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work better for society.

## DECISION n° 158

### *of the Management Board of the European Union Agency for Railways adopting Rules for the prevention and management of conflicts of interest in respect of the members of the Board(s) of Appeal of the European Union Agency for Railways*

#### **THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR RAILWAYS,**

Having regard to Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways (hereinafter referred to as “the Agency”) and repealing Regulation (EC) No 881/2004 (hereinafter referred to as “Regulation (EU) 2016/796”), and in particular Articles 51 § 1 point (s) and 55 to 62 thereof,

Whereas:

- (1) The members of the Board(s) of Appeal are to be appointed by the Management on the basis of their relevant competence and experience;
- (2) The Agency may reasonably expect that no such member would ever use his or her position with a view to serving interests other than those required to be served for the purpose of ensuring the independent and efficient functioning of the Board(s) of Appeal (hereafter ‘BoA’) of which he or she has been appointed a member;
- (3) In addition, Article 57 of of Regulation (EU) 2016/796 does not allow the participation of the members of the Board(s) of Appeal in appeal and arbitration proceedings under certain circumstances specifically prescribed therein and sets up exclusion and objection procedures to this end;
- (4) In light of the sensitive nature of the tasks to be performed by the Board(s) of Appeal members, specific rules should be laid down in order to prevent or settle actual and/or potential conflicts of interest and provide the necessary safeguards that the Board(s) of Appeal act(s) impartially, demonstrate(s) integrity and maintain(s) high professional standards;
- (5) There should be no legitimate reason giving rise to suspicions that the decisions of the Board(s) of Appeal have or might be influenced by interests directly or indirectly conflicting with the interests represented by the Agency in its role as an EU body, or by private interests or affiliations of any member of the Board(s) of Appeal which could create –or have the potential to create– a direct or indirect conflict with the proper performance by the person concerned of its official duties as a Board(s) of Appeal member or alternate;
- (6) The main rationale behind these rules is based on the need to establish the principles governing impartiality and independence of the Board(s) of Appeal members or alternates and define the measures to ensure their practical application in order to prevent and, where possible, to mitigate the potential risks which past, current or future interests, liable to exercise improper or undue influence on the impartiality of the Board(s) of Appeal members during the performance of their duties, might create. In addition, it is essential that the impartiality and the

independence of the members of the Board(s) of Appeal be guaranteed. For this reason, those rules maintain a framework favouring pro-disclosure rather than pro-disqualification.

- (7) When a member of the Board(s) of Appeal fails, whether intentionally or through negligence on his or her part, to fulfil his or her obligations imposing on him or her the duty to declare in a complete and timely manner the interests which might compromise his or her independence, remedial measures should be put in place and applied accordingly.
- (8) Each member of the Board(s) of Appeal will be required to submit a Declaration of Interests (DoI) concerning him or her upon his or her appointment. A Declaration confirming the Absence of Conflicts of Interest (DACoI) should also be submitted by the members of the Board(s) of Appeal, deciding on the appeal immediately prior to the institution of the appellate proceedings.
- (9) Ensuring the independence of and establishing high standards of ethics and professional conduct to be demonstrated by all those who are involved in the activities of the Agency, and in particular by the Board(s) of Appeal members, is an absolute prerequisite for establishing and maintaining the trust of stakeholders and citizens in the Agency's integrity, reputation and efficiency;
- (10) The responsibility for providing a complete, accurate and timely declaration of any interest which might be considered prejudicial to his or her independence and of keeping such declaration up-to-date lies solely with the Board(s) of Appeal member concerned;
- (11) Having an interest does not necessarily mean having a conflict of interest and declaring such interest does not automatically entail disqualification, removal or limitation of participation of the declarant in the activities of the Board(s) of Appeal. High-level expertise required to perform the functions of a Board(s) of Appeal member is inherently built on prior experience and knowledge acquired in the relevant field. However, transparency and openness are also essential to fostering public confidence in the Agency's work. Therefore, a fair balance would have to be struck between the desire to ensure the right expertise in order to guarantee high quality science-based decision making and the need to strictly avoid conflicting interests influencing or seen as influencing the decision-making process and causing its legitimacy to be challenged or called into question.
- (12) Any conflict of interests should be promptly identified, handled and mitigated without undue delay. To this end, it is not so much a matter of eliminating any possibility of conflicts of interests but rather of establishing and maintaining a system which would allow both for the members of the Board(s) of Appeal to declare their interests at the earliest opportunity –or as soon as they become aware of the existence of a declarable interest– and for such interests to undergo subsequently scrutiny and assessment by the actors specifically designated for that purpose;
- (13) The present rules have been drawn up with due consideration of the recommendations issued by the European Court of Auditors in its Special Report No. 15 of 2012 on the Management of Conflict of Interest in Selected EU Agencies<sup>1</sup>, the European Commission's Guidelines on the prevention and management of conflicts of interest in EU decentralised Agencies (hereinafter referred to as the "European Commission Guidelines")<sup>2</sup>, the ERA Administrative Board Conflicts of Interest policy<sup>3</sup>, EU case-law as well as the OECD Guidelines for Managing Conflict of Interest in the Public Service<sup>4</sup> (hereinafter referred to as the "OECD Guidelines").
- (14) Where the term "members" or "BoA members" is used in the text of the following rules, the relevant provision should be construed as covering both members and alternates of the Board(s) of Appeal, unless explicitly provided otherwise therein.

