

## Explanatory Note

The Articles of Association ('AoA') and Internal Regulations ('IR') of ENTSO-E ('ENTSO-E' or the 'Association') have been reviewed and adjusted to ensure compliance with Belgian law and to ensure that they are still fit for the Association.

The latest amendments to the AoA and IR were made in 2014. Since then, the evolution in Belgian and European law (e.g. the new Belgian Code of Companies and Associations, the new defined TSOs, the further elaboration of ENTSO-E's and RSCs' (/RCCs') tasks, the implementation of Network codes and Guidelines and announced new regulations, partly to be proposed in cooperation with DSOs) required the AoA and the IR to be amended. Another trigger for amendments is to build on the lessons learned from the application of the current AoA and IR, and the requirement for a more flexible organization as experienced during COVID.

The amendments made can be divided into different categories. Each section of this document highlights one of these categories, underlining the objective and the main aspects of the amendments.

### 1. Technical alignment

First of all, a number of amendments had to be made to the AoA and the IR in order to "technically align" the AoA and the IR with the provisions of Belgian association law. As set out below, these amendments bring no change of the content, rights or responsibility. These amendments were already presented to you in February 2021.

The new Belgian Code of Companies and Associations ('the new CCA'), in force since 1 May 2019, requires these changes. The new CCA stipulates that certain topics (e.g. the rights and obligations of members, powers and decision making of the assembly and of the board, ...) cannot be included in the IR but have to be included in the AoA. ENTSO is obliged to bring its AoA and IR in compliance with the new CCA by 1 January 2024 at the latest.

To fulfill the above requirements, ENTSO-E transfers some provisions from its IR to its AoA. The content of the provisions themselves remains unchanged and does not entail any change in rights and responsibilities. To ensure that the new AoA adequately and transparently reflect the governance of the Association, the "technical alignment" transfers from the IR into the AoA slightly more provisions than what is strictly legally required. The right column of the amendments mentions which provisions of the current IR are transferred to the AoA so that you can easily verify the absence of content related changes.

These technically aligned version of ENTSO-E's AoA and IR serve as a starting point for the elaboration of additional content related changes explained below.

### 2. Flexibility and increased resilience

The second category of amendments aims to bring a higher level of generality to the AoA and IR to keep them more flexible and resilient. Therefore, the amendments aim at:

- *reducing legal maintenance* by avoiding, whenever it is legally appropriate, mentioning or repeating specific legal references and concepts which have a considerable risk of being quickly outdated as legislation changes regularly;
- *smoothing internal processes* (i) by introducing a higher level of generality so that the Association can quickly and smartly react to any situation (e.g. determine the registered seat in reference to Brussels Capital Region rather than an exact address to facilitate the procedures in the event of a change of office), and (ii) by adapting some processes to reflect new practices or improve consistency (e.g. use of digital tools for meeting and voting procedures inspired by the COVID situation).

### **3. Clarify the Association's purpose and activities**

The purpose and activities of the Association is updated to consider the last decade's experiences, changes in the law and new needs (Article 4 AoA).

The list of activities is updated to consider new ENTSO-E tasks and its expected role in the implementation of Network Codes and Guidelines.

Further to the responsibilities given to ENTSO-E by the applicable European law, the amendments also clarify that ENTSO-E is the common voice of TSOs and a unique expert advisor actively contributing to the energy transition.

### **4. The rights and duties of the members**

Furthermore, the common mission of ENTSO-E and its members, as the European TSO community, are emphasized: ensuring the stability of the pan-European interconnected power system by establishing robust cooperation and coordination between every TSO connected to the system especially and most importantly on aspects of technical relevance. This close collaboration and the know-how and information exchange between ENTSO-E Members within the Association are essential for the Association and the TSOs to fulfil their missions and react to unexpected events. The implementation of the Common Grid Model and the recent synchronization of Ukrenergo are perfect illustrations of this.

Successfully delivering on ENTSO-E's purpose and mission is only possible with the full involvement of all its Members. This is the reason why their rights and obligations are clarified and sometimes extended under a new umbrella provision (Article 15 AoA) listing non-exhaustively in a single place the main rights and duties of the Members.

Such an approach aims mainly at ensuring that the Members comply with the rules issued by the bodies of the Association and that the Members provide sufficient technical expertise to the Association. In that respect, a new Assembly competence is added in Article 17 of the AoA on the Assembly's role to address resource matters when needed.

### **5. Streamlining the decision-making process**

The provisions regarding the respective roles, responsibilities and powers of the bodies of the Association are sharpened to streamline and make the decision-making process quicker and more efficient.

No profound changes in roles and duties are introduced but, building on the experience gained since the creation of the Association, a streamlining exercise is done, introducing the following clarifications:

- the Assembly remains the body having all decision-making power except if otherwise provided in the AoA and is the body in charge of approving the key documents defining the activities of the Association (i.e., Annual Work Programme and budget) but will focus more on acting as a source of inspiration for the strategic orientation of deliverables and other key strategic developments upon recommendation of the Board and less on operational and technical tasks;
- the Board is confirmed in its operational and cross-Committee role to support the running of the Association and monitor the implementation of the strategy;
- the Committees are confirmed as technical decision-making bodies assigned with matters delegated either by the Assembly or the Board; and
- the Secretariat supports the respective bodies in the accomplishment of their missions.

The possibilities for the Committees and the LRG to approve position papers without the need for a subsequent Board approval is introduced under certain conditions.

To provide clearer coordination in case of projects/tasks affecting the interests or competencies of more than one Committee and/or the LRG (cross-Committee implication matter), another change foresees that the Board will assign upon the recommendation from the Committee and LRG Chairs a single leading role to a Committee/the LRG in charge of managing and voting on the item.

Finally, the newly established Information and Communication Technologies Committee is introduced and the Assembly's written voting process is reviewed by analogy with the current Board process so that it becomes more systematic and quicker allowing better quality meetings.

## **6. Streamlining the election processes**

The efficiency of the election procedures is improved by making the modalities more flexible and adjustable to specificities of the election that takes place (e.g., the order in which the elections take place, to hold the election informally by applause in case there is only one candidate for an open mandate).

As for Board membership, eligibility requirements creating unnecessary administrative burdens is removed (e.g., requiring to be an Assembly member representative or substitute representative to be a candidate for a Board mandate) and its diversity in terms of skills and ability to represent the specificities of as many Members as possible is reaffirmed.

## **7. Budget and resource matters**

Some budget-related amendments are introduced to formalise certain practices from experience and lessons learned. Notably, for sake of legal certainty, it is clarified that the budget of the Association can be composed of other resources than contributions of the Members, Associated Members and Observer Members (e.g., revenues of administrative services for the management of TSOs cooperation as a platform and facilitator) without impacting the disinterested purpose of the Association.

Another amendment aims at reflecting more transparently and accurately the expertise and services gathered by the Association to the benefit of Associated and Observer Members by replacing the fixed and capped fee with a more objective system considering on a case-by-case basis the expected support.

Finally, it is clarified that any resigning/excluded Member has no rights to the Association's assets or to fees paid to the Association.