



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

**– 50th Meeting –
– Ordinary Session –**

Thursday, 7 October 2021, 09:00 — 14:00

**Energy Community Secretariat
– Vienna – Austria –**

MINUTES

I. LIST OF ATTENDEES

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

Dr Jochen PENKER,	<i>Member</i>	Dr Jurijs SPIRIDONOVS,	<i>Vice-Chair</i>
Mr Michel THIOLLIERE,	<i>Member</i>	Ms Edit HERCZOG,	<i>Member</i>
Mr Bogdan CHIRIȚOIU,	<i>Member</i>	Ms Karin LUNNING	<i>Member</i>
Mr Eberhard HOLSTEIN,	<i>Alternate</i>	Mr Vaclav BARTUŠKA,	<i>Alternate</i>
Mr Pal KOVÁCS,	<i>Alternate</i>	Mr Zhecho STANKOV,	<i>Alternate</i>
Ms Britta THOMSEN,	<i>Alternate</i>	Ms Cristina CUADRA-GARCIA	<i>Alternate</i>

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

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

The secretariat was provided by the Agency.

II. SUMMARY OF CONCLUSIONS OF THE 50th MEETING OF THE ADMINISTRATIVE BOARD

At the 50th meeting, the Administrative Board:

- (1) supported the implementation of the new working model adopted by the Agency, including the principle to broadly align the Agency with the approaches and measures adopted in greater Ljubljana, and the steps undertaken before employing the new working arrangements;
- (2) supported the adoption of the new working model, which consists of 50 percent teleworking and 50 percent office presence, including the derogations proposed by the Director leading to a more flexible approach in so far as justified;
- (3) took note of the results achieved by the Agency with the implementation of the Greening Action Plan;
- (4) supported the Agency for its commitment to reduce the carbon footprint in 2021 and 2022, for acting in line with the greening actions of the European Commission and EU Member States, as well as for using green public procurement to foster sustainability;
- (5) took note of the recent developments regarding the implementation of the communications and disseminations strategy, including the Agency's increased outreach activities, the Agency presence on media, as well as the enhancement of stakeholders' engagement and collaborations with NRAs.

III. MINUTES

SESSION I

SECTION I – OPENING

The 50th meeting of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators was convened, in ordinary session, on 7 October 2021. The meeting started at 09h00.

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

(1) *Approval of the Agenda*

The Agenda of the 50th meeting of the Administrative Board was approved as follows:

OPENING
09:10 - **Opening of the 50th Meeting of the Administrative Board**
09:15 *Adoption of the Agenda and Declaration of Interests*

*REPORTING,
INFORMATION
, AND
INTERNAL
FUNCTIONING
OF THE
AGENCY
09:15-12:45*

ACER Budget 2022 – Negotiations Update
Presentation by the Director

ACER partial return to the office: teleworking and presence in the fall & beyond
Presentation by the Director

Report on the Agency's activities

Presentation on the implementation of the Greening Action Plan by the Head of the Corporate Service and the Facility Management Team

Presentation on the outcome of the investigations on the 8th January system split incident by the Electricity Department

Presentation on the implementation of the communications and disseminations plans by the Strategy Delivery and Communication Team

Presentation on the implementation of the Staff Engagement Survey Action Plan by the Director and the Head of the Market Surveillance and Conduct Department

Report on the activities of the Board of Regulators

Presentation by the Chair of the Board of Regulators

CLOSURE

Invitation to the 51th Meeting of the Administrative Board

12:45-12:50

AoB

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

(2) ACER Budget 2022 – Negotiations Update

The Chair of the Administrative Board recalled that during the past meetings, the Agency kept the Administrative Board updated on the developments over the definition of the Agency Budget 2022, and invited the Director to present the status of the ongoing negotiations and to provide information on the outreaching activities performed and the provisional outcome.