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<sup>1</sup>. Recital No. 34 of Regulation (EU) 2016/796.

<sup>2</sup>. Guidelines on the prevention and management of conflicts of interest in EU decentralised agencies, 10.12.2013, accessible at: [https://europa.eu/european-union/sites/europaeu/files/docs/body/2013-12-10\\_guidelines\\_on\\_conflict\\_of\\_interests\\_en.pdf](https://europa.eu/european-union/sites/europaeu/files/docs/body/2013-12-10_guidelines_on_conflict_of_interests_en.pdf).

<sup>3</sup>. ERA Administrative Board Conflicts of Interest Policy, adopted during the 35<sup>th</sup> MB meeting on 24.03.2015, accessible at: <http://www.era.europa.eu/Document-Register/Documents/ERA%20AB%20Conflicts%20of%20Interest%20Policy%20adopted.pdf>.

<sup>4</sup>. OECD Guidelines for Managing Conflict of Interest in the Public Service, June 2003, accessible at: <http://www.oecd.org/governance/ethics/2957360.pdf>.

**HAS DECIDED AS FOLLOWS:****Title I – General provisions****Article 1 – Material scope of application**

1. The present rules shall apply to all members of the Board(s) of Appeal (BoA) and their alternates, including the Chairperson(s) and his or her alternate(s), in the performance of their duties in the service of the BoA.
2. The present rules shall be applicable to both appeal and arbitration proceedings initiated before the BoA.

**Article 2 – Definition of the term “conflicts of interest”**

1. For the purposes of the present rules, a “conflict of interest” shall involve a conflict between the public duty and private interests of a public official in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities<sup>5</sup>.
2. The concept of “conflicts of interest” is intended to cover situations in which the impartiality and objectivity of any type of decision or of the findings of the BoA has been actually compromised by an interest held by, or entrusted to, one or more of its members or might, from the point of view of a reasonable third person having knowledge of the relevant facts and circumstances or in the public perception, appear as compromised by such interest.
3. The concept of “conflicts of interest” is objective in nature and the intentions of the persons concerned should not be taken into consideration for the purpose of establishing whether a conflict of interest actually exists or not or could potentially arise, in particular when such persons have acted in good faith.
4. Both actual and potential conflicts of interest are of equal relevance and shall be considered in relation to the performance of the duties of the BoA members and alternates.

**Article 3 – Other Definitions**

For the purposes of the present rules:

- i) “Interest” shall mean the relation of being objectively concerned in something e.g. by having a right or title thereto, a claim thereupon or a share therein, falling within the fields of competence of the Agency, which creates or has the potential to create a conflict of interest;
- ii) “Employment” shall mean any form of regular, occasional or ad-hoc occupation or business, whether part-time or full-time, paid or unpaid, including self-employment, in any organisation or company carrying out any of the activities on which the Agency’s outputs impact directly or indirectly;
- iii) “Legal representation, provision of consultancy or of advice” shall mean any activity in which the person concerned provides advice or services related to the field of activities of the Agency to organisations, companies, associations or other bodies, including services provided on a honorary basis, i.e. for free or without the payment of fees or emoluments, as well as any advice related to products, their development and/or assessment methods thereof;
- iv) “Strategic advisory role” shall mean any activity through which the member concerned participates -with a right to vote or with the power to influence the outcome- in an advisory board or committee with the role of providing advice or of expressing opinions on the strategy, direction and development of the activities of the company concerned, regardless of contractual arrangements or form of remuneration;

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<sup>5</sup>. OECD Guidelines, *ibid.*, § 10.

