



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

***– 44th Meeting –
– Ordinary Session –***

Thursday, 30 January 2020, 09:30 – 12:30

Trg Republike 3, Ljubljana – Slovenia

MINUTES

I. LIST OF ATTENDEES

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

Dr Jurijs SPIRIDONOVs,	<i>Vice-Chair</i>	Dr Romana JORDAN,	<i>Member</i>
Ms Karin LUNNING	<i>Member</i>	Ms Edit HERCZOG,	<i>Member</i>
Mr Bogdan CHIRIȚOIU,	<i>Member</i>	Ms Anne MONTAGNON,	<i>Alternate</i>
Mr Diego VAZQUEZ,	<i>Alternate</i>	Mr Eberhard HOLSTEIN,	<i>Alternate</i>

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

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

Ms Luiza DRAGHICI and Mr Juan-Ignacio DE DIOS MORALES, acting as advisors, were present at the meeting.

The secretariat was provided by the Agency.

II. SUMMARY OF CONCLUSIONS OF THE 44th MEETING OF THE ADMINISTRATIVE BOARD

At the 44th meeting, the Administrative Board:

- (1) welcomed the newly appointed Director and wished him success in managing the Agency;
- (2) invited the Agency to define a communication strategy for the Agency, taking stock from the vision portrayed by the Director and the comments expressed in the course of the meeting;
- (3) Decided to focus its meetings on strategic discussion and address the decisions related to the administrative functioning of the Agency via written procedures;
- (4) adopted the Draft Single Programming Document 2021-2023;
- (5) adopted the revised Single Programming Document 2019-2021;
- (6) adopted, by unanimity, Decision No. 3/2020 on the appointment on the appointment of two Members of the Administrative Board as reporting officers for the assessment of the performance of the Director over his probationary period;
- (7) appoint Mr THIOLLIERE to serve in the panel for the review of Conflict of Interests declarations.

III. MINUTES

SESSION I

SECTION I – OPENING

The 44th meeting of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators was convened, in ordinary session, on 30 January 2020. The meeting started at 09h30.

The Vice-Chair, absent the Chair, took the floor and welcomed Ms Karin LUNNING, Mr Bogdan CHIRIȚOIU, and Mr Eberhard HOLSTEIN, appointed as Members the firsts two and as Alternate the latter. The Vice-Chair congratulated with Dr Romana JORDAN for her reappointment. In particular, the Vice-Chair thanked Dr JORDAN for her past commitment and involvement in the activities of the Board and the Agency as Chair. The Vice-Chair welcomed also the reappointment of Mr Michele THIOLLIERE and Mr Pawel PIKUS and the appointment of Mr Vaclav BARTUŠKA.

The Vice-Chair, finally, welcomed Mr ZINGLERSEN and wish him success as Director of the Agency.

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

(1) *Approval of the Agenda*

The Agenda of the 44th meeting of the Administrative Board was approved as follows:

OPENING 09:30 - 09:50	OPENING OF THE 44TH MEETING OF THE ADMINISTRATIVE BOARD <i>Welcome greetings to Members and Alternate Members – Tour de Table</i> <i>Adoption of the Agenda and Declaration of Interests</i> <i>Adoption of the Minutes of the 43rd Meeting</i>
STRATEGIC DISCUSSION 09:50 - 11:50	A VISION FOR THE FUTURE – THE AGENCY IN THE CHANGING EUROPEAN CONTEXT <i>Presentation by the Director of the Agency</i> <i>Roundtable Discussion</i> The role of the Administrative Board in the changing context (the Clean Energy Package and beyond) <i>Presentation by the Director of the Agency and the Chair of the Administrative Board</i> <i>Roundtable Discussion</i> The Agency’s multiannual outlook, Priorities and Opportunities in the changing European Context and a window on the year 2019 <i>Presentation by the Agency</i> <i>Roundtable Discussion</i> Adoption of the Draft Single Programming Document 2021-2023 Adoption of the Single Programming Document 2019-2021 - revised

**REPORTING,
INFORMATION,
AND INTERNAL
FUNCTIONING OF
THE AGENCY**

11:50-12:30

REPORT ON THE ACTIVITIES OF THE BOARD OF REGULATORS

Presentation by the Chair of the Board of Regulators

Appointment of two reporting officers for the probationary period of Mr ZINGLERSEN

Appointment of two assessors for the review of conflict of interests declarations

CLOSURE

12:20-12:30

INVITATION TO THE 45TH MEETING OF THE ADMINISTRATIVE BOARD

AoB

Upon invitation of the Vice-Chair, the Administrative Board adopted the minutes of the 43rd meeting of the past December 2019 as circulated to Members and Alternates and for which there were no comments besides an editorial comment on page 16, which was included in the final draft submitted for adoption.