The Director explained that this budget season is a unique opportunity to foster resources, for two main reasons, namely i) the Slovene Council Presidency and ii) the Commission agreement between DG ENER and Budget about a gradual growth trajectory for the Agency. In more details, he informed that last Tuesday, the Commission submitted a formal Opinion, which will include this particular growth trajectory of the Agency. The Director also added that the Agency, along with the Brussels liaison, has tried to reach out to the budget shadow rapporteur and the Council and he is liaising with different ministries across Europe to make sure that there will be a significant number of members states supporting the Commission's amended budget proposal.

The Director further explained that the Commission Opinion consists of 25 additional members of staff over the coming 5 years (6 of which will be secondments), and mentioned that he is inviting national regular authorities ('NRAs') to integrate secondment options in their HR policy. He also mentioned that the Commission Opinion contains a breakdown of Contract Agents and Temporary Agents and the majority of resources should be assigned within the next two years (providing that this is the outcome of the negotiation). Furthermore, he asked the Administrative Board to reach out to energy or treasury contacts within their respective governments, in order to support the Agency in the final stage of the negotiation.

The Commission explained its approach to the definition of the budget for ACER and its views on the fall budgetary negotiation, with the use of data and facts justifying each additional posts and putting forward the proposal. The Commission clarified its proposal for additional staff, but not for additional budget (10 out of 25 staff members would be financed by fees, while the rest would be financed from the EU budget).

The Director argued that if the gradual growth trajectory goes through, in the absence of new tasks and new mandates, it is likely that no additional resources will be assigned to the Agency, as the matter has already been discussed for a long time. Hence, he highlighted that in 2023 the focus will be on TEN-E negotiations, the Agency's new tasks and corresponding new resources, the gas package and possible new tasks for the Agency. With regard to secondments, he invited the Administrative Board to reach out to its contacts within national authorities and governments, and to inform them about the secondments opportunities in the Agency.

Upon invitation by the Administrative Board, the Commission clarified that according to the legal basis, the fees are financing only specific activities and therefore, the Agency must keep track of the posts financed by the fees. The same is appropriate also for other posts that have been identified for specific needs.

- Conclusion:*
- (1) The Administrative Board thanked the Director, the Agency and the Commission for the continuous efforts in attempting to address the Agency needs.
 - (2) The Administrative Board acknowledged that resources are essential for achieving the Agency's mandate, especially within the legal team, the Board of Appeal and the market surveillance department.
 - (3) The Administrative Board welcomed the Agency's efforts to gather support in the Council at the crucial time leading up to the conciliation phase.
 - (4) The Administrative Board asked the Agency to start negotiations at early stage to optimize the outcome for the budget 2023.

(3) ACER partial return to the office: teleworking and presence in the fall & beyond

The Chair recalled that the Agency maintained the Administrative Board informed about the working arrangements maintained during the course of the pandemic and invited the Director to present the model that the Agency is currently employing in light of the current evolution of the pandemic.

The Director recalled the lockdown period and the gradual return to the office, which for a long time took place on a voluntary basis. He also recalled that last April, the senior management started to discuss the return to the office, as the pandemic situation in Ljubljana was improving; he explained that the discussions were focused on the current circumstances, the measures undertaken by the Agency and the ones adopted in the immediate surroundings (greater Ljubljana).

In this regard, the Director emphasised that the principle behind the new working model was to broadly align the Agency's approach with the one adopted in the immediate surroundings. He explained that there was a significant difference between the Agency's return to work policy and the approach of the immediate surroundings and therefore, last May the senior management decided to implement a regularised mix of teleworking and office presence, to the extent that this was safe and reasonable. He added that although the senior management assessed the efficiency of teleworking arrangements, there were aspects such as innovation, cross-departmental collaboration, unscheduled interaction, on-boarding of new colleagues, as well as other intangible cultural aspects, which were difficult to measure and could have been a risk for the Agency in the long-term. He also mentioned that last May, the Staff was promptly informed about the changes coming up after the summer and the Agency started to prepare a Frequently Asked Question (FAQ) document, which has been regularly updated.