- v) “Membership of a Management Board or Advisory Board or equivalent structure” shall mean any participation in the internal decision-making process, e.g. in the form of a board membership, directorship, etc. of a public or private entity or in the work of an advisory body, created on a permanent or ad-hoc basis and managed by a body with an interest in the field of activities of the Agency, with a right to have an influence on its output(s), including participation in activities carried out jointly with the Agency;
- vi) “Any other membership or affiliation” shall include any membership or affiliation not falling under the categories above and relevant for the purposes of the present rules, to any body with an interest in the field of the activities of the Agency, including professional organisations;
- vii) “Research funding” shall mean any funding for research or developmental work related to a field of activities of the Agency received from any public or private body by the person concerned in his or her personal capacity or falling under the professional sphere of influence of that person, including grants, rents and reimbursement of expenses, sponsorships and fellowships;
- viii) “Close family members” are considered to be the persons forming a household with the person making the declaration , i.e. spouse, partner, dependent children;
- ix) “Gift” shall mean a sum of money or any physical object, or the possibility to participate for free in events which are open to the public or are private in nature, are only accessible in return for payment and represent a certain value such as complementary tickets for sports events, concerts, theatre, conferences, etc., or any other advantage with a pecuniary value such as transport costs. Low value items given for purely information purposes such brochures, booklets, catalogues, etc.) are not considered as gifts in this context.

## **Title II – Management of Conflicts of Interest and Preventive Actions**

### **Article 4 – Measures to ensure impartiality and independence**

The measures for guaranteeing the impartiality and independence of the BoA members when they act in their official capacity shall mainly consist of imposing upon such members the obligation to declare any interests and gifts, including hospitality, decorations and honours in accordance with Article 16 herein.

### **Article 5 – Principle of declaration of interests**

1. In order to allow for the prevention, detection, monitoring and, where possible, mitigation of risks stemming from situations of potential and actual conflicts of interest at the earliest opportunity, the BoA members shall be required to submit declarations of interests in written form subject to the assessment provided for under Article 10 herein.
2. The responsibility for submitting complete, honest and accurate declarations and for updating those declarations, should any change to the situation of the declared interests occur in the future, lies exclusively with the BoA members declaring their interests.

### **Article 6 – Categories of declarable interests**

The personal interests to be declared by the BoA members in accordance with the procedure described in Articles 7 to 9 herein may be of financial or non-financial nature. Such interests may stem from personal or family relationships as well as professional affiliations of the member concerned. The following interests shall be declared in particular:

- i. Employment with, legal representation of, provision of consultancy or of advice to or assignment of a strategic advisory role within an undertaking which is active in the railway sector;
- ii. Membership of a Management Board or Advisory Board or equivalent structure of an undertaking which is active in the railway sector, of a National Safety Authority (NSA) or scientific advisory body and any other membership or affiliation associated with the work of the Agency;

- iii. Public statements, including the provision of expert opinion, advice or testimony in the field of activity of the Agency for an undertaking or organisation which is active in the railway sector as part of a regulatory, legislative or judicial process, as well as any office or other position, whether paid or unpaid, held in representation of interests or in defence of an opinion in the field of activity of the Agency;
- iv. Research funding received from an undertaking which is active in the railway sector;
- v. Financial investments in an undertaking which is active in the railway sector, including holding of stocks and shares, stock options, equity, bonds, partnership interest in the capital of such undertaking, one of its subsidiaries or a company in the capital of which it has a holding amounting to a value above 10.000 € per company or shares, stocks or comparable entitling to a voting right of 5% or more in such undertaking (notwithstanding their financial value); the holding of financial interests through an investment fund, pension fund and/or interests in non-nominal unit trusts or similar arrangements would not need to be declared provided that such interests are diversified, i.e. not exclusively based on the railway sector, and that they are independently managed, i.e. that the individual concerned bears no influence on their financial management, whereas any compensation, fees, honoraria, salaries, grants or other funding, including grants, rents, sponsorships and fellowships, paid to the BoA member in personal capacity and not associated to the reimbursement of the expenses incurred by their involvement in research work or of reasonable expenses directly related to a conference/seminar attendance, i.e. accommodation and travel costs, should also be declared;
- vi. Intellectual property rights, including patents, trademarks, proprietary know-how and/or copyright relating to the vehicle or the vehicle type owned by the BoA member or held directly by the BoA member;
- vii. Receipt of gifts and/or hospitality offers including food, drink, accommodation and/or entertainment from any source outside the Agency by an undertaking which is active in the railway sector;

Any other direct or indirect interest not falling under the categories outlined above which might interfere or could reasonably be perceived as interfering with the impartiality of the BoA member concerned.

