance of existing facilities.
2041	Audio & Video equipment-maintenance	6,075	6,075	-	p.m.	This appropriation is intended to cover the repair and maintenance costs of audio/video equipment.
	<b>Article 2 0 4 — Total</b>	<b>73,705</b>	<b>35,102</b>	<b>20,000</b>	<b>20,000</b>	
	<b>CHAPTER 2 0 — TOTAL</b>	<b>1,027,314</b>	<b>950,993</b>	<b>1,026,823</b>	<b>1,027,010</b>	

Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2016	Remarks
21	<b>DATA PROCESSING</b>					
210	<b>Equipment, data processing equipment and operating costs</b>					
2100	Consumables	4,425	3,428	4,808	10,000	This appropriation is intended to cover the cost of consumables.
2101	Software	46,706	19,706	1,776	40,000	This appropriation is intended to cover the purchase/licensing of software.
2102	Subscriptions IT	339,330	118,851	286,660	360,000	This appropriation is intended to cover the subscription costs to various support services and shared applications such as ABAC, Business Objects, ABAC Assets etc. including the maintenance of equipment.
2103	Disaster recovery site	-	-	43,003	45,000	This appropriation is intended to cover the expenditure related to the establishment and maintenance of a disaster recovery site.
	<b>Article 2 1 0 — Total</b>	<b>390,461</b>	<b>141,985</b>	<b>336,247</b>	<b>455,000</b>	
	<b>CHAPTER 2 1 — TOTAL</b>	<b>390,461</b>	<b>141,985</b>	<b>336,247</b>	<b>455,000</b>	
22	<b>MOVABLE PROPERTY AND ASSOCIATED COSTS</b>					
221	<b>Purchase, hire, maintenance and repair of furniture</b>					
2210	Purchase of furniture	50,069	16,695	10,773	11,000	This appropriation is intended to cover the purchase of furniture.
	<b>Article 2 2 1 — Total</b>	<b>50,069</b>	<b>16,695</b>	<b>10,773</b>	<b>11,000</b>	
222	<b>Transportation</b>					
2220	Transportation costs	135,035	134,887	157,170	158,000	This appropriation is intended to cover the costs of parking, cabs and hire of vehicles.
	<b>Article 2 2 2 — Total</b>	<b>135,035</b>	<b>134,887</b>	<b>157,170</b>	<b>158,000</b>	
223	<b>Documentation and library expenditure</b>					
2230	Library Acquisitions	115,316	114,255	151,075	152,000	This appropriation is intended to cover the purchase of hard copies or electronic material, e.g. books, reference works or CD's etc. to support and strengthen the knowledge of the agency.
	<b>Article 2 2 3 — Total</b>	<b>115,316</b>	<b>114,255</b>	<b>151,075</b>	<b>152,000</b>	
	<b>CHAPTER 2 2 — TOTAL</b>	<b>300,420</b>	<b>265,837</b>	<b>319,018</b>	<b>321,000</b>	

Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2016	Remarks
<b>23</b>	<b>CURRENT ADMINISTRATIVE EXPENDITURE</b>					
<b>230</b>	<b>Stationery and office supplies</b>					
2300	Stationery and office supplies	24,900	12,267	25,000	25,000	This appropriation is intended to cover the purchase of paper and office supplies.
	<b>Article 2 3 0 — Total</b>	<b>24,900</b>	<b>12,267</b>	<b>25,000</b>	<b>25,000</b>	
<b>231</b>	<b>Financial charges</b>					
2310	Bank charges	222	222	500	500	This appropriation is intended to cover bank charges in relation to the bank accounts hold by the agency.
	<b>Article 2 3 1 — Total</b>	<b>222</b>	<b>222</b>	<b>500</b>	<b>500</b>	
<b>232</b>	<b>Legal expenses</b>					
2320	Legal expenses	34,824	29,079	45,000	45,000	This appropriation is intended to cover legal costs and the services of lawyers or other experts.
2321	Expert consultations - MIT	283,596	15,000	50,000	50,000	This appropriation is intended to cover the expert consultation costs of the MIT and MSC departments.
2322	Expert consultations - Gas	156,929	27,616	320,018	80,000	This appropriation is intended to cover the expert consultation costs of the Gas department.
2323	Expert consultations - Electricity	74,844	-	215,000	80,000	This appropriation is intended to cover the expert consultation costs of the Electricity department.
2324	Expert consultations - Administration	-	-	-	50,000	This appropriation is intended to cover the expert consultation costs of the Administration department.
2325	External audit expenses	25,227	-	25,227	25,500	This appropriation is intended to cover the expenses with the external audit of the Agency's accounts.
2326	Information security	6,561	6,561	121,340	64,700	This appropriation is intended to cover expenditure related to security of information for the Agency.
2327	Expert consultations - MSC	-	-	-	50,000	This appropriation is intended to cover the expert consultation costs of the MSC department.
2328	Data protection	-	-	-	p.m.	This appropriation is intended to cover the expenditure with data protection in the Agency.
	<b>Article 2 3 2 — Total</b>	<b>581,981</b>	<b>78,256</b>	<b>776,585</b>	<b>445,200</b>	

Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2016	Remarks
<b>233</b>	<b>Other operating expenditure</b>					
2330	Administrative Board meetings	31,403	13,032	32,825	32,825	This appropriation is intended to cover the costs for the members of the Administrative Board participating to meetings during the year.
2331	Board of Regulators meetings	103,310	59,228	94,880	94,880	This appropriation is intended to cover the costs for the members of the Regulatory Board participating to meetings during the year.
2332	Board of Appeal	10,160	625	54,000	54,000	This appropriation is intended to cover the costs of the Board of Appeal related to meetings, secretarial and legal support.
2333	External Participants to meetings	8,225	8,225	9,800	8,000	This appropriation is intended to cover the costs of external participants to meetings organised by ACER.
2334	EU Agencies Network	1,930	60	2,900	3,000	This appropriation is intended to cover the costs of participating the EU agencies network.
	<b>Article 2 3 3 — Total</b>	<b>155,028</b>	<b>81,170</b>	<b>194,405</b>	<b>192,705</b>	
	<b>CHAPTER 2 3 — TOTAL</b>	<b>762,131</b>	<b>171,915</b>	<b>996,490</b>	<b>663,405</b>	
<b>24</b>	<b>COMPUTER INFRASTRUCTURE TELECOMMUNICATION AND POSTAGE</b>					
<b>240</b>	<b>Postal charges</b>					
2400	Postal charges	6,000	4,135	7,000	7,000	This appropriation is intended to cover expenditure on postal and delivery charges, including parcels.
	<b>Article 2 4 0 — Total</b>	<b>6,000</b>	<b>4,135</b>	<b>7,000</b>	<b>7,000</b>	
<b>241</b>	<b>Telecommunications</b>					
2410	Telecommunications subscriptions and charges	48,500	40,246	45,500	75,000	This appropriation is intended to cover all telecom related running costs, including fixed lines, mobile telephones and Internet access.
	<b>Article 2 4 1 — Total</b>	<b>48,500</b>	<b>40,246</b>	<b>45,500</b>	<b>75,000</b>	
<b>242</b>	<b>Equipment and Computer infrastructure</b>					
2420	Hardware and other equipment	103,640	55,027	162,900	110,000	This appropriation is intended to cover the purchase of hardware and other equipment for Agency's employees.
	<b>Article 2 4 2 — Total</b>	<b>103,640</b>	<b>55,027</b>	<b>162,900</b>	<b>110,000</b>	
	<b>CHAPTER 2 4 — TOTAL</b>	<b>158,140</b>	<b>99,407</b>	<b>215,400</b>	<b>192,000</b>	
	<b>TITLE 2 — TOTAL</b>	<b>2,638,465</b>	<b>1,630,136</b>	<b>2,893,978</b>	<b>2,658,415</b>	

Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2016	Remarks
<b>3</b>	<b>OPERATIONAL EXPENDITURE</b>					
<b>30</b>	<b>REPRESENTATION EXPENSES</b>					
<b>300</b>	<b>Entertainment and Representation expenses</b>					
3000	Representation expenses - Director office	3,056	2,743	4,000	4,000	This appropriation is intended to cover costs relating to representation on behalf of ACER.
3001	Representation expenses - Administration	125	125	500	500	This appropriation is intended to cover costs relating to representation on behalf of ACER.
3002	Representation expenses - Electricity	889	889	2,500	2,500	This appropriation is intended to cover costs relating to representation on behalf of ACER.
3003	Representation expenses - MIT	-	-	1,000	p.m.	This appropriation is intended to cover costs relating to representation on behalf of ACER.
3004	Representation expenses - Gas	3,698	2,763	2,500	2,500	This appropriation is intended to cover costs relating to representation on behalf of ACER.
3005	Representation expenses - MSC	-	-	-	p.m.	This appropriation is intended to cover costs relating to representation on behalf of ACER.
	<b>Article 3 0 0 — Total</b>	<b>7,767</b>	<b>6,519</b>	<b>10,500</b>	<b>9,500</b>	
	<b>CHAPTER 3 0 — TOTAL</b>	<b>7,767</b>	<b>6,519</b>	<b>10,500</b>	<b>9,500</b>	
<b>31</b>	<b>OPERATIONAL MISSIONS</b>					
<b>310</b>	<b>Missions</b>					
3100	Operational Missions - Gas Department	75,876	68,555	80,000	85,000	This appropriation is intended to cover costs of missions related to operational issues of the Gas department.
3101	Operational Missions - Electricity Department	81,000	69,467	90,000	85,000	This appropriation is intended to cover costs of missions related to operational issues of the Electricity department.
3102	Operational Missions - MIT	71,297	47,934	70,000	19,000	This appropriation is intended to cover costs of missions related to operational issues of the MIT department.
3103	Operational Missions - MSC	-	-	-	25,000	This appropriation is intended to cover costs of missions related to operational issues of the MSC department.
	<b>Article 3 1 1 — Total</b>	<b>228,173</b>	<b>185,957</b>	<b>240,000</b>	<b>214,000</b>	
	<b>CHAPTER 3 1 — TOTAL</b>	<b>228,173</b>	<b>185,957</b>	<b>240,000</b>	<b>214,000</b>	

Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2016	Remarks
<b>32</b>	<b>STAKEHOLDER INVOLVEMENT, PUBLIC RELATIONS AND WEBSITE</b>					
<b>320</b>	<b>Stakeholder Involvement, Public Relations &amp; Website</b>					
3200	Public hearings, workshops, conferences	65,110	54,510	60,000	80,000	This appropriation is intended to cover the cost of public relations activities including workshops organised by ACER.
3201	Website set-up and maintenance	129,949	-	88,000	90,000	This appropriation is intended to cover the costs of setting-up and maintenance of the website as primary communication tool with external party in the co-operation process.
3202	Publications, information material	17,022	11,960	24,000	50,900	This appropriation is intended to cover the cost of promotional material informing the public on ACER's activities and any reports production and distribution.
	<b>Article 3 2 0 — Total</b>	<b>212,081</b>	<b>66,470</b>	<b>172,000</b>	<b>220,900</b>	
	<b>CHAPTER 3 2 — TOTAL</b>	<b>212,081</b>	<b>66,470</b>	<b>172,000</b>	<b>220,900</b>	
<b>33</b>	<b>TRANSLATIONS</b>					
<b>330</b>	<b>Translation of documents</b>					
3300	Translation at CDT	89,000	80,742	91,000	91,000	This appropriation is intended to cover the translation of materials or other operational needs of ACER.
	<b>Article 3 3 0 — Total</b>	<b>89,000</b>	<b>80,742</b>	<b>91,000</b>	<b>91,000</b>	
	<b>CHAPTER 3 3 — TOTAL</b>	<b>89,000</b>	<b>80,742</b>	<b>91,000</b>	<b>91,000</b>	
<b>34</b>	<b>PROFESSIONAL INDEMNITY</b>					
<b>340</b>	<b>Liability Insurance</b>					
3400	Insurance	5,000	-	7,000	7,000	This appropriation is intended to cover the liability insurance costs.
	<b>Article 3 4 0 - Total</b>	<b>5,000</b>	<b>-</b>	<b>7,000</b>	<b>7,000</b>	
	<b>CHAPTER 3 4 - TOTAL</b>	<b>5,000</b>	<b>-</b>	<b>7,000</b>	<b>7,000</b>	



Title Chapter Article Item	Heading	Executed 2016 commitment appropriation	Executed 2016 payment appropriation	Budget 2017	Total budget for the Financial year 2016	Remarks
35	REMIT OPERATIONS					
350	REMIT Operations					
3500	Infrastructure, hardware licenses, deployment, service desk and operations	2,115,128	1,498	705,000	600,000	This appropriation is intended to cover the expenditure related to REMIT infrastructure.
3501	Software maintenance, development, testing and software licenses	1,344,045	393,675	650,000	700,000	This appropriation is intended to cover the expenditure related to REMIT software maintenance and developments.
3502	Surveillance and BI tools customisation, licenses and consultancy	650,000	-	400,000	150,000	This appropriation is intended to cover the expenditure related to REMIT surveillance tools.
3503	Studies, technical writing, coordination, QA and information security	1,012,465	52,998	-	170,000	This appropriation is intended to cover the expenditure related to studies and information security.
3504	REMIT hardware			-	p.m.	This appropriation is intended to cover the costs related to IT hardware purchase for REMIT.
	<b>Article 3 5 0 - Total</b>	<b>5,121,638</b>	<b>448,170</b>	<b>1,755,000</b>	<b>1,620,000</b>	
	<b>CHAPTER 3 5 - TOTAL</b>	<b>5,121,638</b>	<b>448,170</b>	<b>1,755,000</b>	<b>1,620,000</b>	
	<b>TITLE 3 — TOTAL</b>	<b>5,663,658</b>	<b>787,858</b>	<b>2,275,500</b>	<b>2,162,400</b>	
	<b>GRAND TOTAL</b>	<b>15,570,878</b>	<b>9,515,362</b>	<b>13,272,160</b>	<b>13,562,000</b>	

