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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

**laying down the rules of procedure of the Board(s) of Appeal of the European Union
Agency for Railways**

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laying down the rules of procedure of the Board(s) of Appeal of the European Union Agency for Railways

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 and repealing Regulation (EC) No 881/2004¹, and in particular Article 55(5),

Whereas:

- (1) Regulation (EU) 2016/796 empowers the Management Board of the European Union Agency for Railways (“the Agency”) to establish one or more Board of Appeal which are to be in charge of the appeals and arbitration procedures referred to in Articles 58 and 61 of that Regulation.
- (2) As Regulation (EU) 2016/796 lays down only essential principles on the processing of appeals, rules of procedure of the Board of Appeal including the voting rules, the procedures for filing an appeal and the conditions for the reimbursement of expenses of their members need to be established. On a proposal made by the Agency, and after consulting the Management Board, the Commission should establish the rules of procedure of the Board of Appeal.
- (3) The Board of Appeal has been established as a permanent body by the Management Board of the Agency, to ensure consistency and coherence in decision-making and to reduce the administrative workload and time-consuming appointment of members each time there is an appeal or arbitration request and to draw on the individual and collective expertise of its members.
- (4) It is essential that the Chairperson ensures the quality and consistency of the decisions of the Board of Appeal.
- (5) To enable handling appeals a rapporteur should be designated for each case and their tasks should be determined.
- (6) To ensure that the Board of Appeal can operate smoothly and efficiently, a Registry should be established under its authority. For the same reasons, the Board of Appeal should be empowered to lay down clear and detailed guidance on the functioning and organisation of the Registry.
- (7) The possibility to have specific guidance issued by the Board of Appeal should be envisaged to complement these rules of procedure with practical arrangements. If necessary and on the basis of the experience gained from the application of these rules

¹ Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004, OJ L 138 of 26.5.2016, p. 1.

of procedure, the effectiveness of the provisions and their application in practice should be subject to review and amendment where appropriate by the Board of Appeal.

- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 81(1) of Regulation (EU) 2016/796,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Establishment and Organisation

Article 1 — Establishment

1. The European Union Agency for Railway shall have a permanent Board of Appeal established for a maximum period of 4 years.
2. In accordance with Article 55(4) of Regulation (EU) 2016/796 the Board of Appeal shall be composed of five members one of which as its chairperson and five alternates.

Article 2 — Appointment

1. The Commission shall draw up a list of experts on the basis of an open selection procedure. From that list the Management Board of the Agency shall appoint a Chairperson, four other members and five alternates. Their term of office is four years and may be renewed once.
2. Chairperson, other members and alternates may hereafter be referred to as 'members'.
3. All members shall have technical and relevant procedural expertise. Legal expertise shall be provided to the Board of Appeal by one of its members or an independent legal expert reporting to the chairperson.
4. The term of office of all members shall start and end on the dates fixed for that purpose in the appointment decision.

Article 3 — Composition

1. Each appeal or arbitration case shall be examined and voted upon by a quorum of at least three members of the Board of Appeal, including the Chairperson.
2. The Registrar shall inform the parties of the composition of the Board of Appeal that will hear the case and of any changes to that composition without undue delay.

Article 4 — Chairperson

1. The Chairperson of the Board of Appeal shall preside over the appeal and arbitration cases and decide upon the composition for each case.
2. The Chairperson shall represent the Board of Appeal.
3. The Chairperson shall ensure the quality and consistency of decisions by the Board of Appeal.
4. The Chairperson shall designate a rapporteur for each case.

Article 5 — Rapporteur

1. The rapporteur shall carry out an examination of the appeal and present to the other members of the Board of Appeal the results of the examination.
2. The rapporteur shall prepare a draft of the findings of the Board of Appeal.

3. The rapporteur shall ensure the proper implementation of Chapter IV.

Article 6 — Replacement

1. In case members of the Board of Appeal are prevented from acting they shall inform the Chairperson thereof, without undue delay.
2. The Chairperson shall appoint an alternate to exercise the functions of that member.
In cases where it is the Chairperson that is prevented from acting, functions of the Chair shall be exercised by one of the other members. If necessary according to Article 2(1) or otherwise required that member shall be replaced by an alternate.
3. Should prevention from acting become permanent the Management Board shall appoint a new member or chairperson, as appropriate.