#### **Article 7 – Types of Declarations of Interests (Dols)**

1. All BoA Members shall, upon their appointment, submit in writing a declaration concerning commitment and confidentiality and a “Public Annual Declaration of Interests” to be updated on an annual basis. The declarations shall be made in accordance with Annexes 1 and 3 hereto.
2. BoA members are additionally required to submit in writing and in accordance with Annex 2 herein a “Declaration of Absence of Conflicts of Interest” in respect of every appeal and arbitration proceeding in which they are involved.

#### **Article 8 – Public Annual Declaration of Interests (PADoI)**

1. A declaration of interests shall be submitted by all BoA members in the form of a “Public Annual Declaration of Interests”, hereinafter referred to as “PADoI” and shall include in its scope any activities in which such members are currently involved or have been involved during a period of five (5) years preceding the submission of the PADoI as well as any activities which are presently undertaken by them in their capacity as BoA members.
2. The obligation stipulated in paragraph 1 herein shall also be incumbent upon the close family members of the BoA members only as regards interests currently held by them.
3. The PADoI shall be addressed to the BoA Chairperson and submitted to the Board(s) of Appeal Registry set up in accordance with the Board(s) of Appeal Rules of Procedure (BoA Rules of Procedure).
4. The PADoI shall be filled by the BoA members prior to their officially taking up duties in such capacity

and shall be renewed thereafter on an annual basis within a deadline set by the BoA Chairperson.

5. Should any change to the information initially provided in the PADoI occur due to new circumstances giving rise to additional interests which could not have reasonably been declared at an earlier point in time, the BoA member(s) concerned shall promptly notify such interests following the same procedure through the submission of an updated PADoI.
6. The PADoI, including any annual update thereof, shall be entered in a register held by the Board(s) of Appeal Registry and made public on the Agency's website.

#### **Article 9 – Declarations of Absence of Conflicts of Interest (DACoI)**

1. A specific declaration in the form of a “Declaration of Absence of Conflicts of Interest”, hereinafter referred to as “DACoI” shall be submitted only by those BoA members who are invited to participate in the decision on a specific appeal case or in arbitration proceedings.
2. Each BoA member deciding on an appeal case shall submit to the BoA Registry a specific DACoI before the allocation of that case to him or her and not later than the institution of the appeal proceedings on such case in line with BoA Rules of Procedure.
3. For preventive purposes, if a BoA member submits a declaration revealing the existence of conflicts of interest, Article 57 of Regulation (EU) 2016/796 and the BoA Rules of Procedure shall apply accordingly.
4. The BoA, when deciding on the exclusion of its member(s) thereof, shall take into consideration, as appropriate, the PADoI which had been initially submitted by such member(s) upon appointment as well as of any annual updates thereof, if applicable.

### **Title III – Assessment with a view to identifying and handling potential conflicts of interest**

#### **Article 10 – Assessment of Declarations of Interests (DoIs)**

1. Upon receipt of the declarations referred to in Articles 8 and 9 herein and on a regular basis thereafter, the BoA Chairperson, with the assistance of the Registry, shall monitor the declarations of the other BoA members in order to identify potential risks and handle situations of actual or potential conflicting interests, including, in particular, those falling within the categories described in Article 6 herein. The screening shall be carried out according to the criteria set out under Article 11.
2. The Chairperson may set up a verification process, require further clarifications on the interests declared and, where appropriate, undertake the examination of declarations previously submitted by the same BoA member.
3. The BoA member concerned shall be kept informed of the outcome of the assessment of his or her declaration of interests.
4. The Chairperson shall inform the Management Board of the outcome of the screening and shall put forward appropriate proposals for the adoption of preventive measures once a conflict of interest has been identified.
5. The declarations of the Chairperson shall be subject to screening by any other longest serving member of the BoA, or by the oldest member thereof in case of equal term of office. The latter shall inform the Management Board of the outcome of the screening and make the proposals envisaged under paragraph 4 herein should the existence of a conflict of interest be identified.
6. A transparent procedure shall be set up, by laying down, inter alia and in line with the present rules, Guidelines, for the purpose of establishing clear and objective criteria and a concrete methodology for the evaluation of the submitted DoIs, including recommendations for the early detection, prevention



and management of potential conflicts between the interests declared and those of the Agency.

