



# European Network of Prosecutors for the Environment aisbl

## Meeting of the Board of Directors

5 June 2018 10.00hrs – 12.30hrs (CET)

Scotland House, Brussels

**Attending:** Anne Brosnan (AB, Chair); Lars Magnusson (LM); Rob de Rijck (RdR)

**Observers:** David Smith (DS, joining for part via telephone); Peter Ashford (PA); Shaun Robinson (SR);

**Apologies:** Jean-Philippe Rivaud

### Minutes

AB noted that a quorum was present and that none of the directors present had a personal interest in the matters to be discussed so the meeting may proceed to business.

#### 1. Minutes from last meeting (02/03/18) and matters arising

AB confirmed that all actions from the last meeting were complete apart from:

**ACTION - CT to share names and contact details of EnviCrimeNet contacts currently involved in their secretariat – rolled forward for SR to chase**

AB noted that there was one important matter arising that needed to be dealt with before turning to other business. This was as follows: that Lorna Dempsey (LD) (ENPE treasurer) has left the Irish EPA to take up a post at Milieu for 3 years. As such she is no longer eligible to act as a director of ENPE and is deemed to have resigned as both a director and treasurer upon leaving the service of the Irish EPA (although for formality's sake it would be beneficial to receive a letter of resignation). LD's resignation leaves ENPE without the minimum 5 directors required by its Articles and without a treasurer. The Board is required to appoint a new director and treasurer as soon as possible. Under the Internal rules of Procedure the Board must first allow the Irish EPA to nominate a replacement director, before seeking nominations from the members.

AB further noted that the Irish EPA had indicated that it would seek to nominate David Smith to replace LD as a director.

The Board considered the office of treasurer, noting that this did not necessarily pass to LD's replacement. The Board considered the benefits of non-the-less, offering this post to the Irish EPA but also the benefits (particularly in terms of resilience and engagement) of broadening out participation in ENPE's management by seeking new directors and/or a further director who could also act as the treasurer. The Board noted that ENPE's Articles allow it to have up to 11 directors.

Consequently, the board resolved to:



- invite LD to submit a written resignation;
- invite the Irish EPA to formally nominate a new director to replace LD;
- invite expressions of interest from Members' Permanent Representatives to act as a director and/or treasurer; and
- consider any expressions of interest received at the next meeting on the basis of suitability to act as a director, previous level of engagement and length of membership.

**NEW ACTION – SR to undertake the above communications on ENPE's behalf.**

The Board noted that, although LD had ceased to be a director of ENPE, she would retain her position as Chair of LIFE-ENPE Working Group 3 until after that group's workshop in December 2018. She will arrange who might take this role over from among the Working Group 3 members.

David Smith then joined the meeting as an observer by telephone.

AB confirmed to DS' the board's decision to invite the Irish EPA to nominate him as a director, which the Board could approve on an interim basis but that the membership would need to ratify at its next general meeting. AB informed DS that this meeting would take place at ENPE's annual conference (23 & 24 October in Heraklion in Crete).

## **2. Officer reports**

- **President**

AB informed the Board that she had attended the European Commission's inaugural Environmental Compliance Assurance (ECA) Forum on 13 March 2018 in Brussels. She noted that ENPE was interested in specific Actions of the ECA Action Plan, in particular Action 4 - Environmental Crimes.

AB confirmed that at the meeting she had asked EU Member States to apply for Membership in cases where they had not already done so (18 out of 28 so far). AB noted the Commission's view that ENPE's partnership was important to the success of ECA and that the meeting went well. Minutes are available on the European Commission's website and AB has prepared a more thorough report on this meeting.

She confirmed that the next ECA Forum meeting is 6/7 December.

**NEW ACTION – SR to circulate AB's report.**

AB also informed the Board that she had attended the Interpol Pollution Crime Working Group meeting (S Africa) where she presented with Deborah Harris. Organised environmental crime is a big focus of Interpol, which also sees waste crime as important.

- **Secretary General**

LM updated the Board on ENPE's Segovia workshop. ENPE members were well represented as were North African states. LM stated that their activity in tackling illegal killing and taking of birds was very pleasing.

LM informed the Board that presentations and a summary report will be made available via ENPE's website.