Article 7 — Independence of the members

1. Members of the Board of Appeal shall act independently from all parties involved in the appeal or arbitration proceedings.
2. The members that have taken part in an arbitration procedure involving the Board of Appeal shall not serve as members of the Board of Appeal when the latter is deciding on an appeal relating to that arbitration procedure.
3. During their term of office, members may not engage in activities which are incompatible with their role and likely to affect their independence and integrity or give rise to justifiable doubts as to their reliability for independent judgment and their impartiality as members of the Board of Appeal.
4. No member shall perform any other duties in relation to the tasks of the Agency and shall not be part of the Agency's staff.

Article 8 — Declaration of conflict of interest

After an appeal has been lodged with the Board of Appeal, each member shall make a declaration on any potential conflict of interest and submit it to the Registrar in line with the conflicts of interest rules adopted pursuant point (s) of Article 51(1) of Regulation (EU) 2016/796.

Article 9 — Exclusion and objection

1. If a member of the Board of Appeal has made a declaration on a potential conflict of interest under Article 8 of this Regulation or considers that any of the conditions set out in Article 57(2) of Regulation (EU) 2016/796 is met, that member shall disclose such circumstances to the Board of Appeal without undue delay and, in principle, before the Board of Appeal starts proceedings.
2. If information constituting a ground for objection referred to in Article 57 (1) and (3) of Regulation (EU) 2016/796 becomes known only after the proceedings have started, an objection shall be admissible if it is made within ten working days from the date on which the party raising the objection obtained knowledge of the facts giving rise to the objection.

3. The member concerned shall be notified of the objection and shall be invited to present her/his response within five working days of receipt of the notification to the Registrar.
4. The Board of Appeal shall without undue delay decide on the exclusion of the member concerned in accordance with Article 57 (2) of Regulation (EU) 2016/796. The member concerned shall abstain from that decision and may be excluded from all or parts of the deliberations.
5. The exclusion of the member concerned is temporary and shall apply to the appeal or arbitration proceedings with regard to which the objection was raised.

Article 10 — Seat of the Board of Appeal

The seat of the Board of Appeal shall be at the seat of the Agency.

Article 11 — Registrar

1. The Board of Appeal shall be assisted in the exercise of its duties by a Registrar.
2. The Registrar shall
 - (a) register all cases of appeals or arbitration under a case number and inform the Board of Appeal and all parties thereof;
 - (b) be responsible for the receipt, transmission and safe storage of all documents relevant to appeal and arbitration cases, for communicating with the parties, and for any other administrative tasks relating to the proceedings;
 - (c) ensure that the announcement of the appeal, as referred to in Article 14 is published on the Agency's website;
 - (d) check that all time-limits and other formal conditions for filing appeals are respected and notify the Board of Appeal thereof;
 - (e) keep the minutes of the hearings, the examination of witnesses or experts and the deliberations of the Board of Appeal
 - (f) keep an archive of all decisions on appeal and arbitration cases issued by the Board of Appeal;
 - (g) include the requests and the findings of the Board of Appeal in the information and communications system referred to in Article 12 of Regulation (EU) 2016/796 ('one-stop-shop').

Article 12 — Appointment and responsibilities of the Registrar

1. The Registrar shall be appointed from among the Agency staff by the Board of Appeal on a proposal by its Chairperson.
2. The Registrar may not participate in any tasks or proceedings of the Agency relating to decisions which may be the subject of appeals under article 60 of Regulation (EU) 2016/796
3. The Registrar shall exercise their duties under the supervision of and follow the instructions given by the Chairperson of the Board of Appeal.
4. The Registrar may be assisted by staff to which this article shall apply in similar manner.