The Director informed the Administrative Board that the new 50-50 working model (50 per cent teleworking and 50 per cent office presence calculated on a weekly basis) will take effect from middle of October 2021, while a transitional measure of four days obligatory presence in the office every two weeks was applied from middle of September up until middle of October. Nonetheless, the Director mentioned the implementation of strict access requirements to enter the Agency's premises (in line with national measures), which staff is expected to comply with.

The Director also informed that it was discussed with the Staff Committee whether access requirements should be controlled at the entrance and explained that while this may provide further reassurance, on the other hand it requires a legal basis in the specific jurisdiction. He pointed out that the practice of controlling access requirements is now possible in Slovenia from a legal point of view, although recent amendments to these requirements are currently being challenged before the Constitutional Court of Slovenia. Hence, the Director reflected that sometimes it is not easy to broadly align with the Agency surroundings, especially when the measures are rapidly changing. Nevertheless, he clarified that for the moment, in order to access to the Agency premises, members of staff must be either vaccinated, must have done a valid Covid-19 test, or must prove recovery from the Covid-19 virus.

The Director further informed that the Agency is providing self-testing kits and has put in place behavioural (use of mask) and distancing guidelines, including encouraging having a maximum of $\frac{3}{4}$ presence per floor; in addition, the Agency has taken measures in relation to air quality, purifiers and light. Nonetheless, the Director informed about the flexibility of the model and the possibility to apply derogations; in more details, he explained that the 50-50 model applies on a weekly basis, but this can be derogated, applying a monthly calculation instead (if flexibility is deemed relevant). He also pointed out that further derogations are possible, but granted exceptionally, for example, in case of dependency situations.

The Director stressed that this working model is likely to be adjusted and updated, in line with the changes made in greater Ljubljana, and also on the basis of the lessons learnt during its implementation.

The Director emphasised that this teleworking regime is transitional and the Commission is likely to adopt a new teleworking regime soon.

The Administrative Board asked about the epidemiological situation in Slovenia and whether the Staff Committee was involved in the decision before taking the measure. The Administrative Board also commented on the different approaches on teleworking across Europe and outside Europe, and argued that considering different people's feelings and preferences on teleworking, as well as the demonstrated increase in productivity, teleworking should be embraced even after the pandemic as a standard working arrangement.

In addition, the Administrative Board questioned the actions of the Agency in relation to three main pandemic related issues, namely, travelling (and corresponding travel policy), health insurance coverage, and up keeping of good management and evaluation practices during teleworking.

The Director explained that the current epidemiological situations in Ljubljana is not ideal, but the Agency is aligning with the measures and practices undertaken in the immediate surroundings, instead of focusing on the metric of Covid cases. He also explained that the Staff Committee was involved in the decision of the new working model and informed that there were varied opinions on it among members of staff. The Director agreed that it would be good to keep the 50-50 working model also after the pandemic and explained that members of staff are allowed to come to the office more than the 50 per cent threshold, should they wish so.

With regard to business travelling, the Director explained that for the purposes of the 50-50 working model, this is counted as office presence, and in case of quarantine requirements, the Agency will not enforce any office presence obligations. He also clarified that the Agency's health insurance is already covering any condition contracted abroad; in relation to good management, he clarified that the Agency has developed skills on handling work in remote environments, carrying on courses and sharing experiences on it.

Ms BORISSOVA, Head of Corporate Services, informed that the Agency does not encourage missions during the pandemic, as per internal guidelines, and allows them only if it is strictly necessary. On the internal good management skills, Ms BORISSOVA added that the Agency has developed 'etiquettes' and guidelines to answer all teleworking related questions, and practicalities have been discussed internally on a weekly basis, including the maintenance of synergies within teams, especially for new staff members (although they are now physically on boarded).