LM invited SR to confirm changes to ENPE's membership, which were as follows:

- the Italian Environmental Prosecutors General had been approved as a Full Member;
- a membership (Full Member) application was pending for the Law Office of Cyprus;
- a membership (Observer Member) application from the Croatian Ministry of Energy and Environment
- a change in the Czech Republic's ENPE member organisation's (the High Public Prosecutor Office in Prague) Permanent Representative from Adam Basny to Katerina Weissova.

The Board considered these matters, in particular the Law Office of Cyprus' eligibility for Membership and resolved as follows:

- the Law Office of Cyprus be approved as a Full Member;
- the Croatian Ministry of Environment & Energy to be approved as an Observer Member
- the change in the Permanent Representative for the High Public Prosecutor Office in Prague be noted and ENPE's records updated accordingly.

**NEW ACTION – SR to notify the Law Office of Cyprus and Croatia Ministry of Environment and Energy of the Board's decision and send a welcome letter. SR to update ENPE's records and send a welcome letter to Katerina Weissova.**

- **Treasurer**

In LD's absence AB updated the Board on ENPE's banking situation. She confirmed that a new account has been opened with KBC (Rond-point Robert Schuman branch). AB confirmed that she and LD are currently the signatories but that this would need to change in light of LD's resignation.

The Board was informed that only 1 signatory was required by KBC to effect transactions, although the Articles provided for any 2 directors to sign documents on ENPE's behalf. The Board noted that the Internal rules were silent on this point so resolved to update those Rules to ensure clarity that 2 directors were required to effect transactions at KBC.

AB confirmed that ENPE's old account with Barclays was in the process of being closed and the funds transferred to KBC. There had been problems with this meaning that a payment to ENPE's accountants is outstanding. A new instruction has been drafted to ensure these problems are resolved as swiftly as possible and the accountants can be paid.

***NEW ACTION – PA to update ENPE's Internal Rules to clarify that expenditure must be authorised by 2 directors notwithstanding KBC's requirement for only 1 signatory and circulate to the Board for approval***

***NEW ACTION – AB/SR to re-instruct Barclays to close ENPE's account and transfer funds to KBC then to pay ENPE's accountants as soon as possible. Further, AB/SR to remove LD as a signatory on ENPE's account with KBC as soon as possible.***



### 3. Articles of Association

Draft amended Articles of Association were tabled to the meeting and PA invited to explain the changes to the Board.

PA introduced the suggested changes, the most substantive ones being to:

- allow UK organisations to remain Members following the UK's departure from the EU;
- allow the Irish EPA to remain a member notwithstanding its loss of all qualified lawyers;
- remove the possibility for Observers, given the high degree of overlap between the rights and responsibilities of Observers and Supporting Members.

The board considered these changes and approved the first two. Regarding the third, the Board resolved to reinstate references to Observers but insert new definitions to highlight the distinction between Supporting Members (which may represent ENPE and actively participate in its activities and thereby further its objectives) and Observers (whose role is passive).

**NEW ACTION – PA to update the Articles and circulate a further draft to the Board for consideration.**

The Board noted that once it approved amended Articles the amendments would need to be put to the General Assembly where they would need to be approved by 2/3 majority. The Board further noted that certain amendments to the Articles would require notarisation and asked PA to check whether this would apply.

### 4. Environmental Compliance Assurance (ECA) Initiative

A draft framework funding agreement with the EU and an options paper for ENPE's future funding and activities under the umbrella of the ECA Initiative was tabled.

The paper set out options for cooperation with other networks (in particular IMPEL, EUFJE and EnvCrimNet) and for governance of joint activities funded by the EU as follows:

- Cooperation Option 1 – each network retains its own secretariat and its own work programme, funded under individual grants made via a framework funding agreement with the EU
- Cooperation Option 2 – the networks share a secretariat and participate in joint 'thematic' activities funded under joint grants made via a framework funding agreement with the EU
- Cooperation Option 3 – the networks share a secretariat but undertake their own work programmes funded under individual grants made via a framework funding agreement with the EU
- Governance option 1 – a central secretariat reporting to, and working on behalf of, a steering group of all four networks
- Governance Option 2 – a separate secretariat reporting to each network with governance via individual networks

The Board considered these options, noting that there were pros and cons with each. The Board further noted that EUFJE had informally indicated a preference for Cooperation Option 1 and Governance Option 2. It was felt that IMPEL may favour Option 2 given the similarities to its current working



arrangements, and also felt that EnviCrimNet was looking more towards Europol for future funding and assistance with strategic direction.

