Ref. Ares(2021)7921693 - 21/12/2021

DECISION OF THE GOVERNING BOARD

adopting the Rules of the Procedure of the Governing Board of the Europe's Rail Joint Undertaking

N° 01/2021

THE GOVERNING BOARD OF THE EUROPE'S RAIL JOINT UNDERTAKING,

Having regard to Council Regulation (EU) No 2021/2085 of 19 November 2021[1] establishing the Joint Undertakings under Horizon Europe (hereinafter "Single Basic Act"), and in particular Article 16(10) of the Single Basic Act,

HAS ADOPTED THESE RULES OF PROCEDURE:

Article 1
Members of the Governing Board

1. In accordance with Article 92 of the Single Basic Act, the Governing Board of the Europe's Rail Joint Undertaking shall be composed of:

   (a) two representatives of the Commission;

   (b) one representative from each of the members other than the Union.

2. Each representative may have one or more appointed alternates.

3. The names and functions or posts of the representatives and their appointed alternates shall be published on the Europe's Rail JU website.

4. Each Member of the Europe's Rail JU may decide the term of office of its representatives in accordance with its internal rules. If the office of a representative falls vacant, the respective Member of the Europe's Rail JU shall appoint a new representative for the remainder of the term of office.

5. Members of the Europe's Rail JU shall notify appointments, substitutions or removals of representatives and their respective alternates to the Europe's Rail JU in writing.

[1] Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014 (OJ L 427 of 30/11/2021, p. 17–119).

The notice shall indicate the date on which the appointment, substitution or removal takes effect. In case of absence of such information in the notice, the effective date shall be within a month from the date on which the notice is received by the Europe's Rail JU.

6. Hereinafter, the representatives shall be collectively referred to as the Board Members.

Article 2
Chairperson

1. In accordance with Article 93(1) of the Single Basic Act, the Governing Board shall be chaired by the Commission on behalf of the Union.

Article 3
Observers

1. The Chairperson of the States Representatives Group shall have the right to attend the meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights. The Chairperson of the Scientific Advisory Body shall have the right, whenever issues falling within its tasks are discussed, to attend the meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights. Representatives of the European Union Agency for Railways and of the European Rail Research Advisory Council shall be invited to attend meetings of the Governing Board as observers and take part in its deliberations, but shall have no voting rights.

2. The Governing Board may invite, on a case-by-case basis, other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union, and representatives of civil society. These observers shall have no voting rights. The Governing Board may decide to examine specific items of the agenda without the presence of observers due to confidentiality of such specific items.

Article 4
Convening of meetings

1. The Governing Board of the Europe's Rail Joint Undertaking shall hold its ordinary meetings at least twice a year.

2. The Chairperson shall convene the meetings of the Governing Board with the support of the Executive Director by sending a written notice (by means of a letter or e-mail), accompanied by the provisional agenda and the relevant documents for decision-making, to each Board Member, to the Chairperson or the Vice-Chairperson of the States Representatives Group not later than twenty working days prior to each meeting. Any other relevant material for the meeting shall be sent five working days before the meeting. The provisional agenda shall also be sent to the Chairperson of the Scientific

Advisory Body, to the representatives of the European Union Agency for Railways and of the European Rail Research Advisory Council.

3. If an extraordinary meeting is requested, or in case of urgency, some documents may be forwarded to the Board Members and the relevant observers at a shorter notice, taking into account internal consultation procedures of each of the Members of the Europe's Rail JU.

4. The Governing Board may hold extraordinary meetings upon written request from the Chairperson of the Europe's Rail JU or submitted to the Chairperson by:

   a) the Commission, or

   b) the majority of the representatives of the Private Members[2], or

   c) the Executive Director.

5. When an extraordinary meeting is requested, the Chairperson shall convene the meeting by sending a written notice (by means of a letter or e-mail), accompanied by the provisional agenda and the relevant documents for decision-making within ten working days from the date of receipt of the written request, or as soon as possible in urgent cases.

