

DECISION AB n° [...] /2012

**GRANTING PERMISSION TO THE DIRECTOR TO ENGAGE IN
ACADEMIC COOPERATION WITH THE FLORENCE SCHOOL OF
REGULATION AT THE EUROPEAN UNIVERSITY INSTITUTE FOR
THE YEAR 2013**

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 a European Agency for the Cooperation of
Energy Regulators (hereafter referred to as “the Agency”), and, in particular, to Article
28 thereof;

HAVING REGARD to the Staff Regulations of Officials of the European
Communities, laid down by Council Regulation (EEC, EURATOM, ECSC) No
259/68, (hereafter referred to as the "Staff Regulation") and, in particular, Article 12b
thereof, and to the Conditions of Employment of Other Servants of the Communities;

HAVING REGARD to Commission Decision C(2004) 1597 of 24 April 2004 on
outside activities and assignments;

HAVING REGARD to Administrative Board Decision AB n° XX/2012 on

WHEREAS:

- Article 12b of the Staff Regulations requires “an official wishing to engage in
an outside activity, whether paid or unpaid, or to carry out any assignment
outside the Communities shall first obtain the permission of the Appointing
Authority” and envisages that “permission shall be refused only if the activity
or assignment in question is such as to interfere with the performance of the
official’s duties or is incompatible with the interest of the institution”;
- Article 6 of Administrative Board Decision AB n° XX/2012 provides that
“teaching and other educational activities, whether gainful or not, shall in
principle be authorised for one year provided that their duration does not exceed
100 hours per academic year” and that “in exceptional circumstances, where the
activity is clearly in the interest of the institution, the educational activities may
be extended to academic activities, including research”.

- Article 9 of Administrative Board Decision AB n° XX/2012 provides that “the maximum annual ceiling for net remuneration, including any fee received, which an official may receive in connection with all his assignments or outside activities combined, shall be € 4.500”, that “the reimbursement of costs (e.g. transportation, etc.) shall not be taken into account for this purpose”, that “the official shall hand over to the Appointing Authority amounts exceeding the sum of € 4.500” and that “royalties received for publications shall be excluded from the calculation of net remuneration”.
- The Florence School of Regulation (hereafter referred to as the "School") is a partnership between the European University Institute (EUI) - Robert Schuman Centre for Advanced Studies (RSCAS), the Council of the European Energy Regulators (CEER) and the Independent Regulators Group (IRG), and it works closely with the European Commission. It is a European forum dedicated to economic regulation;
- The objectives of the School are to organise policy events dealing with key regulatory issues, to provide state-of-the-art training for practitioners, to produce analytical and empirical research in the field of regulation and to promote networking, through documents and ideas exchanges;
- Mr Alberto Pototschnig has been cooperating with the School since its foundation in 2004, therefore well before his appointment as Director of the Agency;
- At the School, Mr Pototschnig has been acting as Adviser to the Director on the School's activities in the energy policy area, as well as participating, as instructor, to the Training Courses organised by the School;
- Through its activities, the School contributes to enhancing and spreading best practices in regulation, including for the energy sector;
- The Administrative Board, with its Decision AB n° 34/2011 of 2 December 2011, granted permission to Mr Pototschnig to engage in academic cooperation with the School;
- With letter to the members of the Administrative Board, dated 20 August 2012, the European Commission, Directorate-General for Energy, raised concerns on Administrative Board's Decision AB n° 34/2011 to the extent that it deviates in some respects from Commission Decision C(2004) 1597, asking for Administrative Board's Decision AB n° 34/2011 to be brought into line with the Commission's rules or to be repealed;
- The involvement of Mr Pototschnig in the activities of the School, in his current 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, at the same time benefitting the Agency from the activities in the School;
- It is therefore of utmost important for the Agency that Mr Pototschnig maintains

his current role as Adviser to the Director of the School and is involved in other related activities, including, as an instructor, in training courses organised by the School;

- In granting permission to Mr Pototschnig to engage in training and academic activities with the School, compliance with Commission Decision C(2004) 1597 should be ensured;
- 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 200 hours per year.

HAS DECIDED:

- 1) To grant permission to Mr Alberto Pototschnig to continue in 2013 in his role of adviser to the Director of the School and with his activities of instructor at the School;
- 2) That the permission is granted for the period from 1 January 2013 to 31 December 2013;
- 3) That the activities for which permission is granted shall be carried out for a maximum of two hundred (200) hours during 2013.
- 4) That the activities for which permission is granted, to the extent that they are carried out during working hours with a limit of 100 hours, are considered to be carried out in the interest of the service within the meaning of article 6, paragraph 2, of the Administrative Board Decision AB n° XX/2012;
- 5) That permission is granted subject to the condition that no costs shall be incurred by the Agency.
- 6) That, given the governance and mission of the School, the activities for which permission is granted do not raise any conflict of interest;
- 7) That Mr Pototschnig shall receive no 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, including per-diems;
- 8) Mr Pototschnig will report to the Administrative Board on his activities at the School at the end of the period;
- 9) To give mandate to the Chairman for the implementation of this Decision and for any procedural step related to the permission granted with this Decision.

10) The present Decision repeals and replaces Administrative Board Decision AB n° 34/2011 of 2 December 2011.

This Decision shall take effect on 1 January 2013

Done at Ljubljana, on 5 December 2012

For the Administrative Board:

Piotr Woźniak

Chairman of the ACER Administrative Board