Establishment plan of the Agency for the Cooperation of Energy Regulators			
Function group and grade	2018	2017	2016
	Commission proposal under the Union budget	Authorised under the Union budget	Authorised under the Union budget
	Temporary posts	Temporary posts	Temporary post
AD 16			
AD 15	1	1	1
AD 14			
AD 13			
AD 12	4		
AD 11	5	5	5
AD 10	0		
AD 9	5	2	2
AD 8	11	10	10
AD 7	8	10	10
AD 6	10	7	7
AD 5	11	18	19
<b>AD total</b>	<b>55</b>	<b>53</b>	<b>54</b>
AST 11			
AST 10			
AST 9			
AST 8			
AST 7			
AST 6	1		
AST 5	2	1	1
AST 4	4	1	1
AST 3	5	13	13
AST 2			
AST 1			
<b>AST total</b>	<b>12</b>	<b>15</b>	<b>15</b>
<b>Total staff</b>	<b>67</b>	<b>68</b>	<b>69</b>

## **ANNEX 3**

### **DECISION AB n° 24/2017**

#### **OF THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS**

**of 14 December 2017**

**on the Transfer of Appropriations in the Budget of the Agency for the Cooperation of  
Energy Regulators**

**for the Financial Year 2017**

THE ADMINISTRATIVE BOARD 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 the Agency for the Cooperation of Energy Regulators<sup>2</sup> and, in particular, Article 23(5) thereof,

Having regard to Decision AB No 22/2013 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 12 December 2013 on the adoption of the Financial Regulation of the Agency for the Cooperation of Energy Regulators, and, in particular, Article 27(3) thereof,

Having regard to Decision AB No 20/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 15 December 2016 on the adoption of the 2017 budget of the Agency for the Cooperation of Energy Regulators, and, in particular, Article 1 thereof,

WHEREAS:

- (1) With Decision 2017-30 of the Director of the Agency for the Cooperation of Energy Regulators of 6 December 2017, the Director submitted to the Administrative Board a proposal for transfers of appropriations for the current financial year within the meaning of Article 27(2) of Decision AB No 22/2013.
- (2) The proposal for transfers is accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited

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<sup>2</sup> OJ L211, 14.8.2009, p.1.

and for those from which appropriations are drawn,

**HAS ADOPTED THIS DECISION:**

**Article 1**

The transfer of appropriations provided in Annex I is hereby approved.

**Article 2**

The Director shall inform the European Parliament and the European Council of the transfer of appropriations as approved above.

**Article 3**

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

Done at Ljubljana on 14 December 2017.

*For the Administrative Board:*

*Dr*  
*Chair of the Administrative Board*

*Romana*

*Jordan*

## Annex I

		Credit before transfer	Transfer IN between Titles above 10%	Transfer OUT between Titles above 10%	Credit after transfer
<b>TITLE 1</b>	<b>EXPENDITURE RELATING TO STAFF AND RESOURCES</b>				
A01100	Basic salaries and correction	3,777,961.23		(63,435.00)	3,714,526.23
A01101	Family allowances	646,200.00		(18,706.00)	627,494.00
A01102	Expatriation and foreign residence allowances	673,800.00		(20,968.00)	652,832.00
A01110	Contract agents	1,077,520.00		(27,245.00)	1,050,275.00
A01111	Seconded National Experts	188,209.00		(14,398.00)	173,811.00
A01120	Training and information for staff	154,800.00			154,800.00
A01130	Insurance against sickness	172,500.00		(6,361.00)	166,139.00
A01131	Insurance against accidents and occupational disease	27,600.00		(7,472.00)	20,128.00
A01132	Unemployment insurance for temporary staff	69,000.00		(6,313.00)	62,687.00
A01140	Birth and death grants	992.00			992.00
A01141	Annual travel expenses from the place of work to origin	96,600.00		(21,588.00)	75,012.00
A01142	Schooling fees	249,468.77			249,468.77
A01160	Expenditure related to Recruitment	70,800.00			70,800.00
A01161	Travel expenses taking up duty	5,000.00		(440.00)	4,560.00
A01162	Installation, resettlement and transfer allowances	48,500.00			48,500.00
A01163	Temporary daily subsistence allowances	79,800.00		(22,767.00)	57,033.00
A01170	Supplementary clerical and interim services	282,100.00			282,100.00
A01171	Administrative Assistance	120,284.00			120,284.00
A01172	Trainees	132,000.00		(21,695.00)	110,305.00
A01200	Mission expenses Administrative staff	42,590.00			42,590.00
A01201	Mission expenses - Director	36,000.00			36,000.00
A01202	Mission expenses Director office staff	51,500.00			51,500.00
A01300	Medical services and equipment	60,495.00		(3,869.00)	56,626.00
A01401	Social welfare of staff	23,962.00			23,962.00
A01410	Staff Committee	15,000.00			15,000.00
	<b>TOTAL TITLE 1</b>	<b>8,102,682.00</b>	<b>0.00</b>	<b>(235,257.00)</b>	<b>7,867,425.00</b>