The Administrative Board enquired as to whether the security and safety measures at ACER were based on the best practices defined by the ECDC (European Centre of Disease Control) and the Commission. In this respect, the Director argued that different EU agencies are practicing very significant different models, mainly depending on their location, and there is no standard measure for it. He explained that it would not be appropriate to have measures in place which are radically different from the Agency's immediate surroundings, and there are also organizational risks associated with just teleworking, reason why the Agency decided to adopt a balanced approach.

- Conclusion:*
- (1) The Administrative Board supported the 50-50 working model presented by the Director.
 - (2) The Administrative Board maintained that the security measures are of paramount importance to ensure the safety of the staff, also given the limited human resources available at the Agency.
 - (3) The Administrative Board invited the Agency to keep on reporting about any development regarding this topic.
 - (4) The Administrative Board underlined the importance of the good management to gain efficiency and diminish potential unintended side effects.

(4) Report on the Agency's activities

4.1 Implementation of the Greening Action Plan

The Chair of Administrative Board invited Ms BORISSOVA to present the implementation of the Greening Action Plan 2021-20221 and the achievements reached so far.

Ms BORISSOVA began by thanking the Administrative Board and the Chair for their continuous support towards the development of the action plan and for inviting the Agency to regularly report on it. She pointed out that all the staff is committed to both the mission of the Agency and the environmental cause behind it, and highlighted that the Agency is among the first EU agencies which have adopted a comprehensive greening action plan. She emphasised that this entails the responsibility of setting the example, and to give the impetus to other EU agencies to be a role model on the implementation of greening measures for all other sectors.

Ms BORISSOVA then introduced Ms HENTZ, Finance and Contracts Assistant in the Corporate Services, who delivered the presentation on the results achieved by the Agency since the adoption of the greening action plan.

Ms HENTZ explained that the Greening Action Plan 2021-2022 focus on 6 action domains, including 1) design of sustainable buildings and working spaces, 2) optimization of energy consumption and systems, 3) air travel, 4) reduction of emissions, 5) reduction of consumption of GHG emissions and 6) communication. She also mentioned 7 concrete action points, although the presentation focused only on the actual achievements of each action domains.

Ms HENTZ informed that with regard to sustainable buildings and working spaces, the Agency managed to close a contract with Deloitte for a workplace strategy, in order to identify the best working

arrangements on premises, including work space reduction. On energy consumption, she mentioned the conclusion of two contracts, one for the installation of led lights and sensors in the office premises, and the another one for the bathroom renovation, which includes energy saving automations.

In addition, Ms HENTZ informed about the implementation of the Greening Ambassadors Group, consisting of seven volunteers across the Agency, which focuses on staff engagement and communication efforts among the staff, and which will soon launch a survey on individual actions related to carbon footprint reduction. She further added that at the moment, the Agency is receiving electricity from 100% Renewable energy resources (RES) and clarified that following the recent investments in led lights and sensors, the monthly reports provided by the landlord will be instrumental to assess the difference made by those investments in the long run.

Nonetheless, she mentioned that the Agency expressed its interest to join an inter-institutional FWC for consultancy services on carbon footprint, offsetting of carbon emissions and EMAS certification calculation for agencies; she informed that the FWC is expected to be signed in Q3/Q4 2022. Regarding the reduction of air travel, she mentioned that members of staff are fully migrating to cloud-based video conferencing and telepresence solutions; she also mentioned the implementation of carbon footprint calculation on MIPS. With regard to reducing purchase and consumption of GHG emissions, she informed that environmental aspects were also introduced in a tendering procedure for stationery and office supplies.

Furthermore, Ms HENTZ informed that the Agency will take part in the Annual Greening Network event, as well as in the inter-institutional workshops on the introduction of climate neutrality in EU institutions. She also mentioned that the Agency website includes a section on the greening action plan and a communication campaign was also launched on social media platforms. She then added that upon the conclusion of the staff survey, the Greening Ambassadors will analyze the results collected and will launch an annual competition of volunteers for a green change, who will try to motivate staff with the aim to reach greening improvements also on an individual level.