CHAPTER II

Appeal

SECTION 1 - INITIATING THE APPEAL

Article 13 — Lodging the Appeal

1. An appeal by the person to whom the Agency decision is addressed or an appeal based on a failure to act shall be submitted to the Registrar in the provided electronic format, within 1 month from the receipt of the Agency decision or the expiry of the time limit for the Agency to act.
2. Where the appellant is a third party with a direct and individual concern the appeal shall be submitted in writing to the Registry within 2 months of the day on which the decision came to the knowledge of that person.
3. The Appeal shall contain, as applicable:
 - (a) the name and address of the appellant;
 - (b) where the appellant has appointed a representative, the name and address of the representative of the appellant
 - (c) an address for service, if different from that under points (a) and (b);
 - (d) where the appellant is a legal person, it shall provide the Registry with the instrument or instruments constituting and regulating that legal person or a recent extract from the register of companies, firms or associations or any other proof of its existence in law;
 - (e) the reference of the decision which is being contested and the remedy sought by the appellant; A copy of the contested decision shall be annexed.
 - (f) the arguments relied on;
 - (g) where appropriate, the nature of any evidence offered and a statement explaining the facts for which the evidence is offered in support;
 - (h) where appropriate, an indication as to what information in the notice of appeal is to be regarded as confidential;
 - (i) an indication whether the appellant agrees that service is to be effected on him or, where appropriate, on his representative by telefax, e-mail or other technical means of communication.
4. If the Appeal does not comply with the requirements set out in points (a), (b) and (c) of paragraph 2 of this Article, the Registrar shall prescribe a reasonable period within which the appellant is to comply with them. The Registrar shall fix such period only once. During that period, time shall not run for the purposes of calculating the time-limit set out in Articles 58 and 62 of Regulation (EU) 2016/796.

Article 14 — Service and Announcement

1. The Registrar shall notify the Board of Appeal and the Agency of the appeal within 24 hours from receipt of the appeal.

2. An announcement shall be published on the website of the Agency, indicating the date of registration of the appeal, the names and addresses of the parties, the subject matter of the proceedings.

The Chairman shall decide whether information indicated by an appellant pursuant to Article 13(g) is to be regarded as confidential and shall ensure that any information which is regarded as confidential is not published in the announcement.

Article 15 — Inadmissibility of the appeal

1. The Board of Appeal may rule an appeal inadmissible on the basis of one or more of the following grounds:
 - (a) the appeal fails to meet the formal requirements set out in this Regulation;
 - (b) the appellant has exceeded the time-limit for lodging an appeal;
 - (c) the appeal is not brought against a decision subject to appeal;
 - (d) the appellant is neither an addressee of the decision challenged by the appeal nor able to demonstrate direct and individual concern.
2. Paragraph 1 (a), (b) and (c) shall apply mutatis mutandis to the admissibility of the defence.

Article 16 — Interlocutory revision procedure

1. Any appeal against a decision taken by the Agency pursuant to Articles 14, 20, 21 and 22 of Regulation (EU) 2016/796 or a failure of the Agency to act within the applicable time limits shall be subject to interlocutory revision before being put to the Board of Appeal for examination.
2. Upon notification of the appeal, the Agency shall have 1 month to take one of the following actions:
 - (a) Rectify the decision or failure to act;
 - (b) Confirm its original decision and provide reasons;
 - (c) Confirm that the interlocutory revision does not apply in accordance with Article 60(1) second sentence of Regulation (EU) 2016/796;
 - (d) Provide reasons for which it considers the appeal to lack formal admissibility.
3. In all cases mentioned above the Agency shall inform the Registrar of its action and provide all necessary supporting documents and rationale, as appropriate.
4. In the case referred to in point (a) of paragraph 1, the Agency shall issue its decision and the Registrar shall close the appeal procedure.
5. In the case referred to in point (b), (c), (d) and (e) of paragraph 1, the Registrar shall notify the appellant and the Board of Appeal accordingly. Within six working days of the day of notification, the appellant may withdraw its appeal or confirm that the appeal shall be put to the Board of Appeal for examination.

In these cases the Agency may decide to suspend the application of the decision under appeal.

Article 17 — Statement of Defence

1. The Agency in cases where the Interlocutory Revision is not applicable, shall lodge a statement of defence within one month following the date of notification of the appeal.
2. The statement of defence shall contain:
 - (a) the name of the representative of the Agency;
 - (b) the pleas and the arguments relied on;
 - (c) The available supporting evidence, where appropriate.
3. Where the Agency, despite being duly summoned, fails to lodge a defence, the proceedings shall continue without a defence.

