

Minutes of the Review Panel meeting of the Administrative Board and composite 2023 assessment report on potential conflict of interest

The Review Panel assessed the annual Declaration of Interests (“DoI”), Curricula Vitae (“CV”) and Declarations of Commitments (“DoC”) submitted by the members and alternates of the Administrative Board (AB) of the Agency for the Cooperation of Energy Regulators (ACER) in order to comply with the obligation of acting independently when carrying out their duties.

The 2023 conflict of interest process for the AB members and alternates was launched by the AB Secretariat on 15 December 2022. The deadline for submission of requested documents was 31 January 2023. The 2023 exercise was for the first time fully performed through the on-line platform “E-declaration”, which was in parallel technically upgraded to facilitate the submission of documents.

The composition of the 2023 Review Panel

The members of the 2023 Review Panel were appointed by the AB at its 56th meeting on 14 December 2022.

The 2023 Review Panel was composed of **Mr Michel Thiollière**, the AB Chair, **Ms Edit Herczog**, the AB Vice-Chair, and **Ms Anne Montagnon**, European Commission member of the Board. **Ms Karin Lunning** was appointed as an alternate member of the Review Panel that was part of the panel reviewing the individual cases of Mr Thiollière, Ms Herczog and Ms Montagnon.

The assessment of the Review Panel

The Review Panel took note that all members and alternates of the AB had submitted their 2023 Declaration of Interests, CVs and Declaration of Commitment with the exception of two alternate members:

- Mr Eberhard Holstein who during the process submitted his resignation from the Board and is no longer the Board’s Alternate since 27 February 2023;
- Mr Zhecho Donchev Stankov who did not comply with the request of submitting documents for 2023 conflict of interest assessment despite several written reminders in line with the procedure stipulated by the Article 9 of AB Decision N° 16/2022. The Chair of the AB informed on 18 April 2023 the Council of the EU (being Mr Stankov Appointing Authority) about the suspension of Mr Stankov from the activity of the AB until his submission of annual documents.

The members of the Review Panel were asked to assess the submitted documents by 31 March 2023 through the e-Platform in line with the following decisions that are laying down the policy for the prevention and management of conflict of interest for the ACER AB:

- **Decision N° 02/2015 of the AB of the Agency for the Cooperation of Energy Regulators of 31 January 2015 laying down a policy for the prevention and management of conflict of interest.** The decision sets out relevant criteria to be taken into consideration in the assessment such as family ties, financial investments in any relevant commercial entity (including any investment in the energy sector) and other potential interests including, among others, professional relationship such as employment and consultancy, membership of the managing body or advisory body, other membership and affiliations.
- **Decision N° 16/2022 of the AB of the Agency for the Cooperation of Energy Regulators of 14 December 2022 laying down the Guidelines on the prevention and management of conflicts of interest for the Administrative Board and the Board of Appeal of the Agency for the Cooperation of Energy Regulators.** These Guidelines were for the first time applied in the 2023 assessment procedure.

The assessment of each AB member/alternate was performed individually by each member of the Review Panel and was followed by a meeting, which took place on 20 April 2023 (the procedure had been put on hold between 31 March and 20 April due to the absence of one member of the panel).

The Panel took note of the interests declared by the members and alternates according to different categories:

Category Name	I. Employment	II. Body membership	III. Other membership	IV. Research	V. Investment	VI. Other
Thiollière						
Herczog						
Montagnon						
Lunning						
Spiridonovs ¹						
Juul-Joergensen						

¹ Note that some members declared interests that dated over 5 years; while the conflict of interest policy stipulates taking into consideration only interests during the last 5 years.

Cuadra Garcia						
Lessenich						
Jordan						
Thomsen						
Kaderják						
Chiritoiu						
Ludwiniak						
Pikus						
Bartuška						
Čelić						

Based on the interests declared by the members and alternates, individual assessments and further discussions at the meeting, the Panel assigned to each member and alternate of the AB one of the following risk levels:

- Level 1: No relevant interests declared
- Level 2: Relevant interests declared (e.g., in the energy sector) but which do not have (and are not expected to have any for the year following the declaration) direct influence on the general decision-making process of the Administrative Board or which are not directly impacted by the Board's decision-making
- Level 3: Interests declared pertaining directly to the field of competence of the Board

