

**DIRECTOR DECISION 2019-28**

**of 22 July 2019**

**establishing the Rules on the Engagement and  
Reimbursement of Non-Remunerated Experts**

THE DIRECTOR OF THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators<sup>1</sup>, and, in particular, Article 24(1)(e) thereof,

Having regard to Decision No 8/2019 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 21 June 2019 on the adoption of the Financial Regulation of the Agency for the Cooperation of Energy Regulators, and, in particular, Article 94 thereof,

Whereas:

- (1) Pursuant to Article 94 of Decision No 8/2019 ('Agency's Financial Regulation') the European Union Agency for the Cooperation of Energy Regulators ('the Agency'), in application of Article 238 of Regulation (EU, Euratom) 2018/1046<sup>2</sup>, may reimburse travel and subsistence expenses incurred by, or where appropriate, pay any other indemnities, to persons invited or mandated by the Agency.
- (2) In light of the above, it is appropriate to establish transparent and non-discriminatory rules for the reimbursement of such travel and subsistence expenses and the payment of such other indemnities to persons invited or mandated by the Agency.
- (3) For reasons of transparency and legal certainty, it is appropriate to repeal Decision 2012-35 of 8 November 2012 of the Director of the Agency for the Cooperation of Energy Regulators on the Rules for Reimbursement of Experts,

**HAS ADOPTED THIS DECISION:**

**Article 1**

The Rules on the engagement and reimbursement of non-remunerated experts, provided in Annex I to this Decision, are hereby adopted.

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<sup>1</sup> OJ L 158, 14.6.2019, p. 22–53.

<sup>2</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, OJ L 193, 30.7.2018, p. 1–222.

**Article 2**

Decision No 2012-35 of the Director of the Agency for the Cooperation of Energy Regulators of 8 November 2012 on the Rules for Reimbursement of Experts is hereby repealed.

**Article 3**

This Decision shall enter into force on the day following that of its adoption.

Done at Ljubljana on 22 July 2019.

  
Alberto Pototschnig  
Director *ad interim*

## ANNEX I

### **Rules on Engagement and Reimbursement of Non-Remunerated Experts**

#### **Article 1**

##### **Scope**

- (1) These rules shall apply to non-remunerated experts, in particular:
- a) *Ad-hoc* non-remunerated experts, i.e.:
    - individuals from outside the Agency invited to a specific meeting, workgroup or by personal invitation, wherever the location of the meeting; or
    - individuals responsible for accompanying a disabled person who has been invited by the Agency to attend a meeting.
  - b) *Short-term* non-remunerated experts, i.e. individuals invited by the Agency to provide assistance for a fixed period of time; who
    - represent civil society or work for a private organisation (“Private-sector short-term non-remunerated experts”); or
    - represent European, national, regional or local public authority of a Member State or who have been appointed by such an authority (“Government short-term non-remunerated experts”).

#### **Article 2**

##### **Selection process for engagement of short-term non-remunerated experts**

- (1) The selection of *short-term* non-remunerated experts shall be carried out via public calls for expression of interest.
- (2) The call for expression of interest shall clearly outline the selection criteria, including the required expertise and, where relevant, the interests to be represented in relation to the work to be performed. The minimum deadline for applications shall be four weeks. The call for expression of interest shall be duly publicised having regard to the characteristics of the profile to be selected.
- (3) The Agency may depart from provisions included in paragraphs 1 and 2, where this is deemed justified, by overriding priorities or cases of urgency, based on the proposal from the department concerned and following an approval of the Director. Where it is decided

that a public call is not a suitable instrument for the selection of a specific expert, the choice of experts shall be made on the basis of objectively verifiable criteria.

- (4) The selection shall aim at ensuring, as far as possible, a high level of expertise, geographical balance, as well as a balanced representation of relevant know-how and areas of interest, taking into account the specific tasks to be performed by the experts, the type of expertise required and the response received to calls for expression of interest.

### **Article 3**

#### **Conflict of interest**

- (1) '*Conflict of interest*' means any situation where an individual, engaged as a non-remunerated expert, has an interest that may compromise or be reasonably perceived to compromise his or her capacity to act independently and in the public interest when providing advice or assistance to the Agency in relation to the subject of the work or specific tasks performed.
- (2) The Agency shall ensure transparency and management of conflict of interest in relation to invited non-remunerated experts, in accordance with the Agency's policy for the prevention and management of conflict of interest<sup>3</sup> and this Decision.
- (3) An interest shall be considered to be insignificant or minimal where it is unlikely to compromise or to be reasonably perceived as compromising the non-remunerated expert's capacity to act independently and in the public interest when advising the Agency. This may, in particular, be the case for involvement of *ad-hoc* experts attending one-off meetings and events that have merely informational role.
- (4) In other cases, in particular of involvement of short-term non-remunerated experts invited in their personal capacity or those working on Agency's objectives and deliverables, in order to ensure the highest level of integrity of experts, individuals applying to be appointed as such shall be required to disclose any circumstances that could give rise to a conflict of interest. In particular, the Agency department involving the non-remunerated expert shall require those individuals to submit a declaration of interests ('DOI') form<sup>2</sup>,

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<sup>3</sup> 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 conflict of interest.

together with an updated curriculum vitae ('CV'), as part of their application as short-term non-remunerated experts.

