

## **Discharge 2013: Agency for the Cooperation of Energy Regulators (ACER)**

### **1. European Parliament decision of 29 April 2015 on discharge in respect of the implementation of the budget of the Agency for the Cooperation of Energy Regulators for the financial year 2013 (2014/2123(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2013, together with the Agency's replies<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2013 (05304/2015 – C8-0054/2015),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>3</sup>,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>4</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators<sup>5</sup>, and in particular Article 24 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>6</sup>,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September

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<sup>1</sup> OJ C 442, 10.12.2014, p. 18.

<sup>2</sup> OJ C 442, 10.12.2014, p. 18.

<sup>3</sup> OJ L 248, 16.9.2002, p. 1.

<sup>4</sup> OJ L 298, 26.10.2012, p. 1.

<sup>5</sup> OJ L 211, 14.8.2009, p. 1.

<sup>6</sup> OJ L 357, 31.12.2002, p. 72.

2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>7</sup>, and in particular Article 108 thereof,

- having regard to Rule 94 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0117/2015),
1. Grants the Director of the Agency for the Cooperation of Energy Regulators discharge in respect of the implementation of the Agency's budget for the financial year 2013;
  2. Sets out its observations in the resolution below;
  3. Instructs its President to forward this decision, and the resolution forming an integral part of it, to the Director of the Agency for the Cooperation of Energy Regulators, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

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<sup>7</sup> OJ L 328, 7.12.2013, p. 42.

## **2. European Parliament decision of 29 April 2015 on the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2013 (2014/2123(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2013, together with the Agency's replies<sup>8</sup>,
- having regard to the statement of assurance<sup>9</sup> as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2013 (05304/2014 – C8-0054/2015),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>10</sup>,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>11</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators<sup>12</sup>, and in particular Article 24 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>13</sup>,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>14</sup>,

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<sup>8</sup> OJ C 442, 10.12.2014, p. 18.

<sup>9</sup> OJ C 442, 10.12.2014, p. 18.

<sup>10</sup> OJ L 248, 16.9.2002, p. 1.

<sup>11</sup> OJ L 298, 26.10.2012, p. 1.

<sup>12</sup> OJ L 211, 14.8.2009, p. 1.

<sup>13</sup> OJ L 357, 31.12.2002, p. 72.

<sup>14</sup> J L 328, 7.12.2013, p. 42.

and in particular Article 108 thereof,

- having regard to Rule 94 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0117/2015),
1. Notes that the final annual accounts of the Agency for the Cooperation of Energy Regulators are as annexed to the Court of Auditors' report;
  2. Approves the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2013;
  3. Instructs its President to forward this decision to the Director of the Agency for the Cooperation of Energy Regulators, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

### **3. European Parliament resolution of 29 April 2015 with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the Agency for the Cooperation of Energy Regulators for the financial year 2013 (2014/2123(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the Agency for the Cooperation of Energy Regulators for the financial year 2013,
  - having regard to Rule 94 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0117/2015),
- A. whereas, according to its financial statements, the final budget of the Agency for the Cooperation of Energy Regulators (“the Agency”) for the financial year 2013 was EUR 11 930 220, representing an increase of 64,74 % compared to 2012, which can be explained by the Agency’s recently established nature and as a result of the implementation of the REMIT Regulation<sup>15</sup>; whereas the entire budget of Agency derives from the Union budget;
- B. whereas the Court of Auditors ("Court"), in its report on the annual accounts of the Agency for Cooperation of Energy Regulators for the financial year 2013 ("the Court's report"), has stated that it has obtained reasonable assurances that the Agency's annual accounts are reliable and that the underlying transactions are legal and regular;

#### ***Follow-up of 2012 discharge***

1. Notes from the Court’s report that regarding two comments made in the Court’s 2011 report and marked as “Ongoing” in the Court's 2012 report, corrective actions have been taken and both recommendations are now marked in the Court's report as “Completed”; notes furthermore that, regarding the five comments made in the Court’s 2012 report, corrective actions have been taken and three comments are now marked as “Completed” and two as “Ongoing”;
2. Acknowledges from the Agency that measures regarding the recommendations on the Agency's recruitment procedures have been formalised with the adoption of its Director's Decision 2014-06 of 4 April 2014; notes that that decision was submitted to the Court and calls on the Agency to inform the discharge authority on the Court's opinion as soon as it becomes available;
3. Acknowledges that the Agency has implemented a series of measures to improve the budget planning processes by developing and implementing a set of guidelines to be followed by the actors involved in the budget planning process, as well as conducting regular exercises of appropriations consumption forecast and review, including monthly monitoring and reporting on budget implementation;

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<sup>15</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p. 1).