The Administrative Board thanked Ms HENTZ for the presentation and congratulated the Agency for the results achieved and informed that this topic will also be discussed at the afternoon joint meeting.

4.2 Outcome of the investigations on the 8th January system split incident

Upon invitation of the Chair, Mr GABRIJEL, Team Leader of System Operation and Grid Connection Code Team, briefed the Administrative Board about the outcome of the investigations regarding the 8th of January system split incident.

The Administrative Board thanked Mr GABRIJEL and the Agency for the efforts put into this file.

4.3 Implementation of the communications and dissemination plans

The Chair of Administrative Board moved to the next item of the agenda, recalling that the Administrative Board has already formally adopted the Communication Strategy and the Communication and Dissemination plans, and throughout the year, the Agency has put significant effort in implementing them. He invited Ms SHORTALL, from the Strategy Delivery and Communication Team, to present the further actions undertaken by the Agency in this context.

Ms SHORTALL, Information and Communication Officer of the Director's Office, explained that the presentation is focused on new initiatives related to the implementation of the communication strategy. She informed that the Agency is using the Slovenian Presidency of the Council to develop the Agency's high-level outreach and she mentioned the recent Commissioner's visit to the Agency premises and the ACER 'Hard Questions' Roundtable of 21 September 2021, which saw the presence of the Commissioner, few ministers, NRAs, academics, and businesses. She also explained that the Agency is contributing to key institutional debates covering a range of energy topics and she also mentioned the Agency's upcoming events, stressing that the objective is to provide the Agency's expertise and to deepen the political understanding of the Agency's role.

In addition, Ms SHORTALL mentioned the Agency's press release on the final report on the separation of the Continental Europe power system on 8 January 2021, which tries to simplify and bring key messages to the wider audience. She also informed about the Head of the Gas Department's interview on Euronews Channel and the Director's interview for the Energy Monitor, as well as his presence at ministerial level and Eurogroup. She then informed that the Agency is aligning communication with the Commission, with the aim to provide the Agency expert advice and to play a role in addressing the public perception on rising energy prices and to act as a multiplier of EU messages.

Ms SHORTALL emphasised the focus and the efforts on data visualization, infographics and dynamic graphs and on the enhancement of transparency for stakeholder, to facilitate their engagement with the work of the Agency. She informed that the Agency is undertaking tender for infographics, and twitter feeds are being integrated into the Agency website, while colleagues are provided with guidance to grow the Agency social media community. In terms of internal communication, she explained that the team is developing a presentation about outreach activities for the Administrative Board, as well as style guidelines for the staff, while the collaboration with NRAs is being enhanced, for example through the Workstream Leadership Away Day.

With regard to the Agency website, Ms SHORTALL informed about a new online migration system (Drupal) and a new framework contract coming up. She explained that external communication will be enhanced with podcasts and data visualisation, as well as with an evolving narrative in relation to what the Agency is doing and the reasons behind it. With regard to stakeholder management, she informed that the Agency is putting efforts on enhancing the Brussels presence and on reaching out to new stakeholders, like new DSO entities. Nonetheless, she mentioned that the Agency is developing a framework for strategic direction of the Agency, with the aim to gradually build up a light ACER-wide process to enhance stakeholder building adopting a cross departmental approach.

The Administrative Board took note of the report on the implementation of communications and disseminations plans and thanked ACER for the activity performed.

4.4 Implementation of the Staff Engagement Survey Action Plan

Upon invitation of the Chair, Mr GODFRIED, Head of the Market Surveillance and Conduct Department, presented the implementation of the Staff Engagement Survey Action Plan. He recalled that at the 46th meeting, the Agency reported the results of the Staff Engagement Survey and the Administrative Board invited the Agency to report regularly on the actions undertaken to address the results with low performance.