- (5) Submission of a duly completed DOI form shall be necessary in order for an individual to be eligible for appointment as a short-term non-remunerated expert.
- (6) The DOI form shall consist of a series of standard questions requesting individuals who wish to act as non-remunerated experts appointed in a personal capacity to disclose any interest relevant to the subject of the work to be performed. Each individual shall assume full responsibility in relation to the content of the submitted DOI. Individuals who answer questions in the affirmative shall be asked to supply further details. An affirmative answer in the DOI form does not automatically disqualify the individual concerned, but requires the competent Agency departments to have it screened in accordance with this Decision and the Agency's policy for the prevention and management of conflict of interest<sup>4</sup>, in order to determine if a conflict of interest exists.
- (7) The conflict of interest assessment shall be performed by the Head of the department responsible for the management of the non-remunerated expert in question. Heads of other departments may also participate in the assessment, as appropriate. For the purposes of the assessment, a number of factors shall be taken into account, including the nature, type and magnitude of the individual's interest, as well as the degree to which the interest may be reasonably expected to influence the individual's advice. Where the Head of department performing the assessment considers to partially or fully exclude an individual from appointment, he/she may contact the individual in order to obtain any additional information that may be needed for the final assessment of any conflict of interest.
- (8) The DOI Form<sup>5</sup> shall be submitted before the starting date of the short term non-remunerated expert and approved by the Director of the Agency.
- (9) Where the assessment concludes that no conflict of interest exists, the individuals in question may be appointed as non-remunerated short term experts, provided they possess the expertise required and the other conditions set in this Decision are fulfilled.

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<sup>4</sup> 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 conflict of interest.

<sup>5</sup> Provided in Annex I 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 conflict of interest.

- (10) Where the assessment concludes that the individuals' interests may compromise or be reasonably perceived as compromising their capacity to act independently and in the public interest when providing advice to the Agency, one of the following measures shall be taken to deal with the conflict, depending on the specific circumstances:
- a) the individual's application shall not be retained and the expert shall not be engaged and/or the Agency may withdraw its invitation to the expert; in such case the competent Agency department shall inform the individual about the outcome of the conflict of interest assessment; or
  - b) the individual's engagement as a non-remunerated expert shall be made subject to specific restrictions, such as the expert's exclusion from certain meetings and/or activities carried out by the Agency, in particular participation in drafting opinions or recommendations or the expert's abstention from the discussion on specific items on the agenda and/or from any vote taken on those items.

#### **Article 4** **Confidentiality and Personal data**

- (1) Personal data shall be processed in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018<sup>6</sup>.
- (2) The experts having access to sensitive and/or confidential information shall be requested to submit a Confidentiality and Non-Disclosure Declaration prior to their engagement.
- (3) Experts processing personal data on behalf of the Agency shall be required to submit a signed Data Processing Agreement<sup>7</sup> prior to their engagement.

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<sup>6</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance.), OJ L 295, 21.11.2018.

<sup>7</sup> See Annex J of Decision 2018-4 of the Director of the Agency for the Cooperation of Energy Regulators of 28 June 2018 on the adoption of Guidelines for Project Managers.

## **Article 5**

### **Liability**

- (1) The Agency shall not be liable for any material, non-material or physical damage suffered or caused by non-remunerated experts in the course of their journey to or from the place where the meeting is held or their stay therein.
- (2) In particular, non-remunerated experts who use their own means of transport for travelling to a place where the meeting is held, shall be entirely liable for any damage that they might suffer or cause.