6. Physical meetings shall usually take place at the seat of the Europe's Rail JU.

7. Subject to prior written agreement (by means of a letter or email) of the majority of the Private Members and of the Commission representatives, the Chairperson may change the date or place of a meeting of the Governing Board set in the provisional agenda. Notification of such change shall be given to the Board Members no later than ten working days before the original or revised date of the meeting, whichever is earlier.

8. The Governing Board meetings may take place by audio conference, video conference or other remote means of communication. Any meeting held in this manner shall have its minutes taken in accordance with the ordinary procedure. Any decisions taken by the Governing Board during such meetings shall only be valid and effective when the minutes of the meetings are approved by each Board Member in accordance with article 8.

Article 5
Attendance

1. The Board Members shall attend all meetings of the Governing Board. Board Members shall make their best efforts to ensure adequate level of representation and continuity at Governing Board meetings.

2. If a Board Member is not able to attend in person a meeting, he or she may either participate by means of audio or video conference or be replaced by the alternate, subject to prior written notification submitted to the Chairperson and the Executive

[2] "Private Member" is defined in Article 2(5) of the Single Basic Act.

Director not later than the day before the date of the meeting. The secretariat of the Governing Board shall ensure that the alternate - person who replaces a Board Member- has all the relevant documentation to attend the meeting in due time. However, a reiterated attendance in several Governing Board meetings of a Member organisation through its alternates shall be avoided.

3. The Executive Director shall have the right to participate in the Governing Board meetings and deliberations without voting rights. The Executive Director may be assisted by other staff of the Europe's Rail Joint Undertaking.

4. At each meeting of the Governing Board, the attendance list shall be drawn up specifying the Members of the Europe's Rail JU and their representatives, and the bodies and organisations attending the meeting as observers and their representatives.

Article 6
Agenda

1. The provisional agenda shall be drawn up by the Chairperson assisted by the Executive Director and sent to the Board Members and observers in accordance with Article 3 and this Article 6. The agenda shall be drawn up taking into consideration the role and tasks to be performed by the Governing Board as defined in Article 17 and 94 of the Single Basic Act.

2. The provisional agenda shall contain the following items:

   (a) adoption of the agenda;

   (b) adoption or approval of the minutes of the preceding meeting (including meeting held by audio conference, video conference or any other means of communication) provided that the minutes have not been approved or adopted by written procedure;

   (c) items for decision of the Governing Board;

   (d) items for opinion of the Governing Board;

   (e) items for information and discussion;

   (f) any other business.

3. The provisional agenda shall specify which items require a vote of the Governing Board.

4. The Board Members and the Executive Director may request specific questions to be included on the provisional agenda no later than ten working days before the date of the meeting. Such requests shall be submitted in writing to the Chairperson and in copy to the secretariat of the Governing Board. Not less than seven working days before the date of the meeting, the Chairperson shall issue the final agenda and notify the Board Members and the Executive Director of his decision to include or not to include each such additional item or question on the agenda.

5. The agenda shall be adopted at the beginning of each meeting.

6. With the agreement of the Governing Board, urgent questions may be added to the agenda at any time prior to the end of the meeting and items on the agenda may be deleted or carried over to a subsequent meeting.

Article 7
Quorum

1. In accordance with article 16(2) of the Single Basic Act, to ensure the quality of the discussions and the involvement of the Members of the Europe's Rail Joint Undertaking, the presence of the Commission, and of at least 50 % of the members other than the Union of the Europe's Rail JU shall constitute the quorum necessary for the meeting to be valid and for enabling the Governing Board to vote. Board Members shall inform the Europe's Rail JU about their attendance as soon as possible upon receipt of the provisional agenda.
2. In the absence of a quorum, the Chairperson shall search an alternative solution such as adopting a decision or an opinion by written procedure or closing the meeting and convening another one as soon as possible.