		Credit before transfer	Transfer IN between Titles above 10%	Transfer OUT between Titles above 10%	Credit after transfer
<b>TITLE 2</b>	<b>AGENCY'S BUILDING AND ASSOCIATED COSTS</b>				
A02000	Rent	651,623.00			651,623.00
A02001	Removal costs	4,500.00			4,500.00
A02010	Utilities	129,000.00			129,000.00
A02011	Cleaning and maintenance	122,600.00			122,600.00
A02020	Insurance	5,000.00			5,000.00
A02030	Security and surveillance of buildings	87,900.00			87,900.00
A02031	Health and safety at work	6,200.00			6,200.00
A02040	Other expenditure on buildings	30,150.00			30,150.00
A02100	Consumables	4,808.00			4,808.00
A02101	Software	1,776.27			1,776.27
A02102	Subscriptions IT	286,659.73			286,659.73
A02103	Disaster recovery site	43,003.00			43,003.00
A02210	Purchase of furniture	5,622.98			5,622.98
A02220	Transportation costs	157,170.00			157,170.00
A02230	Library Acquisitions	151,075.00		(2,581.00)	148,494.00
A02300	Stationery and office supplies	20,000.00			20,000.00
A02310	Bank charges	500.00			500.00
A02320	Legal expenses	45,000.00			45,000.00
A02321	Expert consultations - MITD and MSCD	50,000.00			50,000.00
A02322	Expert consultations - Gas	320,018.00		(9,370.00)	310,648.00
A02323	Expert consultations - Electricity	215,000.00		(1,440.00)	213,560.00
A02325	External audit expenses	25,227.02			25,227.02
A02326	Information security	121,340.00			121,340.00
A02330	Administrative Board meetings	32,825.00			32,825.00
A02331	Regulators Board meetings	94,880.00			94,880.00
A02332	Board of Appeal	54,000.00			54,000.00
A02333	External Participants to meetings	9,800.00			9,800.00
A02334	EU Agencies Network	2,900.00			2,900.00
A02400	Postal charges	7,000.00			7,000.00
A02410	Telecommunications subscriptions and charges	45,500.00			45,500.00
A02420	Hardware and other equipment	162,900.00			162,900.00
	<b>TOTAL TITLE 2</b>	<b>2,893,978.00</b>	<b>0.00</b>	<b>(13,391.00)</b>	<b>2,880,587.00</b>

		Credit before transfer	Transfer IN between Titles above 10%	Transfer OUT between Titles above 10%	Credit after transfer
<b>TITLE 3</b>	<b>OPERATIONAL EXPENDITURE</b>				
B03000	Representation expenses - director s office	4,000.00			4,000.00
B03001	Representation expenses - Administration	500.00			500.00
B03002	Representation expenses - Electricity	2,500.00			2,500.00
B03003	Representation expenses - MITD and MSCD	1,000.00			1,000.00
B03004	Representation expenses - Gas	2,500.00			2,500.00
B03100	Operational Missions - Gas Department	87,000.00			87,000.00
B03101	Operational Missions - Electricity Department	90,000.00			90,000.00
B03102	Operational Missions - MITD and MSCD	70,000.00			70,000.00
B03200	Public hearings, workshops, conferences	60,000.00		(8,852.00)	51,148.00
B03201	Website set-up and maintenance	88,000.00			88,000.00
B03202	Publications, information material	17,000.00		(5,000.00)	12,000.00
B03300	Translation at CDT	93,500.00			93,500.00
B03400	Insurance	4,500.00			4,500.00
B03500	Hosting deployment and operations	705,000.00			705,000.00
B03502	Surveillance and BI tools customisation licences and consultancy	650,000.00	262,500.00		912,500.00
B03503	IT and expert consultancy	400,000.00			400,000.00
	<b>TOTAL TITLE 3</b>	<b>2,275,500.00</b>	<b>262,500.00</b>	<b>(13,852.00)</b>	<b>2,524,148.00</b>
	<b>TOTAL BUDGET 2017</b>	<b>13,272,160.00</b>	<b>262,500.00</b>	<b>(262,500.00)</b>	<b>13,272,160.00</b>