SECTION II – STRATEGIC DISCUSSION

A VISION FOR THE FUTURE – THE AGENCY IN THE CHANGING EUROPEAN CONTEXT

Following the invitation of the Vice-Chair, the Director presented his views on the future of the Agency, touching also on the resources, the strategy to be put in place to meet the challenges of the changing European context, by building upon his interview of September 2019 and following the exchanges with different stakeholders before his entry into service.

The Director hinted to the need to ensure that the Agency maintains its image of trusted partner in the delivery of its mandated. The Director stressed the significant changes taking place in the energy sector (digitalisation, decarbonisation, integration and decentralisation) and its political implications with the need to look for cost-efficient solutions requiring market integration. The Director explained that, in his view, energy transition shall be translated appropriately and ACER could offer support in showing trade-offs in the light of the political significance of the choices to be made.

Against this background, the Director expressed the need to enhance the ability of the Agency to show the impact of its mandate both to the political and technical audience, given the regulatory implications of the Green Deal and the regulatory input that could be provided by ACER to its implementation. The Director therefore highlighted the implications of this vision both internally and externally with a deeper stakeholder engagement, going beyond the technical audience and attempting a wider public engagement.

In particular, as regards the internal dimension, the Director expressed the need of additional human resources, a cultural in-house change, and further enhancement of the collaboration of NRAs within ACER. In particular, with regard to human resources, the Director stressed the need to approach the management of human resources and the requests of the Agency in the budgetary cycle from a different perspective. With regard to the management of the current resources, the Director expressed the wish to follow the principles of leadership pipeline as an instrument to improve efficiency. He also stressed the need for further cross-departmental synergies with the possibility for shifting resources up to 20% across the organisation according to the identified priorities and ensuring greater agility in the management of resources by reviewing the assignments of resources within the organisation every 18 months. Finally, as regards the Agency's requests in the budgetary cycle, the Director expressed the wish to employ a different approach based on the wider political priorities and budgetary context to ensure incremental gains over the years. As regards, instead, the external dimension, the Director hinted to the need for a revamped website and the employment of social media.

The role of the Administrative Board in the changing context (the Clean Energy Package and beyond)

The Director further provided a brief overview of the significant changes brought about by the Clean Energy Package on the tasks of the Agency and stressed the impact of the Agency's on power systems, such as in the case of resource adequacy assessment. He also identified the key role of the Agency in the definition of the capacity remuneration mechanisms and with regard to risk preparedness. He finally stressed the role of the Agency in complementing the Energy Union.

The Vice-Chair took the floor and provided an overview of the role of the Administrative Board in the Agency, stressing the past working practices, its values and prerogatives as well as its core objective of acting in the public interest and, in particular, in the interest of the Union.

The Administrative Board invited the Agency to define a communication strategy capable of putting the regulatory role of ACER into context and reaching out further with the public, increasing further ACER's visibility, also in the attempt to build trust further and accountability, showing benefits to consumers, especially when costly decisions are taken and many diverging interests are therefore at stake.

The Administrative Board expressed support for the overall approach to resources, as portrayed by the Director, while recalling the need to ensure the fulfilment of the Agency's mandate first. In this context it stressed the need to align resources to tasks and priorities as defined in the mandate of the Agency.

The Administrative Board further stressed the need to respect the staff regulations in the management of the human resources and expressed the wish to be involved in the implementation of the envisaged project in light of: (i) the need for a small organisation with limited human resources to be capable of retaining staff; ii) the realisation that modernisation should also follow the path of the human resources available, and iii) the concerns about the working environment at the Agency due to the significant lack of resources as stressed in the past years.

The Administrative Board invited the Agency to consider the need for an internal communication strategy to foster internal synergies by design.

