



## EUROPEAN COMMISSION

Office of the First Vice-President Mr Frans Timmermans

Head of Cabinet

Brussels, **27. 05. 2016**  
Ares (2016)1781033

Dear Mr Sabido,

The First Vice-President of the European Commission, Mr Frans Timmermans, has asked me to thank you for the fruitful exchange of views during the meeting with you and your colleagues from other NGOs on 7 April and for your letter of 14 April summarising the key points of you raised in relation to expert groups. He has asked me to reply on his behalf.

### **Public consultation**

When preparing the revised horizontal rules on the creation and operation of its expert groups, the Commission has taken into account suggestions put forward over the past few years by the European Parliament, the European Ombudsman and stakeholders, including civil society organisations. We paid particular attention to the suggestions submitted in the framework of the public consultation launched by the European Ombudsman in 2014, as part of her own-inquiry on expert groups. The Commission is favourable to many of the Ombudsman's recommendations to the Commission of 2015, which in turn had taken on board many stakeholders' suggestions. These recommendations will be duly reflected in the revised rules, including as regards conflict of interest, transparency and selection procedures. The Commission would therefore not see the real added value of another round of consultations.

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## **Balance**

The revised horizontal rules will reconfirm the Commission's strong commitment to strive for a balanced composition of expert groups. The relevant provisions will be strengthened further. In particular it will become mandatory for the Commission services to select expert group members other than public authorities via public calls for applications. These calls will set out which expertise and profiles the Commission is looking for in a given group. This complete transparency in the selection process will therefore give equal opportunities to all stakeholders concerned to participate in the work of expert groups.

At the same time, ensuring a group benefits from a balanced representation cannot be an exercise in arithmetic in relation to the number of experts present in each group. Expert groups are not a uniform set of bodies, performing identical tasks and, thus, their composition should not be designed by introducing some sort of cap or quota for each interest category, irrespective of the concrete circumstances in which these groups operate. This would often result in an artificial composition of groups, which might then be unable to provide the Commission with the added value it needs. Rather, the composition of an expert group is to be determined by its mandate, by the specific expertise required, as well as by the number, relevance and quality of the applications received.

## **Conflict of interest**

Conflict of interest is a real concern in relation to experts appointed to expert groups in a personal capacity, who are due to act independently and in the public interest. The revised horizontal rules will significantly improve the management of conflicts of interest in relation to these experts. In particular, new provisions will introduce a definition of 'conflict of interest' and provide for a specific assessment to be performed by all Commission departments concerned, on the basis of standard declarations of interests to be completed by experts. Only if Commission departments conclude that there is no conflict of interest may experts be appointed in a personal capacity. The new provisions will also foresee that if a conflict of interest arises after the expert's appointment, that expert shall be excluded from the group.

Stakeholders and public bodies, in contrast, have their own legitimate interest, which is openly declared. Following the meeting of 7 April, we have included a provision in the revised rules which will ensure that Member States shall only be represented by civil servants or public employees.

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It is important to stress that the expertise, advice and views gathered from expert groups are never binding on the Commission, which remains fully independent in the way it assesses the input collected from these groups.

## **Transparency**

The revised horizontal rules will further enhance transparency, in line with your suggestions.

In particular, the revised rules will instruct Commission departments to ensure prior publication of the agenda and of the background documents in due time ahead of the meeting, followed by timely publication of minutes of the particular expert group meeting, which must be meaningful and complete. This is part of the long-standing general Commission commitment to publish all relevant documents such as the agendas, the minutes and the participants' submissions, either on the Register of expert groups or *via* a link from the Register to a dedicated website where this information can be found. Exceptions to publication will be possible where it is deemed that disclosure of a document would undermine the protection of any public or private interest as defined in Article 4 of Regulation (EC) N° 1049/2001.

In the event of a vote on opinions, recommendations or reports produced by the expert groups, the members that voted against or abstained will have the right to have a document summarising the reasons for their position annexed to those opinions, recommendations or reports.

Comitology committees operate according to a separate set of rules. The transparency requirements in this case are clearly set out in Regulation 182/2011 (Article 10). The Commission accordingly publishes, in the Comitology Register, relevant agendas, summary records, voting sheets and draft measures.

## **Enforcement**

The Commission is committed to ensure the consistent and coherent implementation of the new rules. Their enforcement is a collective responsibility across all Commission departments, involving the Secretariat-General and the DGs responsible for the management of expert groups.

In order to enhancing transparency on the work performed by advisory bodies, the minimum number of members (six) as a criterion to classify a consultative entity as a 'Commission expert group' will be removed in the revised rules. Thus, consultative entities, which in the past were not classified as 'Commission expert groups' or 'other similar entities' for the sole reason that they are composed of less than six members, will be subject to the rules on expert groups within six months of the date of their adoption.

Over the past few years, the Commission has repeatedly reviewed the composition of its expert groups, in particular in the framework of the informal dialogue with the European Parliament, which also addressed concerns raised by civil society organisations. As a result, the composition of many groups was gradually modified, to the extent possible. For the sake of proportionality, the Commission does not consider it appropriate to launch another general review of the groups' membership. The Commission remains committed to address any perceived imbalance on a case-by-case basis, in order to remedy possible inconsistencies, in light of specific circumstances.

### **Timetable**

The revised horizontal rules are planned to be adopted on 30 May 2016, fully delivering on the commitments taken by the Commission in its reply to the European Ombudsman. While the new rules will be applicable as from the day of adoption, a number of their provisions will be phased in over several months. The same applies to the new version of the Register of expert groups, reflecting the new rules, will be operational in the coming days.

We believe that these new rules will bring significant improvements in terms of transparency, accountability and, hence, also acceptability of the work done by expert groups. I therefore hope that also your organisation and many other NGOs will fully exploit the opportunities offered by the new system and thereby contribute to its functioning and effectiveness.

For any remaining questions, my colleagues in the Commission's Secretariat General (Unit SG.B2: Henning KLAUS, Antonello MASCHIO) remain at your disposal.

Yours sincerely,



Ben SMULDERS