Article 8
Voting

1. In accordance with article 16(1) of the Single Basic Act, the Board members shall make every effort to adopt decisions by consensus. Failing consensus a vote shall be held. A decision shall be deemed adopted by a majority of at least 75% of the votes including the votes of representatives who are absent, but excluding abstentions.
2. By derogation from paragraph 1, with regard to activities to be performed under the System Pillar, in accordance with article 93(4) of the Single Basic Act, a decision shall be deemed adopted by a majority of at least 55 % of the votes including the votes of representatives who are absent.
3. In accordance with Article 16(3) of the Single Basic Act, the Commission shall hold 50 % of the voting rights. The vote of the Commission shall be indivisible.
4. In accordance with Article 93(2) of the Single Basic Act, the members other than the Union shall collectively hold 50 % of the voting rights. In accordance with Article 16(3) of the Single Basic Act, each of the representatives of the members other than the Union shall hold an equal number of votes. Thus, the voting rights of the Founding Members listed in Annex II of the Single Basic Act shall be distributed equally amongst them.
5. The votes shall be cast by show of hands or orally unless these Rules provide otherwise or if a secret ballot is requested by a Board Member and approved by the Governing Board.
6. Each decision adopted by the Governing Board shall be recorded in the minutes. Upon a request by a Board Member, a statement of his or her views may be entered in the minutes together with the decisions taken.

7. The Chairperson may ask a Board Member to provide an oral explanation of his other vote, unless it is a secret ballot.

8. A Board Member may be represented by another Board Member, provided the latter submits to the Chairperson the power of attorney given to him.

Article 9
Minutes

1. The minutes shall be drawn up at each meeting of the Governing Board by a secretary placed under the responsibility of the Executive Director. The minutes shall contain the agenda, a summary of the discussions, the decisions taken together with the votes cast, a listing of the items for information, the follow-up actions, and the conclusions, as well as the list of attendance and a list of the decisions taken to be made public as provided for in paragraph 7.

2. The draft minutes shall be forwarded to the Board Members not later than ten working days after the meeting.

3. The Board Members shall send their written comments to the Chairperson and the secretariat not later than fifteen working days after receipt of the draft minutes. The Board Members who do not provide their comments will be considered to have given their tacit agreement to the minutes.

4. The minutes shall be approved by written procedure before the next Governing Board meeting or at the next meeting.

5. The minutes shall be signed by the Chairperson and forwarded to the Board Members by email with acknowledgement of receipt no later than ten working days after they become signed. The signed copy of the minutes shall be kept in the archives of the Europe's Rail Joint Undertaking.

6. Also, the final text of the minutes shall be forwarded to the Board Members by email with acknowledgement of receipt no later than ten working days after the approval or added to the Europe's Rail JU intranet for Governing Board documents no later than ten working days after the approval.

7. The list of decisions taken shall be published on the website of the Europe's Rail JU.

Article 10
Written procedure

1. An opinion or decision of the Governing Board can be obtained by written procedure. Articles 7 and 8 shall apply as relevant. If at least one Board Member requests that the proposed decision or opinion is examined at a meeting, the written procedure shall be cancelled.

2. The Executive Director, upon instructions from the Chairperson, shall send the Board Members the proposed opinion or decision to be taken in accordance with Article 16.

3. The Board Members shall approve or reject the opinion or decision by a written reply within twenty working days. In matters of urgency, the Chairperson may decide to shorten the reply deadline, taking into account the internal consultation procedures of each Member of the Europe's Rail Joint Undertaking.

4. Any Board Member who does not vote within the deadline is considered to abstain from voting.

5. The proposal for a decision or opinion to be taken by written procedure shall not be subject to amendments in substance. The proposal shall be approved or rejected in its entirety. If the proposal is rejected, it may be included in the agenda of the next Governing Board meeting at the request of any Board Member.

6. The result of a written procedure will be notified without delay to all Board Members.

Article 11
Confidentiality

1. The proceedings of the Governing Board shall be confidential.

2. The Board Members and any other persons attending a meeting of the Governing Board shall respect the confidential character of these proceedings and shall protect any sensitive information whose disclosure could damage the interests of the Europe's Rail Joint Undertaking, the Members of the Europe's Rail JU or of the participants in the activities of the Europe's Rail JU.

3. The observers and any other persons attending a meeting of the Governing Board shall sign the declaration of confidentiality and conflict of interests enclosed in Annex I.

4. The Governing Board may decide to examine specific items of the agenda without the presence of the Executive Director or observers due to confidentiality of such specific items.