Article 18 — Intervention

1. Any person demonstrating a legal interest in the result of the case submitted to the Board of Appeal may intervene in the proceedings before it.
2. An application to intervene shall be submitted within 15 days following the publication of the announcement of the appeal on the website of the Agency.
3. The application to intervene shall be notified the parties to give them the opportunity to make any observations they consider necessary before the Board of Appeal delivers its decision on the intervention.
4. The intervention shall be limited to supporting or opposing, in whole or in part, the remedy sought by one of the parties. The intervention shall not confer the same procedural rights as those already conferred on the original parties

Article 19 — Content of the application to intervene

1. The application to intervene shall contain:
 - (a) the name and address of the intervener;
 - (b) the name and the address of the representative of the intervener, if applicable;
 - (c) an address for service, if different from that under points (a) and (b);
 - (d) reference to the case for which the application is submitted;
 - (e) a statement of the circumstances establishing the right to intervene. a statement on the remedy sought by the intervener in support of or opposing, in whole or in part, the remedy sought by one of the parties;
 - (f) the pleas and the arguments of fact and law relied on;
 - (g) the relevant supporting evidence, where appropriate.
2. After the intervention has been lodged, the Chairperson shall prescribe a time-limit within which the parties may reply to the intervention.

Article 20 — Decision on the application to intervene

1. The Board of Appeal shall decide whether to grant the intervention.

2. Where the Board of Appeal grants the intervention, the Chairperson shall set a period within which the intervener may submit further details to the intervention.

Article 21 — Request for Suspension

1. A party to the proceedings may submit, any time before a final decision on the Appeal procedure, a reasoned request for a suspension of the contested decision to the Board of Appeal or within the time frame of the interlocutory revision to the Agency.
2. The applicant shall demonstrate that there is urgent need to grant a suspension for the preservation of their rights and interests due to a risk of serious and irreparable damage to those rights and interests.
3. The application for suspension shall be submitted
4. A decision by which the Agency has rejected an application to issue a single safety certificate or an authorisation to place on the market of vehicles and vehicle types shall not be subject to an application for suspension.
5. Notwithstanding the rejection by the Agency of the request for suspensory effect of the appeal submitted by the applicant, the Board of Appeal shall have the power to examine it under Article 58(2) of Regulation (EU) 2016/796.
6. The Chairperson shall prescribe a short time-limit within which the opposing party may submit written observations on the application.

Article 22 – Request for a Stay of Proceedings

1. A party to the proceedings may submit, any time before a final decision on the Appeal Procedure, a reasoned request for a stay of proceedings
2. The Board of Appeal may also order a stay of proceedings on its own motion after hearing the parties.
3. The stay shall take effect on the date indicated in the order of stay.
4. The order shall state the duration of stay.
5. While proceedings are stayed all procedural time-limits shall be suspended, except for the time-limit set in relation to an application to intervene.

SECTION 2 – PROCEEDINGS AND DECISION

Article 23 — Deliberations

The deliberations of the Board of Appeal shall be confidential and subject to Article 4(3) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council².

² 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).

Article 24— Voting

Decisions shall be taken by a majority vote. The chairperson shall have a casting vote in case of draw.

Article 25 —Findings of the Board of Appeal

1. The reasoned findings of the Board of Appeal shall be in writing. They shall contain at least the following elements:
 - (a) the names of the members of the Board of Appeal taking part in the relevant proceedings;
 - (b) the names of the parties and of their representatives, if applicable;
 - (c) a summary of the relevant facts;
 - (d) a statement of the form of order sought by the parties;
 - (e) a summary of the parties' arguments;
 - (f) the grounds of admissibility ;
 - (g) the operative part of the findings and the reasons on which they are based;
 - (h) the date of their delivery.
2. The findings shall be signed by the members of the Appeal Board(s) deciding on the appeal and by the Registrar.

Article 27 — Final decision of the Agency

1. In case the Board of appeal has remitted a case to the Agency, the agency shall issue a final decision in compliance with the findings of the Board of Appeal within one month following the delivery of the decision of the Board of Appeal.
2. The decision shall contain at least the following elements:
 - (a) the names of the parties and of their representatives, if applicable;
 - (b) the findings of the Board of Appeal;
 - (c) the operative part of the decision and the reasons on which it is based;
3. In case the Board of Appeal has confirmed the decision of the Agency, the agency shall issue an invoice in accordance with the Commission regulation on Fees and Charges.

Article 28 — Rectification of the decision

The Board of Appeal may, after hearing the parties, of its own motion or on application by a party made within one month after the decision has been served, rectify clerical mistakes, errors in calculation and obvious mistakes in the decision.

CHAPTER III

Arbitration

Article 29 — Arbitration Procedure

1. In accordance with Article 61 of Regulation (EU) 2016/796 a request for arbitration may be lodged with the Board of Appeal by the national safety authority or authorities concerned
2. Any arbitration shall be filed with the Registry which shall notify the Agency and the Board of appeal thereof within 24 hours.
3. The Board of Appeal shall have two month to examine the case and decide whether to uphold the Agency's position.