7. The Guidelines referred to in paragraph 6 herein shall be adopted by the BoA.

#### **Article 11 – Criteria applicable to the assessment of Declarations of Interests (DoIs)**

When assessing whether the declarations of interests contain in accordance with Article 10 herein an actual or perceived conflict of interest, the following minimum criteria shall be taken into account:

- i. The compatibility of the specific interests declared by a BoA member with the activities performed and the interests represented by the BoA;
- ii. The importance of the interest declared, the role of the individual holding the interest, specific mitigating measures and controls imposed, the importance and impact of the decision to be drafted;
- iii. Particularly in the case of a DACoI, the surrounding context of the appeal case and arbitration proceedings in relation to which the declaration refers to.

#### **Article 12 – Request for review of the assessment**

1. A BoA member may request a review of the assessment of the DoI submitted by him or her. This request shall be forwarded without undue delay and, in any case, within one (1) month following the receipt of the assessment by the BoA member concerned. The request shall include a clear and complete justification of the requested review. A copy of such request shall, at the same time, be communicated to the Chairperson of the BoA.
2. The Chairperson of the Management Board shall perform the review of the assessment and inform the BoA Chairperson and the member concerned of the outcome of such review.

### **Title IV – Breach of rules and remedial actions**

#### **Article 13 – Remedial actions**

1. BoA members who fail to respect the obligations imposed upon them by virtue of the present rules, whether by means of false declaration or wilful omission or refusal to declare interests or any other failure to comply with the present rules, shall be firstly invited to provide explanations by updating their declaration of interests accordingly<sup>6</sup> and may be excluded from participating in the decision-making process and/or removed from office for breach of trust towards the BoA if they do not respond to the invitation addressed to them within the specific deadline set therein.
2. If the BoA member concerned by an established breach of trust has been involved in a decision-making procedure, the Chairperson or, if the BoA member concerned is the Chairperson, the other BoA members, shall carry out an ex-post review of that member's contributions to the outcome of such process. The Chairperson or the other BoA members shall also decide whether a revision of such outcome is deemed necessary.

#### **Article 14 – Exclusion from decision-making**

1. According to Article 57 of Regulation (EU) 2016/796, BoA members may be excluded from appeal or arbitration proceedings on the basis of one or more of the following grounds:
  - i. If they have any personal interest in the proceedings;
  - ii. If they have previously been involved as representatives of one of the parties to the proceedings;
  - iii. If they have participated in the taking of the decision appealed against;
  - iv. If their participation in the proceedings raises suspicions of partiality.

<sup>6</sup> As clearly stipulated under point (5) of Part II on the "Practical Application of the General Standards of the International Bar Association (IBA) Guidelines on Conflicts of Interest in International Arbitration, adopted by resolution of the IBA Council on 23.10.2014 and accessible at [https://www.ibanet.org/ENews\\_Archive/IBA\\_July\\_2008\\_ENews\\_ArbitrationMultipleLang.aspx](https://www.ibanet.org/ENews_Archive/IBA_July_2008_ENews_ArbitrationMultipleLang.aspx): "Non-disclosure cannot by itself make a [BoA member] partial or lacking independence: only the facts or circumstances that he or she failed to disclose can do so".

2. The procedure to be followed for the exclusion of BoA members is governed by the relevant provisions of the Agency Regulation and the BoA Rules of Procedure.

### **Article 15 – Removal from office**

1. The purpose of the present rules is not to ban or sanction the holding of specific interests by the BoA members but rather to facilitate the handling of situations where conflicts may arise in a transparent and consistent manner.
2. The discovery of an undisclosed conflict of interests either prior to the initiation of the appeal proceedings or after the BoA has issued its findings in the appeal case does not in itself constitute a valid ground justifying the removal from office of the BoA member concerned.
3. Without prejudice to Article 13 § 1 herein, BoA members may not be removed from office during their mandate unless the Management Board takes a decision to that effect. Similarly, removal of BoA members from the list of qualified experts during their term of office may only take place if the European Commission takes a decision to that effect.
4. The assessment of the grounds justifying the removal of BoA members shall be made on a case-by-case basis. The Management Board shall enjoy a certain margin of appreciation in the determination of the measures which should be taken in respect of an undisclosed conflict of interests which comes to light.
5. In line with the general principle of proportionality, the measures chosen should not go beyond what is necessary to achieve the legitimate objective of preventing conflicts of interest from impairing the independence and impartiality of the BoA members.
6. For the purpose of assessing the grounds for the removal of a BoA member, due consideration shall be given, in particular, to the following factors:
  - i. The nature and significance of the interest(s) declared as well as the specific role of the member holding such interest(s), including his or her function as the Chairperson of the BoA;
  - ii. The possibility of adopting mitigating measures and the availability of an adequate number of alternates in the composition of the BoA to be appointed as replacement of the BoA member to be removed from office;
  - iii. The stage of the proceedings in which the existence of conflicts of interest emerged e.g. if it was discovered at an early stage of the appeal proceedings or after the delivery of the decision on the appeal;
  - iv. The potential consequences of the existence such conflict of interest for the appeal proceedings.

