

Rules of procedure of the Performance Review Body

Version N°12
19 February 2018

THE PERFORMANCE REVIEW BODY,

Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004¹ laying down the framework for the creation of the single European sky (the framework Regulation), and in particular Article 11 thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 390/2013² laying down a performance scheme for air navigation services and network functions, in particular Article 3(1) thereof (hereinafter referred to as 'the Performance Regulation'), provides for the possible designation by the Commission of a Performance Review Body to assist it in the implementation of the performance scheme;
- (2) Commission Implementing Decision (EU) 2016/2296³ setting up the independent group of experts designated as Performance Review Body of the single European sky (hereinafter referred to as 'the Decision') designates that group of experts as the Performance Review Body of the Single European Sky, which shall adopt, amongst others, its rules of procedure.

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Article 1

Operation of the Performance Review Body

1. The Performance Review Body shall assist the Commission, and the national supervisory authorities on request, in the tasks and under the conditions defined in Article 2 of the Decision.
2. The Performance Review Body shall act in accordance with its annual work programme and the present rules of procedure.
3. In addition to the Code of Conduct signed as part of their contract, members of the Performance Review Body shall follow the provisions of these rules of procedure.
4. Where a member fails to act in accordance with the provisions of these rules of procedure, the Director-General of the Commission's Directorate-General for Mobility and Transport (hereinafter DG MOVE) may decide to terminate his/her appointment.

Article 2

Confidentiality

1. Members shall not divulge information acquired as result of their work as member of the Performance Review Body or of its subgroups and shall not disseminate any information about the internal work and discussions of the PRB. This includes, in particular, all data, documents or other material provided by third parties concerning sensitive industrial and

¹ OJ L 96, 31.2.2004, p.1

² OJ L 128, 9.5.2013, p.1

³ OJ L 344, 17.12.2016, p.92

commercial matters, and/or for which confidentiality has been requested and agreed by DG MOVE in accordance with the applicable provisions.

2. The obligation not to disclose confidential information shall continue to apply five years after the member's participation in the work of the Performance Review Body has been ceased.

Article 3

Impartiality

1. Members shall act in total impartiality and in complete independence of any external influence, and shall refrain from any action incompatible with the performance of their duties.
2. Members must perform their work impartially and take all measures to prevent any situation where they have an interest that may compromise or be reasonably perceived to compromise their ability to work independently and in the public interest ('conflict of interests').
3. The chair shall, at the first meeting of each calendar year, remind all members appointed in a personal capacity of their obligation to promptly inform DG MOVE of any relevant change in the information provided in their previous declaration of interests (DoI), including as regards upcoming activities. In the case of such changes, members must immediately submit to DG MOVE a new completed declaration of interests describing the change, in order to enable the Commission to assess it in due course, in accordance with the applicable rules.
4. Cases of potential conflict of interest shall be reported in writing, for example in the minutes of the Performance Review Body's meeting. Information registered must be adequate, relevant and not going beyond what is necessary for the purpose of the management of the conflict of interest.
5. The following situations will automatically be considered as conflict of interest, if a member:
 - (a) has vested interests in relation to the questions on which s/he is asked to give advice;
 - (b) is linked to an organisation which would benefit (directly or indirectly) or be disadvantaged, as a result of the work of the Performance Review Body;
 - (c) is in another situation that compromises his/her ability to work impartially, independently and in the public interest.

In this case, the member must be excluded from the Performance Review Body.

Any other situation that could cast doubt on the member's ability to accomplish the work impartially, independently and in the public interest, or that could reasonably appear to do so

in the eyes of an outside third party may be considered as conflict of interests in view of the objective circumstances, the available information and the potential risks.

In this case, the the Director-General of DG MOVE may decide to exclude the member from the Performance Review Body and, if necessary, to replace him/her. He/she may also decide to apply specific restrictions, by which the member may be excluded from certain meetings and/or activities carried out by the Performance Review Body, such as drafting opinions or recommendations. The member may also be required to abstain from discussing certain agenda items and/or from any vote on those items.

6. If the member is (or becomes) aware of a conflict of interest, s/he must immediately inform the Commission and stop working until further instructions.
7. If the member breaches any of his/her obligations under this Article, the Director-General of DG MOVE may decide to terminate his/her appointment.

Article 4

Administrative and technical support

The Commission provides the necessary administrative and technical support for the functioning of the Performance Review Body, including the Secretariat for the Performance Review Body and its sub-groups, so as to ensure its efficient and effective functioning.