Article 30 — Decision of the Board of Appeal

1. The decision of the Board of Appeal shall contain at least the following elements:
 - (a) the names of the parties and of their representatives, if applicable;
 - (b) a summary of the disputed facts and issues;
 - (c) the respective positions and arguments of the parties;
 - (d) an analysis of the findings ;
 - (e) operative part containing the decision;

CHAPTER IV

Common Procedural Requirements

SECTION 1 - LANGUAGE

Article 31 —Language of the case

1. If the appellant is the addressee of the decision under appeal, the appeal shall be lodged in the language of the procedure leading to the decision under appeal.
2. If the appellant is not the addressee of the decision under appeal, the appeal may be lodged in any of the official languages of the Union.
3. The request for arbitration may be lodged in any of the official languages of the Union and the arbitration proceedings shall be carried out in that language.
4. The language referred to in paragraph 1, 2 and 3 shall be the language of the case. It shall be used in the written and oral proceedings and in all communications with the parties.
5. The findings of the Board of Appeal shall be made in the language of the case.
6. The interveners shall use the language of the case.
7. The Board of Appeal may derogate from paragraphs 3, 4 and 5 upon request of one of the parties and subject to the agreement of the other parties.

Article 32 —Language of annexed technical and supporting documents

1. All technical and supporting documents annexed to the appeal, the arbitration request and the defence shall be submitted in the language of the case leading to the decision under appeal.
2. In case of translation from third countries' languages, the party concerned shall provide a certified translation.
3. All expenses relating to the translation of annexed technical and other supporting documents shall be borne by the party submitting the document.

SECTION 2 – THE PROCEDURE

Article 33— Procedural measures

1. Procedural measures shall be ordered by the Chairperson at any time during the procedure.
2. Measures referred to in paragraph 1 may include, in particular:
 - (a) putting questions to the parties;
 - (b) inviting the parties to make written and oral submissions on certain aspects of the case;
 - (c) asking the parties or third parties for information;
 - (d) summoning the parties or their representatives to meetings.

- (e) commissioning of an expert's report;
- (f) inspection.

Article 34— Extension and exceeding of time limit

1. Any time limit prescribed pursuant to this Regulation may be extended by whoever prescribed it.
2. Exceeding a time limit shall be without prejudice to any right of a party provided that the party concerned proves the existence of unforeseeable circumstances or of force majeure to the satisfaction of the Board of Appeal.

SECTION 3- PROCEDURAL DOCUMENTS

Article 35 — Methods of serving documents

1. Where this Regulation requires that a document is notified, the Registrar shall ensure safe and efficient delivery by registered mail or in electronic format in agreement with the addressee. An acknowledgement of receipt from the addressee is required in both cases.

Article 36— Formal requirements

1. All documents lodged by the appellant shall bear their signature or the signature of their representative or an electronic certification providing similar certainty.
2. For the purpose of calculating time-limits, a document shall only be considered to have been lodged when it is received by the Registrar, who must acknowledge receipt of the document.

Article 37 — Presentation of procedural documents

1. Procedural documents shall indicate the appeal or arbitration case number which was allocated by the Registrar when the appeal or arbitration was first submitted.
2. The maximum number of pages for procedural documents shall be as follows:
 - (a) 20 pages for the appeal and the defence; and
 - (b) 10 pages for the intervention.

The page limits do not apply to the annexes in the procedural documents.

3. Authorisation to exceed the maximum lengths referred to in paragraph 2 shall be granted by the Registrar only in cases involving particularly complex factual issues.
4. Procedural document pages shall be numbered consecutively. The list of annexes shall be included at the end of the procedural document and the annexes shall be numbered consecutively.
5. The Registrar shall prescribe size-limits on all incoming messages containing procedural documents in order to ensure successful transmission through electronic means.

SECTION 4 -EVIDENCE

Article 38 — Witness testimony

1. The Board of Appeal may, either on its own motion or at the request of one of the parties, decide by reasoned order that certain facts shall be substantiated by witnesses.
2. A request by a party to hear a witness shall state on which facts the witness shall be heard and the grounds for calling the witness.
3. The reasoned order shall set out the facts to be established and state which witnesses are to be heard in respect of each of those facts. The order shall be served on the parties by the Registry.