Mr GODFRIED explained that following the results of the 2020 Staff Engagement Survey, the senior management decided to adopt a bottom-up approach, collecting inputs across the Agency. He informed that on 5 March 2021, an Inter-Agency Working Group was established, which provided the senior management with a recommend short list of 8 actions (out of 77) collected from all staff, and on 15 July 2021 the senior management adopted its Action Plan.

Mr GODFRIED further explained that the list of actions include five dimensions, namely proposal, KPIs, complexity, timeline and project responsibility (one member of the senior management team).

Mr GODFRIED pointed out that the Staff Engagement Survey Inter-Agency Working Group has taken the time to accurately evaluate the bottom-up process, including the methodology put in place, to make sure that constructive plans are included and the Agency can improve further. He also mentioned that the Staff Committee is still expected to provide feedback on the Action Plan and in October there will be a presentation to all staff members.

The Director reflected that the Staff Engagement Survey has been conducted during the fall of last year and since then, there have been many changes implemented at the Agency and commented that the answers provided in the survey could be different now. Regarding the proposal to make public the minutes of the senior management, he mentioned that a compromise was reached, whereby the agenda will be made public, but the content and discussions of meetings will be communicated verbally.

- Conclusion:*
- (1) The Administrative Board thanked the Agency for undertaking concrete actions to reduce the Agency's carbon footprint in 2021 and 2022, for the strong cross-departmental efforts, as well as for embracing innovation, sustainable ways of working and for acting in line with the greening actions of the European Commission and EU Member States.
 - (2) The Administrative Board welcomed the actions taken to reduce CO2 emissions, and the utilization of green public procurement as an impetus and innovation driver for climate friendly products and technology.
 - (3) The Administrative Board thanked the Agency for being a role model for climate protection and for promoting sustainable measures.
 - (5) The Administrative Board congratulated the Agency on the communication progress, welcoming the significant increase in outreach, the optimization of the Slovenian presidency, as well as the increased visibility of the Agency, and invited the Agency to keep the Administrative Board updated with any future developments.
 - (6) The Administrative Board welcomed the bottom-up process to collect input from all the staff, as well as the well-structured and comprehensive action plan adopted by the Agency; it also welcomed the efforts to improve the main areas of concern of the survey and invited the Agency to report on any future developments.

(5) Report on the Activities of the Board of Regulators

Upon invitation of the Chair, Ms POLETTI, the Chair of the Board of Regulators, provided a report on the activities of the Board of Regulators. She informed that the Board of Regulators is moving to a flexible approach of physical and virtual meetings and the next meeting will be physical and will take place in Ljubljana on the 27th of October. A second meeting will take place in Ljubljana (the ACER Leadership Away Days) by the end of November, which is meant for the working staff, rather than the Board of Regulators. She explained that the aim of the meeting will be to discuss the Agency's identity and contribution to the EU energy agenda, focusing on 3 main topics: 1) improvement of NRAs' cooperation and active participation in the Agency work; 2) cooperation across working groups; 3) reinforcement of the Agency's voice and improvement transparency.

Ms POLETTI informed that the term of the Chair and Vice Chair of the Gas Working Group expired and according to the Rules of Procedures, the Director and the Board of Regulators must jointly appoint the Chairperson and one or more Vice Chairperson, and two respective calls were concluded in this respect.

Ms POLETTI added that the Board of Regulators is working on the joint ACER-CEER gas decarbonization paper, which should be published in December.

Conclusion: The Administrative Board thanked the Chair of the Board of Regulators and moved to the conclusion of the meeting.

CONCLUSION

The Chair invited the Administrative Board to the 51th Meeting, which will take place on the 16th of December 2021 in Ljubljana. He also mentioned that the next scheduled meetings will take place on the 27th of January 2022 (Ljubljana), the 16th of June 2022, the 6th of October 2022 and the 15th of December 2022.

In the absence of any other business to be treated, the Chair closed the 50th meeting at 14h00.