## **Title V – Gifts, hospitality, decorations and honours**

### **Article 16 – Declaration and registration**

1. BoA members shall not accept any gift with a value of more than 150 € in the course of the performance of their duties in the BoA.
2. When, in accordance with diplomatic and courtesy usage, BoA members receive gifts of a value higher than the amount mentioned in paragraph 1 herein, such gifts shall be handed over to the BoA Registry.
3. In case of doubt as to the exact amount of the value of a gift, the BoA Chairperson shall make an estimation of such value.
4. A register of gifts with a value of more than 150 € shall be maintained by the BoA Registry.
5. Members shall not accept hospitality unless it is offered in accordance with diplomatic and courtesy usage. Attendance upon invitation to any events where BoA members represent the Agency shall not be considered as hospitality.



6. Any gift, decoration, prize or honour awarded to the BoA members in the exercise of their duties in the BoA shall be notified by them in writing to the Chairperson and the Registry of the BoA as well as to the Management Board.
7. A prize awarded to the BoA members which consists of an amount of money or valuables shall be donated to a charity of their choice.

## **Title VI – Post-employment**

### **Article 17 – Declaration of prospective employment**

1. The BoA members shall, without undue delay, inform the Agency of their future employment by providing notification of any occupational activity they intend to engage in during or after leaving the BoA service. Notification shall be provided prior to the conclusion of the contract of employment or engagement between the BoA member concerned and his or her future employer. BoA members shall continue to be bound by such obligation for a period of two (2) years after their duties in the service of the BoA have ceased.
2. Such declarations shall be submitted in written form to the BoA Registry and assessed by the BoA Chairperson. In the case of a declaration submitted by the Chairperson, the assessment shall be made by any other longest serving member of the BoA, or by the oldest member thereof in case of equal term of office. The latter shall inform the Management Board of the outcome of the screening and make the proposals envisaged under paragraph 3 herein should the existence of a conflict of interest be identified.
3. If the future activity or activities thus notified is related to the work carried out by the BoA member concerned during the last three (3) years of service and could lead to a conflict with the legitimate interests of the Agency, the Chairperson, or, if the BoA member concerned is the Chairperson, the BoA members indicated in paragraph 2 herein, may give his or her approval subject to any conditions deemed fit in light of the circumstances of the particular case. This decision may be subject to review by the Management Board.

## **Title VII – Common provisions**

### **Article 18 – Publication and protection of personal data**

1. Without prejudice to the relevant provisions of Regulation (EU) 2016/796, all declarations shall be processed pursuant to the applicable data protection rules.
2. The purpose of such data processing is to safeguard the independence and impartiality of the BoA members.
3. No persons and/or bodies other than those specifically designated for that purpose in the present rules may fall within the categories of recipients of the declarations; however, this does not preclude the transfer of such declarations to bodies which carry out monitoring or inspection tasks in conformity with Union Law, including, among others, the European Court of Auditors, the Internal Audit Service, OLAF, the European Ombudsman and the European Data Protection Supervisor.
4. The declarations shall be retained for a period of two (2) years starting from the date on which the European Parliament granted a discharge for the budgetary year to which those declarations relate.
5. Data subjects shall enjoy the right to obtain access to their declarations and to ask for an update or rectification thereof at any time under the conditions prescribed in applicable data protection rules.
6. Data subjects are entitled to have recourse at any time to the Data Protection Officer of the Agency and/or to the European Data Protection Supervisor.

### **Article 19 – Training and information**

1. The Agency may organise introductory training courses on the present rules specifically designed to provide the new BoA members with basic knowledge on the issues relating to the management of conflicts of interest.
2. BoA members who have already undergone the induction sessions referred to in paragraph 1 herein may be invited to enrol in refresher trainings scheduled at regular intervals. Such trainings may be delivered in the form of a specific e-learning module.

## **Title VIII – Final provisions**

### **Article 20 – Review**

The present rules shall be subject to review by the Management Board where necessary.