Article 39 — Expert report

The Board of Appeal may order an expert's report. The order appointing the expert shall define their tasks and set a time-limit within which the report shall be submitted.

Article 40 — Experts from Member States

1. During the examination phase of the procedure, the Board of Appeal may ask experts from Member States to clarify specific aspects of national legislation.
2. These experts may provide their expertise to the Board of Appeal through witness testimony or by providing an expert report.

Article 41 — Declaration of interest and objection

1. Before giving evidence, the witness or expert shall declare any direct or indirect personal interest which they may have in the outcome of the case, in particular if they have previously acted as a representative of one of the parties or have participated in the procedure leading to the decision under appeal or in related arbitration proceedings. If the Board of appeals considers that there is a conflict of interest or a risk thereof, it shall not appoint that expert.
2. If one of the parties objects to witness testimony or expert evidence, the matter shall be decided upon by the Board of Appeal.

Article 42 — New arguments or evidence

1. The Board of Appeal shall decide until when new evidence or new pleas may be introduced.
2. Where appropriate, the Board of Appeal shall call on the parties to submit observations or additional information within a time-frame it shall determine.
3. Where new evidence or new pleas are deemed admissible, the other parties shall be entitled to provide their observations.

Article 43 — Oral hearing

1. The Board of Appeal shall hold an oral hearing if it considers this to be necessary or at the request of a party. The request shall be submitted within two weeks from

notification to the party of the closure of the written part of the proceedings. This period may be extended by the Chairman.

2. The Registrar shall fix the date of the hearing and communicate its details to the parties.
 - (a) The hearing shall take place at the premises of the Agency.
 - (b) The hearings may be held by videoconference or by using other communication technology if the technical means are available.
 - (c) Where a party informs the Registrar that they do not intend to appear at the oral hearing or where a party is unjustifiably absent, the Board of Appeal may proceed with a hearing without that party present.
3. Where the parties indicate to the Registrar that they will not appear at the hearing, the Board of Appeal may decide to cancel the hearing.

SECTION 6 - CONFIDENTIALITY

Article 44 — Confidential treatment of procedural documents

1. Any application for confidential treatment shall be attached as a separate document to the appeal, the defence or the intervention. It shall identify the words, particulars, figures or passages for which confidentiality is claimed and state the specific reasons why each of those items should be regarded as confidential. Failure to provide such information may result in the application being rejected by the Board of Appeal.
2. After the confidentiality request has been wholly or partially accepted by the Board of Appeal, ‘non-confidential’ and ‘confidential’ versions of the relevant document shall be submitted to the Registry.

SECTION 7 - COSTS

Article 45 — Costs of the parties

1. The costs of the parties to an appeal shall be determined in accordance with Commission Regulation [on fees and charges].
2. Each party participating in arbitration proceedings shall bear its own costs

Article 46 — Remuneration fees for members of the Board of Appeal

1. The members of the Board of Appeal shall be entitled to payment of fees for the performance of their duties as members of the Board of Appeal based on the remuneration scheme in the Annex.
2. The members of the Board of Appeal shall be entitled to the reimbursement of expenses related to travel, accommodation and daily allowances incurred . The Management Board shall lay down detailed rules applicable to the calculation of these amounts.

Article 47 — Cost for participation

1. Interveners shall bear their own costs.
Witnesses and experts shall be entitled to reimbursement of their travel and accommodation expenses and to compensation for loss of earnings to the extent deemed equitable by the Board of Appeal. Payments shall be made to the witnesses after they have given their evidence and to the experts after they have fulfilled their duties or tasks.
2. Experts shall be entitled to payment of fees for their services based on the rate for experts assisting the Agency.
3. The Management Board shall lay down detailed rules applicable to these reimbursements and payments.

CHAPTER V

FINAL PROVISIONS

Article 48 — Duty of transparency

Interested parties shall have access to documents drawn up or received by the Board of Appeal under the relevant provisions of Regulation (EC) No 1049/2001 and according to the policy on public access to documents applicable within the Agency.

Article 49 — Adoption of guidelines

1. Guidelines and practice directions for parties and interveners and instructions on the preparation and conduct of the hearings before the Board of Appeal and on the lodging of pleadings and observations may be adopted.
2. The Board of Appeal shall adopt the rules and measures referred to in paragraph 1 by majority vote.
3. These rules and measures shall be published on the Website of the Agency

Article 50 — Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission
The President
Jean-Claude Juncker*