

MINUTES

2nd Board of Appeal meeting

Monday, 9 December 2013, 12.30 – 16.30

Agency for the Cooperation of Energy Regulators

Trg republike 3, 1000 Ljubljana

Present (by alphabetical order):

Alternate	Viorel Alicus
Member	Jacques de Jong
Alternate	Nadia Horstmann
Alternate	Peter Kaderjak
Member	Ignacio Perez-Arriaga
Member	Pippo Ranci Ortigosa
Member	Herbert Ungerer
Member	Wolfgang Urbantschitsch

1. Updating on events since the previous meeting and approval of the Agenda

Welcome address from the Chairman with logistical introduction.

The Chairman communicated the resignations submitted by Mr Beatrix and Mr Maniatopoulos. The Chairman of the Administrative Board has also been informed of the said resignations.

The Agenda was approved with the consent of all the present members of the BoA.

2. Analysis and decision on the mock trial

The BoA organised a mock trial from early October for a period of two months in order to test the internal processes and templates which the Registrar has developed in the course of 2013.

During the meeting, the Rapporteur introduced the case and highlighted the issues in the case which merited further attention. His conclusions were upheld by the Board.

As the main purpose of the mock trial was to test the procedure, the key elements of the final decision were discussed but without laying them down in writing.

3. Discussion on the Experience of the mock trial, evaluation of the procedures followed and subsequent decisions

The debate focused on the experience gained by the mock trial case run with the support of the Registry. The Board reviewed the current Rules of Procedure as well as some draft templates used during the mock trial.

a) Review of the Rules of Procedure

With respect to the Rules of Procedure, the plenum discussed possible changes to the articles, including several procedural improvements or clarifications of the Rules, the possible inclusion of a right of third parties and the suspension of the application of the contested decision.

b) Templates

The draft Practice Directions to Parties to Appeal Proceedings before the Board of Appeal and a set of templates, which are to be used by the parties for lodging an appeal or in subsequent submissions, were discussed.

The plenum approved the Practice Directions and the templates (one document, containing the template cover sheet with general information, the table of annexes, the confidentiality request, the announcement of appeal and the checklist) and requested their publication on the Agency's website.

c) Instructions to the Registrar

The Board of Appeal discussed and approved the draft Instructions to the Registrar.

The plenum also discussed the scenario of a conflict of interest at the moment of submission of the appeal. In order to avoid access to the file by potentially conflicting members of the Board, the Registry, upon receipt of the notice of appeal, will circulate only the copy of the announcement of Appeal in order to allow Board members to check their position vis-à-vis the appeal.

4. AoB

A third meeting shall be held in six months' time, *inter alia* in order to appoint the Chairman and vice-Chairman pursuant to Article 1(2) of the Rules of Procedure.

For the Board of Appeal:

Chairman Prof. Ranci Ortigosa