### **Article 20 – Entry into force**

The present decision shall enter into force on the date of its adoption by the Management Board.

Done at Lille, on 26-09-2017  
For the Management Board

The Chairperson  
Clio LIÉGEOIS

Annex 1: Public Annual Declaration of Interests (PADoI) of members of the Board(s) of Appeal of the European Union Agency for Railways

Annex 2: Specific Declaration of Absence of Conflicts of Interest (DACoI) of members of the Board(s) of Appeal of the European Union Agency for Railways

Annex 3: Declaration of commitment and confidentiality (DoCC) of members of the Board(s) of Appeal of the European Union Agency for Railways

# Annex 1

## Public Annual Declaration of Interests (PADoI) of members of the Board(s) of Appeal of the European Union Agency for Railways<sup>7</sup>

Name:

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Title/Function:

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Company/Organisation:

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Board(s) of Appeal Member or Alternate<sup>8</sup>

I, ..... do hereby declare to the best of my information, knowledge and belief that<sup>9</sup>:

- I and my close family members<sup>10</sup> have no interests to declare in relation to my duties and responsibilities within the BoA of the Agency;
- I have, but my close family members have no interests to declare in relation to my duties and responsibilities within the BoA of the Agency;
- I have no interests, but my close family members have interests to declare in relation to my duties and responsibilities within the BoA of the Agency;
- I and my close family members have interests to declare in relation to my duties and responsibilities within the BoA of the Agency.

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<sup>7</sup>. Hereinafter referred to as "the Agency".

<sup>8</sup>. Specify if Member or Alternate (strikethrough the irrelevant entry).

<sup>9</sup>. Tick as applicable.

<sup>10</sup>. For this purpose, "close family members" are considered to be the persons forming a household with the person making the declaration (spouse, , life partner, parent, dependent child) as well as any other family member with whom a close relationship exists. Only current interests held by close family members are of relevance and not past ones.

I have recorded the following interests in the field of the Agency's activities<sup>11</sup>:

Title/Function (you or your close family members)	Period of activity (within the past 5 years)	Company or organisation	Description of the activity (including contracts with the Agency, as well as Products, Projects, and/or Activity references in accordance with the Agency Programming Document)
<b>1. Employment with a company or an organisation</b>			
<b>2. Legal representation of or provision of consultancy or of advice to or assignment of a strategic advisory role within a company or an organisation</b>			
<b>3. Member of a Management Board or equivalent structure of a company or an organisation</b>			
<b>4. Member of an Advisory Board or equivalent structure of a company or an organisation</b>			

<sup>11</sup>. Please kindly note that the table below while covering many of the varied situations that commonly arise in practice, do not purport to provide an exhaustive list of potential interests, nor could they do so, and that all other elements that might jeopardise your independence and impartiality in the performance of your duties in the service of the Board(s) of Appeal should also be indicated under point 8 "Other relevant information" of the table hereunder.

Title/Function (you or your close family members)	Period of activity (within the past 5 years)	Company or organisation	Description of the activity (including contracts with the Agency, as well as Products, Projects, and/or Activity references in accordance with the Agency Programming Document)
<b>5. Other membership or affiliation</b>			
<b>6. Research funding from a company or an organisation, including grants, rents, sponsorships, fellowships, non-monetary support</b>			
<b>7. Financial investments in a company or an organisation, including holding of stocks and/or shares, stock options, equity, bonds, partnership interest in the capital of such undertaking, one of its subsidiaries or a company in the capital of which it has a holding (of a value above 10,000 € per company or shares, stocks or comparable entitling you to a voting right of 5% or more (notwithstanding their financial value)</b>			
<b>8. Other relevant information</b>			

Making the railway system  
work better for society.

Should there be any change to the information provided above, I shall promptly notify the Registry of the Board(s) of Appeal and complete a new Public Annual Declaration of Interests (PADoI).

I understand that this Public Annual Declaration of Interests (PADoI) will be entered in a register held under the auspices of the Registry of the Board(s) of Appeal and published on the Agency website.

The Agency will handle the information provided above in accordance with Regulation (EC) No 45/2001<sup>12</sup>.

Done at \_\_\_\_\_ on \_\_\_\_\_

Signature: \_\_\_\_\_

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<sup>12</sup>. Regulation (EC) No. 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1-22.