5. The decisions and minutes of the meetings of the Governing Board shall be subject to the provisions of Article 33 of the Single Basic Act and the measures taken for its implementation.

Article 12
Conflict of interest

1. In accordance with Article 42(1) of the Single Basic Act, the Board Members shall avoid any conflict of interest in the exercise of their functions.

2. A Board Member shall not occupy any of the following positions:

   (a) Representative of the Europe's Rail Joint Undertaking States Representatives Group;

   (b) Member of the Europe's Rail JU scientific advisory body;

   (c) scientific leader of an indirect action co-funded by the Europe's Rail JU;

(d) Expert evaluator of proposals submitted to a call for proposals of the Europe's Rail JU;

(e) Expert observer of the evaluation of a proposal submitted to a call for proposals of the Europe's Rail JU;

3. In accordance with the general principles set in the Commission guidelines on the prevention and management of conflicts of interest in the EU[3], the following measures are applicable:

(a) Upon appointment, the Board Members and all attendees to the Governing Board meetings shall sign the declaration of confidentiality and conflict of interest in Annex I. The Board Members shall submit a declaration of interests every year (Annex II).

(b) The Governing Board or the Chairperson may decide to examine and take a decision on specific items of its agenda without the presence of the Board Members whose participation may lead to conflict of interest with regard to a particular agenda item.

(c) A request for application of the preceding paragraph, addressed to the Chairperson may be submitted by any Board Member no later than the day before the meeting and must be justified. The Chairperson shall present such request and the associated justification at the opening of the meeting and the Governing Board will decide in accordance with Article 8.

(d) During a meeting, any attendee whose participation in the work of the Governing Board leads or may lead to a conflict or potential conflict of interest with regard to a particular agenda item shall without delay inform the Chairperson who shall without delay and before any affected deliberation is taken decide on any specific measure in this respect.

(e) Upon proposal by the Chairperson, the Governing Board may decide to examine such items of the agenda without the presence of the attendee concerned.

(f) Should the Governing Board or the Europe's Rail JU become aware that a conflict of interest was not declared by a Board Member, the Governing Board shall decide on the appropriate measures to be taken after hearing the affected Board Member.

4. Further detailed rules shall be set out in a subsequent Governing Board decision in line with Article 42(2) of the Single Basic Act.

Article 13
Conduct of Governing Board Members

1. The Board Members must ensure that the integrity and reputation of the Joint Undertaking and of the Union are safeguarded.

[3] Commission Guidelines on the prevention and management of conflicts of interest in EU decentralised agencies, adopted 10 December 2013

2. They shall behave and perform their duties in compliance with the principles and the rules laid down in a Code of Conduct to be adopted by the Governing Board in a subsequent decision in line with Article 16(11) of the Single Basic Act.

Article 14
Reimbursement of expenses

1. Each Member of the Europe's Rail Joint Undertaking shall bear all travel and subsistence expenses incurred by their representatives or their respective alternates in connection with meetings of the Governing Board.
2. The Governing Board may define cases where the Europe's Rail JU shall bear the travel and subsistence expenses incurred by observers invited by the Governing Board to its meetings, provided that such observers are not affiliated to any Member of the Europe's Rail JU.
3. The reimbursement of travel and subsistence expenses shall be done in accordance with the Commission Rules on the reimbursement of expenses incurred by people from outside the Commission invited to attend meetings in an expert capacity (C(2007)5858).

Article 15
Working and advisory groups

1. The Governing Board may choose to structure its work in the most appropriate way by establishing working or advisory groups.
2. Each working or advisory group shall elect a lead person by simple majority of its members. Each member shall have one vote. The Commission and the Europe's Rail Joint Undertaking shall be represented in each working group.
3. The lead persons of the working or advisory groups shall report to the Governing Board.

Article 16
Correspondence

1. All correspondence addressed to the Governing Board shall be sent to the seat of the Europe's Rail Joint Undertaking.
2. Electronic communications related to Governing Board matters addressed to the Europe's Rail JU shall be sent to the secretariat with a copy to the Chairperson.
3. Electronic communications related to Governing Board matters addressed to a Member of the Europe's Rail JU shall be sent to all representatives of that Member of the Europe's Rail JU.
4. All correspondence shall be written in English and sent either by post or by e-mail, unless agreed otherwise between a Board Member and the secretariat.