The assigned risk levels for the member and alternates of the AB

Michel THIOLLIÈRE Chair	Level 1: No relevant interests declared
Edit HERCZOG Vice-Chair	Level 1: No relevant interests declared

Dr Romana JORDAN Member	Level 2: relevant interested declared in category 3 (research funding) by providing expert opinion on EU energy policy to the TSO Eles (activity finished in 07/2022)
Václav BARTUŠKA Member	Level 1: No relevant interests declared
Bogdan Marius CHIRIȚOIU Member	Level 1: No relevant interests declared
Karin LUNNING Member	Level 1: No relevant interests declared
Dr Jurijs SPIRIDONOVŠ Member	Level 1: No relevant interests declared
Ditte JUUL-JØRGENSEN Member	Level 1: No relevant interests declared
Anne MONTAGNON Member	Level 1: No relevant interests declared
Britta THOMSEN Alternate	Level 1: No relevant interests declared
Kristina ČELIĆ Alternate	Level 1: No relevant interests declared
Péter KADERJÁK Alternate	Level 3: Interests declared pertaining directly to the field of competence of the Board given his current positions of: <ul style="list-style-type: none"> - Managing Director of Hungarian Battery Association, - member of the Supervisory Board of MOL, - consultancy services to the Austrian company on renewable energy projects in Hungary, - position of a family member in the Hungarian Energy and Public Utility Regulatory Authority (responsible for energy market monitoring and supervision).

Ksenia LUDWINIAK Alternate	Level 3: Interests declared pertaining directly to the field of competence of the Board given her current positions of: - deputy Director of Energy and Gas Department (responsible for power sector regulations), - member of the Supervisory Board of the TSO – Polskie Sieci Elektroenergetyczne.
Pawel PIKUS Alternate	Level 3: Interests declared pertaining directly to the field of competence of the Board given his current positions of: - Director of Department for Electricity and Gas (responsible for electricity and gas sector regulation and policy), - member of the Supervisory Board in OGP Gaz-System S.A., - member of the Supervisory Board in SGT Europol GAZ S.A.
Christof LESSENICH Alternate	Level 1: No relevant interests declared
Cristina CUADRA GARCIA Alternate	Level 1: No relevant interests declared

Outcome of Review Panel Assessment

While the Panel assessed majority of members and alternates with the risk levels 1 and 2, which do not require further action, the Panel attributed to three alternates risk level 3. In line with the Article 11.5 of the AB Decision 16/2022, the Review Panel informed the three alternates on 20 April 2023 that a possible conflict of interests had been identified given their current positions or family situation (outlined in the table above), and invited them to present any observations within 14 calendar days (by 12 May 2023).

Since none of the three alternates had submitted an observation or provided additional information within the indicated deadline, the Review Panel reconfirmed on 5 June 2023 the assigned risk level 3 in all three cases. The final risk level assessment of the Review Panel was communicated to all three of them by e-mail on 6 June 2023.

In line with the Article 11.5 of the relevant AB decision 16/2022, the Review Panel decided to revert the matter of these three alternates to the Administrative Board for further decision and suggested the Board to discuss the matter at its upcoming 58th meeting on 21-22 June 2023.

The Review Panel also underlined that further to this assessment, the potential situations of conflict of interest would be reviewed on a case-by-case basis.

It reminded all members and alternates, especially the ones with the identified risk 2 and 3, about the obligation to inform the Secretariat of a potential conflict of interest in connection to any item on the agenda of the meeting, which could be considered as prejudicial to their independence and impartiality. It was reiterated that the latter would be checked also at the beginning of each AB meeting or launch of a written procedure. The members and alternates were also reminded about the obligation to inform immediately the AB Secretariat of any new circumstances not covered by the existing declarations, but which might arise to a potential conflict of interest.

In line with the Article 6.6 of the AB Decision 16/2022, the 2023 Composite Assessment report on potential conflict of interest of the AB members and alternates will be published on the website of the Agency.

Ljubljana, 14 June 2023

Signed by:

Michel Thiollière,
AB Chair, acting as Review Panel Member

Edit Herczog,
AB Vice-Chair, acting as Review Panel Member

Anne Montagnon,
AB Member, European Commission representative, acting as Review Panel Member

Karin Lunning,
AB Member (acting as Review Panel Alternate)