## **ANNEX 4:**

**DECISION AB n° 25/2017**

### **OF THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS**

**of 14 December 2017**

#### **on the implementation of telework in the Agency for the Cooperation of Energy Regulators**

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

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 259/68<sup>3</sup>, and, in particular, Articles 1(e)(1) and 110(2) of the Staff Regulations and Articles 10 and 80 of the CEOS,

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 Regulators<sup>4</sup>, and, in particular, Article 28(2) thereof,

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 Decision AB No 03/2010 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 6 May 2010 on the Rules of Procedure of the Administrative Board of the Agency for the Cooperation of Energy Regulators, and, in particular, Article 8 thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2017)5308 of 25 July 2017,

After consulting the Staff Committee on 18 November 2017,

Whereas:

- 1) On 5 January 2016, the Commission informed the Agency for the Cooperation of Energy Regulators (hereinafter: the 'Agency') that it adopted Decision C(2015)9151 of 17 December 2015 on implementation of telework in Commission Departments.
- 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 Agency. By way of derogation,

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<sup>3</sup> 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.

<sup>4</sup> OJ L 211, 14.08.2009, p. 1.

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(2015)9151 is suitable to apply to the Agency provided that certain adjustments are made to take into account the peculiarities of the Agency. Those adjustments concern in particular technical means by which telework is made available.
- 4) Teleworking is part of a modernising trend in organisations which focuses on result-based management and objective-driven performance to increase efficiency of operations. It allows greater flexibility for work organisation and a better work-life balance of staff by increasing autonomy and making better use of new information technology.
- 5) The Authority authorised to conclude contracts of employment (hereinafter: 'AACC') defines teleworking policy in the Agency in accordance with the present decision. The AACC shall delegate the power to implement this teleworking policy.
- 6) Teleworking requires teleworkers to be autonomous, to have a sense of responsibility, to be well-organised and to meet deadlines. For the line manager, it means implementing objective-based management as well as developing efficient remote management of teleworkers.
- 7) To avoid potential risks such as difficulties with the integration of teleworkers in teams or problems with document security or IT provisions, due consideration shall be given to the consequences of teleworking for work organisation within the service and the method of evaluating the performance of teleworkers.
- 8) In the interests of clarity and legal certainty, Decision AB No 21/2012 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 9 October 2012 on the implementation of telework is repealed and replaced by this Decision,

HAS DECIDED AS FOLLOWS:

*Article 1*

Aim, definition and scope of application

- (1) A teleworking scheme is instituted within the Agency.
- (2) Teleworking is a method of organising and carrying out work outside the workplace<sup>5</sup> with the help of information and communication technologies. It aims to help the Agency achieve a more productive, result-oriented working environment that is conducive to a positive work-life balance. Additionally, it has a beneficial impact on the environment by limiting commuting and improves the business-continuity of the Agency.
- (3) The AACC is responsible for the definition of the teleworking policy in the Agency in accordance with the present decision. It shall delegate the power to implement this

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<sup>5</sup> In the application of this decision, working outside the workplace primarily refers to working at home. By extension, the workplace includes any workplace where staff attends meetings or is sent on mission.

teleworking policy to the line management. The latter shall implement it in accordance with the present decision under the supervision of the AACC.

- (4) On a voluntary basis, every staff member<sup>6</sup> has the right to request to telework. In assessing the request, the AACC shall take into account the interest of the service in the specific circumstances. This includes the benefits that teleworking can bring to the service by increasing performance, of the organisation as a whole and to the staff member concerned.
- (5) As knowledge-based activities, tasks carried out by Agency staff are as a rule suitable for teleworking. Tasks which require physical presence at the workplace are, however, unsuitable for teleworking, in particular shift work, receiving the public, working as a driver, catering, mail distribution, interpretation, technical and logistical support to conferences and meetings, crisis management and response operations, security work, child care and medical services.
- (6) This Decision does not concern staff working outside the workplace in the context of flexible working-time arrangements under Decision AB No. 8/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 4 April 2016 on working time.
- (7) The Decision shall apply to all Agency's staff covered by the CEOS regardless of function group or grade. It shall also apply to seconded national experts ('SNEs').