The Agency's multiannual outlook, Priorities and Opportunities in the changing European Context and a window on the year 2019

The Administrative Board, in the interest of an efficient use of time decided to group the treatment of the adoption of the draft Single Programming Document 2021-2023 in conjunction with the adoption of the revised Single Programming Document 2019-2021.

Upon invitation of the Vice-Chair, Mr Andrej BELOGLAVEC, strategy and communication Team Leader, provided an overview of the revised programming document 2019-2021 to further discuss the draft programming Document 2021-2023.

Mr BELOGLAVEC recalled that the PD 2019 – 2021 was adopted before that the acts of the legislative package “Clean Energy for all Europeans” (CEP), including a recast of the Agency’s founding Regulation, were adopted and entered into force. He stressed that the CEP envisaged additional tasks and responsibilities for the Agency. The Programming Document (especially as concerns the work program for 2019) had to be revised on the basis of the mandate of the Agency as resulting from the recast of its founding Regulation, which entered into force on 4 July 2019. This included new tasks to be implemented already in 2019, which have rendered necessary also a partial redistribution of the limited human resources available to the Agency. In this context, Mr BELOGLAVEC stressed that the Agency submitted on 29 August 2019 a revised version of the Programming Document to the Board of Regulators pursuant to Articles 20 and 22(5)(d) of Regulation 2019/942, which subsequently provided its approval via written procedure on 3 September. On the basis of that, at its 42nd meeting, the Administrative Board, after discussion of the substance of the programming document, decided to postpone the adoption of the revised PD 2019 – 2021 until the Commission had provided its opinion on it. The Commission provided its opinion on 17 December 2019 and the Agency’ services revised the Single Programming Document 2019-2021 on the basis of the opinion of the Commission.

Mr BELOGLAVEC stressed that, for the year 2019, the implementation of network code represented still a relevant part of the Agencies’ activities. He also highlighted also the other main achievements of the Agency in 2019. In particular, the Agency adopted the electricity capacity calculation methodology, essential for TSOs for calculating cross-zonal capacities. Furthermore, the Agency adopted the recommendation on the calculation of the 70% target, used to assess compliance of Member States. With regard to the Gas sector, the Agency adopted two important decisions. The first relates to the HUAT incremental capacity procedure and the second concerns the definition of the he gas capacity booking platform for the German-Polish border. Finally with regards to REMIT, the Agency reached over 3 Million reported transactions, triggering a number of alerts to NRAs, with an increase of preliminary initial assessments handed over to NRAs of potential cases. It was also stressed the improvement of data quality as an essential element of the reporting. It was finally highlighted the impact of resource constraints in 2019 in addressing the mandate of the Agency with regard to REMIT activities.

Mr BELOGLAVEC turned to the draft Single Programming Document 2021-2023 to explain the different strategic approach for the resource requests of the Agency. He explained that the services of the Agency proposed to frame ACER’s activities within the context of its regulatory contribution to the Union’s targets of decarbonisation and the goals of the Green Deal with a desire to engage more with stakeholders beyond its constituents. In this context, as explained earlier by the Director, it is envisaged to adopt more modern communication tools and redeploy resources in an efficient manner wherever possible. Upon request of the Administrative Board, Mr BELOGLAVEC while highlighting the challenges faced by the Agency in the CEP’s implementation in the years 2020-2021 stressed the need to re-design the request for resources, taking stock from the past limited success of the Agency in gaining support for the fulfilment of its mandate. In this context, the proposed design is based on a more conservative approach on three main pillars: i) the revenues stemming from the Remit Fee regime; ii) EU subsidies used for remit policy, great outreach vis-à-vis stakeholders and the gas network codes; and iii) conversion of activities performed by interim staff to comply with the discharge procedure and the full compliance with the applicable legislation.

The Administrative Board after discussion and while supporting the overall conservative approach and the attempt to review the past practices with regard to the Agency's requests for resources in light of the non-successful outcome of the budgetary procedures, highlighted the potential for misinterpretation due to the divergences in the requests compared to the past years.