Article 17
Amendment of the Rules of Procedure

1. A Board Member may propose to amend these Rules of Procedure.
2. The Rules of Procedure shall be amended following approval by decision of the Governing Board.
3. Amendments to these Rules of Procedure shall enter into force the day of their adoption by the Governing Board.

Article 18
General provisions

These Rules of Procedure and its amendments shall be published on the Europe's Rail Joint Undertaking website.

Article 19
Entry into force

These Rules of Procedure shall enter into force on the day of their adoption by the Governing Board.

Done at Brussels, on 21 December 2021.

For the Governing Board,

Henrik HOLOLEI

The Chairperson

ANNEX I –DECLARATION OF CONFIDENTIALITY AND CONFLICT OF INTEREST FOR THE ATTENDEES OF THE EUROPE'S RAIL JOINT UNDERTAKING GOVERNING BOARD MEETINGS

Name:

Professional Address:

Phone:

E-mail:

Position:

[ ] Chairperson of the Governing Board

[ ] Representative/lead delegate/alternate of the Commission

[ ] Representative/lead delegate/ alternate of […]

[ ] Representative/lead delegate/ alternate of […]

[ ] Other (please specify)

I hereby undertake to act in the performance of my duties in the general interest of the Europe's Rail Joint Undertaking and in accordance with article 27 of the EU-RAIL JU Financial Rules and Article 61 of Regulation (EU, Euratom) 2018/1046

At each meeting of the Governing Board or before any decision is taken by written procedure, I shall declare any interest which might be considered to influence or bias my judgment and therefore be prejudicial to the way an item on the agenda is handled.

I undertake to ensure the confidentiality of sensitive information whose disclosure could damage the interests or the reputation of the Europe's Rail JU, the Members of the Europe's Rail JU or of the participants in the activities of the Europe's Rail JU.

I shall not disclose sensitive information learnt during the activities of the Europe's Rail JU even after my duties have ended.

Done at [place], [date]

Name and Signature

ANNEX II – ANNUAL DECLARATION OF INTERESTS FOR THE EUROPE'S RAIL JOINT UNDERTAKING GOVERNING BOARD MEMBERS

Name:

Professional Address:

Phone:

E-mail:

Position:

[ ] Chairperson of the Governing Board

[ ] Representative/lead delegate/alternate of the Commission

[ ] Representative/lead delegate/ alternate of […]

[ ] Representative/lead delegate/ alternate of […]

[ ] Other (please specify)

do hereby declare on my honour that, to the best of my knowledge, the only direct or indirect interests I have in the rail sector is those listed below:

1 Past activities:

[posts held over the last 5 years in foundations or similar bodies, educational institutions, companies or other organisations (the nature of the post and the name of those bodies should also be indicated); other membership/affiliation or professional activities held over the last 3 years, including services, liberal professions, consulting activities, and relevant public statements.]

2. Current activities:

[posts held in foundations or similar bodies, educational institutions, companies or other organisations (the nature of the post and the name of those bodies should also be indicated); other membership/affiliations or professional activities, including services, liberal profession, consulting activities, and relevant public statements.]

3. Current Financial Interests

Any direct financial interests, (managerial stakes in companies, including ownerships of patents or any other relevant intellectual property rights), or assets (shares and/or securities held in companies) or grants or other funding which might create a conflict of interests in the performance of their duties, with an indication of their number and value, as well as the name of the company/provider of the grant/funding.]

[No Interest Declared]/ [Interest…]

4. Any other relevant interests.

[No Interest Declared]/ [Interest…]

5. Family Member Interest

[Spouse's/partner's/dependent family members' current activity and financial interests that might entail a risk of conflict of interest.]

[No Interest Declared]/ [Interest…]

I confirm the information declared on this form is accurate to the best of my knowledge and I consent to my information being stored electronically by the Europe's Rail Joint Undertaking.

Done at [place], [date]

Name and Signature

Electronically signed on 21/12/2021 18:13 (UTC+01) in accordance with article 11 of Commission Decision C(2020) 4482