In light of these matters, the Board resolved that Cooperation Option 1 and Governance Option 2 were its preferred position.

The Board further noted a number of points concerning the ECA initiative, that:

- there was a 9 point Actions Plan and ENPE contributions (in particular workshop attendance) was sought for each point, whereas ENPE was better placed to add value to some points over others
- The next workshop on 8 June (on complaint handling) was not an area ENPE could readily add value to. However, Sara Boogers has agreed to attend on ENPE's behalf.
- A further workshop on 3 July (environmental crime) was more relevant to ENPE's work and it may be valuable for more ENPE representatives to attend. It was agreed that AB should enquire whether four places could be made available for ENPE attendees.
- The next ECA specialist forum was on 6/8 December 2018. ENPE attendance would be confirmed nearer the time

#### **5. the International Network of Environmental Compliance and Enforcement (INECE)**

AB introduced INECE noting that it had been quite active some time ago, had been quiet for some time but was now reinvigorated. ENPE has been asked to join and details of INECE membership types have been provided (copies of which were tabled to the meeting).

The Board considered this membership request, noting that ENPE appeared to be eligible for Associate Membership which was free. Consequently, the board resolved to apply for Associate Membership.

**NEW ACTION – AB to confirm to INECE that ENPE wishes to apply to join as Associate Member.**

#### **6. Forthcoming events**

The Board noted the following forthcoming events which ENPE was arranging, had been invited or else should note:

- ECA workshops – Brussels, Belgium 8 June (Complaint Handling) and 3 July (Environmental Crime)
- IMPEL EGM – Brussels, 14-15 June
- UN Environment Judiciaries Symposium - Mozambique, 1-3 August
- IMPEL conference – Lelystad, Netherlands, 24-28 September
- ENPE conference – Heraklion, Crete, 23-24 October,
- EUFJE conference “Specialisation in Environmental Adjudication” – Sofia, Bulgaria, 16-17 November
- LIFE-ENPE Working Group 3 Air Pollution workshop - Cyprus, December 2018

RdR noted he would also be attending a Vienna meeting on waste with Howard McCann (EA).



**7. AOB**

The Board considered the draft conference agenda, noting in particular aspects that still needed to be finalised (such as a final inspirational speaker). DS suggested Andrew Seer suggested as an inspiring speaker.

**NEW ACTION – SR to follow this up.**

The Board agreed that its next meeting should be on Monday 10 September 2018.

There being no further business, the meeting closed.

**Signed by meeting Chair.....**



## **Appendix 1 – ENPE aisbl Membership and Observers**

### ENPE aisbl Full Members

- Riksenheten for Milijo-och Arbetsmiljomal vid Aklagarmyndigheten, Sweden
- Environmental Protection Agency, Republic of Ireland
- Environment Agency, England
- Openbaar Ministerie, Functioneel Parket, Netherlands
- Vrchni statni zastupitelstvi v Praz (High Public Prosecutor's Office, Prague), Czech Republic
- Rigsadvokaten (Director of Public Prosecutions Office), Denmark
- Ministere de la Justice (Ministry of Justice), France
- Ökokrim (National Authority for Investigation and Prosecution of Economic and Environmental Crime), Norway
- State Attorney's Office General, Republic of Croatia
- Finnish Prosecution Service, Finland
- Prosecution Office of the Republic of Latvia, Latvia
- Fiscalia General del Estado (State Attorney General's Office), Spain
- Assoc. of Public Prosecutors, Former Yugoslav Republic of Macedonia
- Greek Public Prosecution Service, Greece
- General Prosecutor's Office, Republic of Albania
- Italian Environmental Network of Prosecutors General

### ENPE aisbl Supporting Members:

- Sara Boogers; Public Prosecutors Office, Antwerp
- Carla Campanaro; LAV, Italy

### ENPE aisbl Observers

- Dublin City Council, Ireland
- Eurojust
- State Environmental Inspectorate, Former Yugoslav Republic of Macedonia



- European Forum of Judges for the Environment
- International Association of Prosecutors
- Association of Prosecutors in Bulgaria
- TRAFFIC