- Conclusion:*
- (1) The Administrative Board welcomed once again the Director, wished him success and expressed its appreciation for the vision portrayed.
 - (2) The Administrative Board invited the Agency to define a communication strategy for the Agency, taking stock from the vision portrayed by the Director and the comments expressed in the course of the meeting.
 - (3) The Administrative Board decided, in order to ensure a more efficient use of time, to focus its meetings on strategic discussion and address the decisions related to the administrative functioning of the Agency via written procedures.
 - (4) The Administrative Board adopted the Draft Single Programming Document 2021-2023;
 - (5) The Administrative Board adopted the revised Single Programming Document 2019-2021;

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

Report on the Activities of the Board of Regulators

Ms Clara POLETTI, the Chair of the Board of Regulators, invited to report on the most recent activities of the Board of Regulators, stressed the availability of the Board of Regulators and of its Members in supporting the Agency's budget requests and needs for the year 2021.

She further stressed the need to look at the governance of the Agency, in light of the changes brought about by the recast ACER Regulation, to make sure that wherever the recast Regulation has left room for interpretation, especially with regard to the interlinks between the Board of Regulators, the Administrative Board and the Director, a common cooperative approach is maintained.

Conclusion: The Administrative Board took note of the report of the Chair of the Board of Regulators.

Appointment of two reporting officers for the probationary period of Mr ZINGLERSEN

The Vice-Chair recalled that the Director entered into service on 1 January with a contract of 5 years, and he is subject to a 9 months probationary period. He stressed that the purpose of the probationary period is to assess the ability of the Director to perform the duties pertaining to his post. It aims to assess efficiency, competencies and conduct in the service, as well as the senior management skills. In particular, he clarified that two reporting officers shall be identified to evaluate the Director in the performance of his duties.

In this context, following the AB meeting, the two reporting officers shall meet the Director to agree on the objectives and performance level expected during the probationary period. By 30 August 2020, a final report shall be drawn up and reporting officers shall hold a formal dialogue with the Director.

The Secretariat reported that Dr Romana JORDAN and Ms Ditte JUUL-JØRGENSEN expressed their availability to act as Reporting Officer.

Conclusion: The Administrative Board adopted, by unanimity, Decision No. 3/2020 on the appointment on the appointment of two Members of the Administrative Board as reporting officers for the assessment of the performance of the Director over his probationary period.

Appointment of No. 2 assessor for the review of Conflict of Interests declarations – Administrative Board

The Vice-Chair reported that in the implementation of Decision No 02/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 31 January 2015 laying down a policy for the prevention and management of conflicts of interest, the Agency collects from the Members and Alternates of the Administrative Board their individual declarations of interests and commitment. Curriculum Vitae are also requested as far as a change in the professional career of the Member or Alternates has occurred.

The Vice-Chair further explained that the declarations of interests are to be reviewed by a review panel which, after having assessed the existence of potential conflicts of interests, assigns a risk level to each Member and Alternate of the Administrative Board. The review panel changes composition depending on the Member of the Administrative Board whose declaration of interests is assessed. The different compositions are outlined as follows:

- *for the Members and Alternates of the Administrative Board:* the review panel shall consist of the Chair, the Vice-Chair and a European Commission representative in the Administrative Board
- *for the European Commission-appointed Member of the Administrative Board who is part of the review panel:* the review panel shall consist of the Chair, the Vice-Chair and a European Commission official acting as Alternate;
- *for the Chair:* the review panel shall consist of the Vice-Chair, one appointed Board Member and a European Commission representative in the Administrative Board;
- *for the Vice-Chair:* the review panel shall consist of the Chair, one appointed Board Member and a European Commission representative in the Administrative Board.

The review panel, composed as above, is called to review the declarations of interests of the Members and Alternates of the Administrative Board. A report on the assessment will be provided at the same meeting.

After having reported on the procedure, the Vice-Chair took note that few Members and Alternates had not yet submitted their Declarations of Interests and Declarations of Commitment and recalled the importance to submit the declarations as this affects directly the credibility of the Board itself.

The Secretariat reported that MR THIOLLIERE would be available to act as panellists.

Conclusion: The Administrative Board decided, by unanimity, to appoint Mr THIOLLIERE to serve in the panel for the review of Conflict of Interests declarations.

CLOSING

Absent any other items for discussion, the Vice-Chair invited Members and Alternates to take note of the date of the incoming meeting of the Administrative Board, being 18 June 2020.

In the absence of any other business to be treated, the Chair closed the 44th meeting at 12h30.