## **Article 6**

### **Reimbursement entitlements**

- (1) Reimbursement of expenses of non-remunerated experts is not mandatory.
- (2) Non-remunerated experts shall be entitled to reimbursements according to Articles 7 to 12 of these Rules only when this is explicitly indicated in the invitation issued by the Agency, as follows:
  - a) *Ad-hoc* non-remunerated experts may be reimbursed based on an invitation letter sent out by the Director of the Agency, indicating the time and location of the meeting, as well as the amounts reimbursable. The Rules for reimbursement, as well as all the necessary forms to be filled out, shall be provided with the invitation;
  - b) *Short-term* non-remunerated experts shall be reimbursed based on an exchange of letters between the Director of the Agency and the experts or their employer. Exchange of letters shall define the type of assistance needed, the time-length and the amounts reimbursable. The exchange of letters should clearly stipulate that the expert shall not exercise any responsibilities that belong to the Agency by virtue of the powers conferred upon it, and that the expert shall remain in the service of his/her employer throughout the period that he/she assists at the Agency's premises.

## **Article 7**

### **Reimbursement of travel expenses**

- (1) Non-remunerated experts entitled to reimbursement based on Article 6 of this Decision, shall be entitled to the reimbursement of their travel expenses from the place specified in their invitation (work or home address) to the place of the meeting, by the most appropriate means of transport given the distance involved. For journeys of less than 400 km (one way, according to official distance by rail) this shall be first-class rail travel, and for distances of more than 400 km economy class air travel.
- (2) If the journey by air involves a flight of 4 hours or more without stopovers, the cost of a business class ticket shall be reimbursed.
- (3) The Agency shall try to ensure that meetings are organised in such a way as to enable experts to benefit from the most economical travel rates.
- (4) The Authorising Officer shall scrutinise particularly closely any requests for reimbursement involving abnormally expensive flights. He or she shall have the right to carry out any checks that might be needed and to request any proof from the expert required for this purpose. He or she shall also have the right, where it appears to be justified, to restrict reimbursement to the rates normally applied to the usual journey from the expert's place of work or residence to the meeting place.
- (5) Travel expenses shall be reimbursed on presentation of original supporting documents: tickets and invoices or, in the case of online bookings, the printout of the electronic reservation and boarding cards for the outward journey. The documents supplied must show the class of travel used, the time of travel and the amount paid.
- (6) The cost of travel by private car shall be reimbursed at the same rate as the first-class rail ticket.
- (7) If the route is not served by a train the cost of travel by private car shall be reimbursed at the rate of EUR 0.28 per km.
- (8) Airport transfer using public or shared transportation (airport shuttle) shall be reimbursed based on the costs incurred.
- (9) Taxi fares shall not be reimbursed, unless the Authorising Officer provides prior-authorisation, based on justification of the costs.

## **Article 8** **Daily allowance**

- (1) Non-remunerated experts entitled to reimbursement based on Article 6 of this Decision may be granted daily allowance. The daily allowance paid for each day of the meeting is a flat rate to cover all expenditure at the place where the meeting is held, including for example meals and local transport (bus, tram, metro, taxi, parking, motorway tolls, etc.), as well as travel and accident insurance.
- (2) The daily allowance depends on where the meeting is organised and shall be set in accordance with the table ('Allowances') provided in Annex A to these Rules.
- (3) If the place of departure cited in the invitation is 100 km or less from the place where the meeting is held, the daily allowance shall be reduced by 50%.
- (4) Experts, who have to spend one or more nights at the place where the meeting is held because the times of meetings are incompatible with the times of flights or trains<sup>8</sup>, shall also be entitled to an accommodation allowance. This allowance per night shall be in line with Annex A – Allowances. The number of nights may not exceed the number of meeting days + 1.
- (5) An additional accommodation allowance and/or daily allowance may, exceptionally, be paid if prolonging the stay would enable the expert to obtain a reduction in the cost of transport worth more than the amount of these allowances, or when travel by the most appropriate means of transportation involve an overnight stop-over *en route*.
- (6) Unless stated otherwise in the letter of invitation, experts attending meetings shall be entitled to a daily allowance for each day of the meeting and, where appropriate, an accommodation allowance, on condition that they declare on their honour that they are not receiving a similar allowance or similar allowances from another institution for the same meeting. The Authorising Officer shall ensure consistency between the content of the letters of invitation and the request for reimbursement.
- (7) Non-remunerated experts providing short-term assistance shall receive a daily allowance for each day of visit at the Agency's premises, and, where appropriate, an accommodation allowance, on condition that they declare on their honour that they are not receiving a

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<sup>8</sup> As a general rule, experts cannot be required: to leave their place of work or residence or the place where the meeting is held before 08.00; to arrive at the place where the meeting is held after 22.00; to arrive at their place of work or residence after 22.00 (airport, station or other means of transport).

similar allowance or similar allowances from their own employer or administration for the same visit. The Authorising Officer shall ensure consistency between the agreement reached in the exchange of letters and the request for reimbursement.