Article 5

Sub-groups

1. For the purpose of examining specific issues relevant to its work, the Performance Review Body may set up sub- groups from among its members, on the basis of terms of reference defined by the Performance Review Body and in agreement with the Director-General of the Commission's Directorate-General for Mobility and Transport, on behalf of the Commission.
2. Sub-groups shall operate in compliance with these rules of procedure and shall report to the Performance Review Body. They shall be dissolved as soon as their mandate is fulfilled.

Article 6

Convening a meeting

1. Meetings of the Performance Review Body and its sub-groups shall be convened by the chair, with the agreement of DG MOVE. The Secretariat shall support the plenary meetings of the Performance Review Body and the meetings of the sub-groups.
2. Meetings of the Performance Review Body and its sub-groups shall be held on Commission premises. In exceptional cases meetings may be held elsewhere. They may also be held by video conference.
3. The deliberations of the Performance Review Body shall be kept confidential.

Article 7

Agenda and documentation

1. After consulting DG MOVE, the chair shall draw up the agenda of the meetings and send it, through the Secretariat, to the members of the Performance Review Body and to DG MOVE no later than 15 calendar days before the date of the meeting.
2. The agenda shall be adopted by the Performance Review Body at the start of the meeting.
3. The Secretariat shall make available working papers and other documents no later than 10 calendar days before the date of the meeting.
4. In urgent or exceptional cases, the chair may reduce the time limits for sending the documentation set out in paragraphs 1 and 3.

Article 8

Reports and recommendations of the Performance Review Body

1. In accomplishing the tasks attributed to it in Article 2 of the Decision, the Performance Review Body shall issue reports and recommendations to the Commission.
2. The Performance Review Body will endeavor to adopt its reports and recommendations, as well as the documents referred to in Article 6(1) of the Decision by consensus. When voting is required, decisions will be taken by simple majority of the members present at the meeting.

Article 9

Invited experts

The chair of the Performance Review Body, in agreement with DG MOVE may invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the Performance Review Body or sub-groups on an ad hoc basis.

Article 10

Written procedure

If necessary, the Performance Review Body's opinion or recommendation on a specific question may be defined and delivered via a written procedure. To this end, the Secretariat sends to members the document(s) on which the Performance Review Body is being consulted and a proposal for the Body's response prepared by the chair. Any member who does not express his/her opposition or intention to abstain from voting on the issue within the time-limit laid down in the letter shall be considered to have given his/her tacit agreement to the proposal. That time-limit may not be less than 10 calendar days. In cases of urgency, the chair may reduce the time limit to 5 calendar days.

Article 11

Minutes of the meetings

1. Minutes of each meeting shall be drafted by the Secretariat under the responsibility of the chair and made available to the members of the Performance Review Body and to DG MOVE.

2. Minutes shall be meaningful and complete on the discussion on each point on the agenda and on the opinions delivered by the Performance Review Body. Processes and conclusions, and voting details where exercised, shall be recorded, but it shall not mention the individual position of the members in the discussions.
3. The Secretariat shall send the draft minutes to members within 10 working days. Members may put forward comments on the draft minutes until at the latest 15 working days after receipt of the draft minutes.
4. Minutes shall be finalised and approved at the next meeting of the Performance Review Body.

Article 12

Attendance list

1. At each meeting, the Secretariat shall draw up, under the responsibility of the chair, an attendance list.
2. The attendance of members of Performance Review Body at meetings of the Performance Review Body, as well as its sub-groups, is mandatory. Justifications shall be sent to the chair and the Secretariat in case of absence.
3. Where a member fails to attend two or more meetings in any 12-month period without justification, the chair shall draw up a report to the Director-General of DG MOVE, who may decide to terminate the appointment of the member.

Article 13

Coordination with the Commission

The chair shall attend the regular coordination meetings organised by DG MOVE and report, as requested, about the activities and deliverables of the Performance Review Body.

Article 14

Coordination with EASA

In the performance of its tasks when they relate to safety the Performance Review Body shall regularly coordinate and consult with EASA to ensure consistency with the objectives and standards established and implemented by EASA.

Article 15

Working language

The deliberations and all communications of the Performance Review Body shall be conducted in the English language.

Article 16

Access to documents

Applications for access to documents held by the Performance Review Body shall be handled in accordance with Regulation (EC) No 1049/2001⁴.

Article 17

Application and amendment of the rules of procedure

1. Should doubt arise over the application or interpretation of these rules of procedure, the chair shall refer the matter to the Director-General of the DG MOVE.
2. Any member may propose amendments to these rules of procedure accompanied, where appropriate, by justifications.
3. Amendments to these rules of procedure shall be adopted in accordance with Article 6 of the Decision.

Article 18

Entry into force

These Rules will enter into force on the day of their formal adoption by the Performance Review Body, following their approval by the Director-General of DG MOVE, on behalf of the Commission.

⁴ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).