## *Article 2*

### General provisions

- (1) There are two types of teleworking: structural and occasional teleworking.
- (2) All the provisions of the Staff Regulations and the CEOS or, where applicable, the provisions on SNEs<sup>7</sup>, apply to teleworkers.
- (3) Under the time-accounting arrangements, a teleworking day will count as a standard eight-hour day, and half a day as four hours<sup>8</sup>. No hours worked in excess of four or eight hours respectively shall be recorded during telework.
- (4) Teleworkers shall comply with the rules on leave and absences. If the teleworker does not work the number of hours required in the teleworking agreement, as defined in Article 3(1) below, he shall take annual leave or flexitime compensation in the same way as if he had been working at the workplace on that particular day.
- (5) Except in the cases described in Article 4(5) and 4(6), teleworkers may be called upon at any time to return to the office, at their own expense, for urgent reasons relating to the interests of the service.

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<sup>6</sup> 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.

<sup>7</sup> Decision AB No 02/2011 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 3 March 2011 laying down the rules of secondment of national experts to the Agency for the Cooperation of Energy Regulators.

<sup>8</sup> However, for those authorised to work on a part-time basis, time-accounting applies on a pro rata basis, as defined by the relevant part-time work pattern chosen.

- (6) Teleworkers must agree with their line manager which days they will be in the office to suit the service needs and priorities. The minimum period of teleworking is half a day, taken as a single block.
- (7) Teleworkers shall organise their work schedule during their teleworking day so as to comply with service needs. Teleworkers shall be contactable at least during core hours, in conformity with Decision AB No. 8/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 4 April 2016 on working time.
- (8) Teleworkers shall agree on their usual place of work with their line manager and shall agree with him any changes.
- (9) By virtue of his delegated powers, the line manager concludes the teleworking agreement referred to in Article 3(1) with the teleworker and agrees with the occasional teleworking in accordance with Article 4(4). The Human Resources Management Team is informed of these arrangements via the dedicated IT tool.

### *Article 3*

#### Structural teleworking

- (1) Structural teleworking alternates regular periods of telework with periods of work at the workplace, which are established by mutual agreement between the line manager and the teleworker. This type of teleworking requires the conclusion of a "teleworking agreement" between the teleworker and his line manager.
- (2) Structural teleworking following a one-week cycle pattern requires a minimum teleworking time of half a day per working week. It is limited to a maximum of two and a half days per working week, amounting to 20 hours, equivalent to 50% of the 40-hour working week.
- (3) Structural teleworking following a two-week cycle pattern requires a minimum teleworking time of two half days (possibly in a row) and is limited to a maximum amount of time of three days and two days, or vice-versa, in the two respective weeks, equivalent to 50% of the 40-hour working week on average.
- (4) The minimum weekly presence in the office provided for in the above paragraphs applies even when teleworking is combined with part-time work.
- (5) The teleworking agreement shall specify the days on which the teleworker is to be in the office, as the case may be according to the cycle pattern, to suit the service's needs and priorities. It shall set out the arrangements for maintaining contact with the department and specify the usual teleworking location. The agreement shall set out the teleworker's and the manager's duties in relation to the professional objectives to be achieved. It shall include a reference to the basic regulatory provisions, such as the conditions under which teleworking may be terminated, recommendations on safety and ergonomics, guidelines on the use of equipment and precautions against damage and theft.
- (6) A trial period shall be applied in the case of first-time teleworkers, which may be of up to four months.

- (7) The agreement is normally concluded for maximum one year and may be renewed. It shall be notified to the Human Resources Management Team for information.
- (8) If the teleworker changes post, even within the same service, the agreement shall be reviewed.

#### *Article 4*

##### Occasional teleworking

- (1) Occasional teleworking allows staff to telework, on a temporary basis, for a maximum of 60 working days per calendar year.
- (2) Occasional teleworking may be used to accommodate work circumstances involving one-off tasks that can be better carried out outside the office, such as focussing on projects that demand specific concentration. Occasional telework may also be used in case of specific personal or family problems, transportation and mobility issues (e.g. strikes).
- (3) Weekly presence in the office shall not, in principle, be less than two and a half days per working week, which amount to 20 hours, equivalent to 50% of 40 hours working week. By derogation, occasional teleworking may be granted in individual cases for a period of consecutive days which exceeds two and a half days per working week. In that case, the Human Resources Management Team shall be informed.
- (4) To undertake occasional teleworking, staff members shall make a request to their line managers. The latter shall, in principle approve it, unless the teleworking is not compatible with the interests of the service. Approval by the line manager must be given in the dedicated IT tool.
- (5) At the request of a service or department which raises duly justified reasons, the Human Resources Management Team is empowered to allow occasional telework for longer periods than the ones mentioned in Article 4(1) and 4(3) for all or part of a service or department. In cases of force majeure, the Human Resources Management Team is also empowered, after consultation of the concerned service, to request staff members to telework.
- (6) Upon the staff member's request and upon recommendation of his treating doctor, occasional teleworking may be granted even beyond the 60-day limit per calendar year, if a staff member has temporarily lost his mobility but is still able to work outside the work place; the period granted must be necessary for recovering the ability to return to the workplace.