- (8) The Authorising Officer may, by reasoned decision and on presentation of supporting documents, authorise the reimbursement of expenses that invited experts have had to incur as a result of special instructions they have received in writing.
- (9) All reimbursements of travel expenses, daily allowances and/or accommodation allowances shall be made to a single bank account.

## **Article 9**

### **Request for reimbursement**

- (1) The payment order shall be drawn up on the basis of the request for reimbursement, duly completed and signed by the expert and by the secretary of the meeting responsible for certifying the expert's presence.
- (2) Experts must provide the secretary of the meeting with the documents necessary for their reimbursement, as required by the financial rules applicable to the Agency, by letter, fax or e-mail postmarked or dated no later than 30 calendar days after the final day of the meeting.
- (3) The Agency shall reimburse the experts' expenses within the period laid down in the Financial Regulation of the Agency as adopted by Decision AB 8/2019 of 21 June 2019.
- (4) Unless the expert can provide a justification that is accepted by reasoned decision of the Authorising Officer, failure to comply with paragraph 2 of this Article shall absolve the Agency from any obligation to reimburse travel expenses or pay any allowances.

## **Article 10**

### **Reimbursement in euros**

- (1) Travel expenses shall be reimbursed in euros, where appropriate at the rate of exchange applying on the day of the meeting.
- (2) The daily allowance and, where appropriate, the accommodation allowance, shall be reimbursed in euros at the rate applicable on the day of the meeting, in line with Annex A – Allowances.

**Article 11**  
**Specific provisions for expenses incurred by disabled experts**

Where, taking into account any expenses incurred by disabled experts as a result of their disability or any person accompanying them, the allowances provided for in Article 8 of these rules appear to be clearly inadequate, the expenses may be reimbursed as approved by the responsible Authorising Officer on presentation of supporting documents.

**Article 12**  
**Expense reimbursement form**

The form provided in Annex A to these Rules shall be used when claiming the incurred expenses.

## Annex A

### **EXPERTS EXPENSES REIMBURSEMENT FORM**

Please complete and sign this form and send it with all the supporting documents to the following address: **European Union Agency for the Cooperation of Energy Regulators, Trg Republike 3, 1000 Ljubljana, Slovenia**

#### **PART A**

##### Meeting/visit details:

Reference and date of the meeting/visit: \_\_\_\_\_

Name of participant: \_\_\_\_\_

I do not receive similar reimbursements from another organisation.

#### **PART B**

##### Means of transport:

**Plane** (please attach boarding passes, copy of the ticket / invoice with the price)

- Total price (please specify currency) \_\_\_\_\_

**Car** (in case the route is not served by a train and only if the car has been the principal means of transport)

- Place of origin: \_\_\_\_\_

- Number of kilometres (*as per www.viamichelin.com*) \_\_\_\_\_

**Train** (only if it has been the principal means of transport and not in combination with other means)

- Total price (please specify currency and attach train ticket) \_\_\_\_\_

**Accommodation** (please attach hotel invoice)

- Total price (please specify currency) \_\_\_\_\_

**Other** (any other costs for which a reimbursement authorisation has been obtained from ACER)

- Total amount (please specify currency) \_\_\_\_\_
- **Total cost to be reimbursed** \_\_\_\_\_

### **PART C**

#### Payment details:

Payment to be made to: \_\_\_\_\_

(Name of person or institution)

Bank account number of recipient: \_\_\_\_\_

#### **Important:**

If working with the Agency for the first time, please provide completed legal entity and bank account forms (available from the contact person in the Agency).

**Date and signature:** \_\_\_\_\_

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#### ***Agency use only:***

#### **Eligible expenses assessment:**

	Eligible costs	Remarks
Transport		
Accommodation		
Eligibility verified by:		
(Name, signature, date)		

**Allowances<sup>9</sup>**

Countries	Allowance per day of meeting (€)	Accommodation allowance (€)
Austria	102	132
Belgium	102	148
Bulgaria	57	135
Croatia	75	110
Cyprus	88	140
Czech Republic	70	124
Denmark	124	173
Estonia	80	105
Finland	113	142
France	102	180
Germany	97	128
Greece	82	112
Hungary	64	120
Iceland	85	160
Ireland	108	159
Italy	98	148
Latvia	73	116
Lithuania	69	117
Luxemburg	98	148
Malta	88	138
Netherlands	103	166
Norway	80	140
Poland	67	116
Portugal	83	101
Romania	62	136
Slovakia	74	100
Slovenia	84	117
Spain	88	128
Sweden	117	187
Turkey	55	165
United Kingdom	125	209

<sup>9</sup> For meetings organised in other countries, the daily allowance and accommodation allowance will be set at EUR 100 each, unless a different amount is specified in the invitation letter.