## Annex 2

# Specific Declaration of Absence of Conflicts of Interest (DACoI) of members of the Board(s) of Appeal of the European Union Agency for Railways<sup>13</sup>

I, the undersigned ....., in my function of Member/Alternate of the Board(s) of Appeal<sup>14</sup> hereby declare<sup>15</sup> that:

<input type="checkbox"/>	I do not have any direct or indirect personal [or corporate] interest(s) in relation to my duties and responsibilities within the Agency and, more specifically, in relation to the Case ..... [Ref. Nr. of the relevant appeal or arbitration case] which was submitted to the Board(s) of Appeal Registry on ..... [date].
<input type="checkbox"/>	I do have the following direct or indirect personal [or corporate] interest(s) in relation to my duties and responsibilities within the Agency and, more specifically, in relation to Case ..... [Ref. Nr. of the relevant appeal or arbitration case] which was submitted to the Board(s) of Appeal Registry on ..... [date]:  ..... ..... ..... ..... ..... ..... .....
<input type="checkbox"/>	Additionally, I do hereby declare that, to the best of my information, knowledge and belief, none of my close family members <sup>16</sup> currently has any conflict of interests in relation to my duties and responsibilities within the Agency and, more specifically, in relation to Case ..... [Ref. Nr. of the relevant appeal or arbitration case] which was submitted to the Board(s) of Appeal Registry on ..... [date].

<sup>13</sup>. Hereinafter referred to as “the Agency”.

<sup>14</sup>. Specify if Member or Alternate (strikethrough the irrelevant entry).

<sup>15</sup>. Please tick the applicable option(s) and fill in as appropriate.

<sup>16</sup>. For this purpose, “close family members” are considered to be the persons forming a household with the person making the declaration, i.e. spouse, partner, dependent children. Only current interests held by close family members are of relevance and not past ones.

<input type="checkbox"/>	<p>Additionally, I do hereby declare that, to the best of my information, knowledge and belief, my close family members currently have the following conflicts of interest in relation to my duties and responsibilities within the Agency and, more specifically, in relation to Case ... [Ref. Nr. of the appeal or arbitration] which was submitted to the Board(s) of Appeal Registry on ... [date]:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
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I wish to have any reference to interests held by close family members removed if this declaration is to be made public on the website of the Agency<sup>17</sup>.

Should there be any change to the information provided above, I shall promptly notify the Registry of the Board(s) of Appeal and complete a new Declaration of Absence of Conflict of Interests (DACoI).

I understand that this Declaration of Absence of Conflict of Interests (DACoI) will be published on the Agency website and will be entered in a register held under the auspices of the Agency.

The Agency will handle the information provided above in accordance with Regulation (EC) No. 45/2001<sup>18</sup>.

Done at \_\_\_\_\_ on \_\_\_\_\_

Signature: \_\_\_\_\_

<sup>17</sup>. This option should only be used in cases where the consent of the individual concerned, i.e. of the close family member mentioned, has not been obtained, or when that individual has objected to the disclosure of the information provided on compelling legitimate grounds or if there is a reason to believe that the legitimate interests of the individual involved might be prejudiced by the disclosure of such information.

<sup>18</sup>. Regulation (EC) No. 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1-22.

## Annex 3

# Declaration of commitment and confidentiality (DoCC) of members of the Board(s) of Appeal of the European Union Agency for Railways<sup>19</sup>

I, the undersigned ....., hereby declare and commit to fulfill my duties as a Member/Alternate of the Board(s) of Appeal<sup>20</sup> of the Agency to the best of my ability.

I declare that, when participating in the taking of decisions, I shall act independently and in the public interest, and shall not be bound by any mandatory instructions and shall not receive a binding mandate.

I declare that I am aware of my obligation, even after my duties in the service of the Board(s) of Appeal have ceased, to respect confidentiality and not to disclose information of the kind subject to an explicit request for confidentiality or covered by the duty of professional secrecy<sup>21</sup>.

I shall also respect the confidential nature of the opinions expressed by other members during deliberations or discussions in meetings or provided in written form.

I understand that this declaration will be entered in a register held under the auspices of the Registry of the Board(s) of Appeal and will be made accessible to the public.

Done at \_\_\_\_\_ on \_\_\_\_\_

Signature: \_\_\_\_\_

<sup>19</sup>. Hereinafter referred to as "the Agency".

<sup>20</sup>. Specify if Member or Alternate (strikethrough the irrelevant entry).

<sup>21</sup>. Such information is intended to cover all information, facts, data any other matters of which the BoA member concerned has acquired knowledge, either directly or indirectly, as a result of his or her participation to the BoA activities whether or not contained in a document of any kind (electronic or on paper or any other medium).