#### *Article 5*

##### Termination

- (1) A structural or occasional teleworking arrangement may be terminated at any time by the line manager, if the working conditions change or in the interest of the service (for example in the event of a change in the staff member's assignments or duties,

when the staff member's performance is affected as a result of teleworking, or, in case of scarce teleworking capacity, when priority is given to another staff member). This is not affected by the appointment of a new line manager.

- (2) The line manager terminates the teleworking agreement ahead of time at the request of the teleworker.
- (3) The structural teleworker shall be notified at least one month before the termination takes effect. In exceptional circumstances related to the interest of the service, an immediate return to normal working conditions may be requested.
- (4) The decision to terminate the teleworking agreement before its term within the meaning of Article 3(7) shall indicate the reasons of termination and the date on which it takes effect.

#### *Article 6*

##### Training and career development

- (1) Teleworkers shall retain their entitlements to training as well as their career prospects. In particular, teleworking shall not affect the individual's appraisals or assessments. Teleworkers' workload and performance indicators shall be the same as those of similar job holders working at the workplace.
- (2) The Agency shall provide teleworkers with information on ergonomics, document security, use of IT equipment, precautions to be taken against damage and theft and other subjects relating to teleworking. Management training will take into account the specifics of objective-based and remote management of teleworking staff.

#### *Article 7*

##### Health and safety

- (1) Teleworkers shall benefit from the same insurance against accident and occupational disease as staff working at the workplace. They shall take out the home insurance required by the law of the country in which the teleworking takes place. They are responsible for ensuring that their home and its electrical installation comply with the applicable health and safety regulations.
- (2) The Agency shall provide the teleworker with information on occupational health and safety, in particular the use of display screen equipment. Teleworkers shall regularly check the advice on ergonomics communicated to them by the Agency and ensure that they maintain an adequate level of compliance.
- (3) Teleworkers shall take all precautions necessary to safeguard the confidentiality of the information they handle while teleworking.

#### *Article 8*

##### Teleworking capacity

- (1) The Agency shall make teleworking available or feasible as widely as possible for staff members.



- (2) The Agency shall determine a non-discriminatory allocation system, based on objective criteria that are relevant to the proper operation of the service.

#### *Article 9*

##### Equipment and technical support

- (1) The Agency ensures the remote access and may put the necessary equipment at the disposal of teleworkers. It may continue progressively to provide teleworkers at least with a laptop computer to replace the standard Agency desktop PCs. This laptop shall be used both in the office and when teleworking.
- (2) The Agency may set out by appropriate means the IT services provided to teleworkers according to types of access. The IT services provided to teleworkers may be adjusted according to users' needs, technological developments and available budget.
- (3) Teleworkers shall bear the cost of their internet subscription and of the communication charges incurred while teleworking, regardless of the chosen teleworking option or type of access. The cost of transferring calls from work telephones to teleworkers' private numbers shall, however, be borne by the Agency.

#### *Article 10*

##### Monitoring and evaluation

- (1) The Human Resources Management team shall be responsible for monitoring effective implementation and compliance of this Decision within the Agency, in consultation with the Joint Committee. In particular, the Human Resources Management Team will monitor possible correlations between use of telework and career advancement to avoid situations of unequal treatment. At the latest five years after entry into force of this Decision, the Human Resources Management Team will report on the implementation of this Decision.
- (2) The Human Resources Management Team will draw up a Guide for the line managers indicating procedures and good practices to achieve of the objectives of this Decision.

#### *Article 11*

##### Final provisions

- (1) Decision AB No 21/2012 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 9 October 2012 on the implementation of telework is repealed and replaced by this Decision.
- (2) The Commission's Decision C(2015)9151 of 17 December 2015 on implementation of telework in Commission Departments does not apply by analogy at the Agency.
- (3) This Decision shall take effect on the day following that of its adoption.

Done at Ljubljana, on 14 December 2017.

*For the Administrative Board*

*Dr Romana Jordan*

*Chair of the Administrative Board*