### ***Budget and financial management***

4. Notes with concern from the Agency's 2013 Annual Activity Report (AAR) that no agreement was reached for any contribution towards the Agency from the European Free Trade Association states;
5. Notes that budget monitoring efforts during the financial year 2013 resulted in a budget implementation rate of 97,53 %, representing an increase of 4 % compared with 2012, and that the payment appropriations execution rate was low at 55,00 %, below the Agency's target of 70 %, according to the AAR, mainly due to the late receipt of EUR 2 989 000 through an amended budget approved on 31 October 2013;
6. Notes with concern that the Agency held EUR 5 500 000 in cash at the end of the year; calls on the Agency to ensure rigorous treasury management in the future;

### ***Commitments and carry-overs***

7. Takes note that a total of EUR 1 900 000 from Title II committed appropriations was carried over into 2014, mainly as a result of the implementation of the REMIT Regulation; notes that according to the Court's opinion, this is an operational and multiannual activity which should have been budgeted under Title III; notes furthermore that this shortcoming was rectified in subsequent commitment appropriations;
8. Notes furthermore that the carry-overs for Title III appropriations amounted to EUR 3 100 000, representing 91 % of the total of Title III appropriations; acknowledges that those carry-overs are related to the REMIT Regulation and that their exceptionally high rate is mainly due to EUR 2 989 000 received through an amended budget approved on 31 October 2013;
9. Acknowledges from the Agency that a series of measures have been implemented in order to improve the budgeted planning processes; calls on the Agency to inform the discharge authority on the progress and results of those measures;

### ***Prevention and management of conflicts of interests and transparency***

10. Acknowledges from the Agency that its policy on the prevention and management of conflicts of interests has been reviewed on the basis of the Commission's Guidelines on the Prevention and Management of Conflicts of Interest in EU Decentralised Agencies; takes note that as a result of that review, the Agency drafted a new policy which has been subject to the Agency's internal consultation process and is to be adopted by its Administrative Board; calls on the Agency to inform the discharge authority of the assessment results once available;
11. Acknowledges, furthermore, that the CVs and declarations of interests of the members of the Board of Regulators, the Director, senior management officials and the experts participating in the Agency's expert groups, as well as the CVs of the members of the Administrative Board and the Board of Appeal, have been made publicly available on the Agency's website; observes that the declarations of interests of the Director and of the members of the Board of Appeal are public;

### ***Procurement and recruitment procedures***

12. Acknowledges that the Agency has implemented new measures after the adoption of the Guidelines on recruitment procedures and work of the Selection Committees for the selection of Temporary Staff and Contract Staff;
13. Notes that the questions for interviews and tests are prepared before the examination of the applications; notes, in addition, that the criteria for admission to written tests and interviews and for being short listed are specified in greater detail;

### ***Internal audit***

14. Acknowledges that the Commission's Internal Audit Service (IAS) conducted an audit on the Agency according to the its Strategic Audit Plan for the Agency for 2013 - 2015;
15. Takes note that in the course of that risk analysis, the IAS identified a total of eight processes with high inherent risk which could not be considered as auditable within the audit plan, as the controls were assessed as absent or insufficient; acknowledges that the Agency submitted an action plan to the IAS in order to mitigate the identified weaknesses;
16. Acknowledges furthermore that the IAS made the following "Very Important" recommendations:
  - improve the structure, enhance the contents and ensure the completeness of the annual work programme,
  - strengthen the monitoring of procurement activities,
  - reinforce operational and budget implementation monitoring;
17. Ascertains that, in response to the recommendations made by the IAS , the Agency prepared an action plan to resolve the shortcomings; notes that the IAS considered the action plan as adequately addressing the identified risks;
18. Notes that the IAS performed a desk review of the implementation of its earlier recommendations; takes note that as of 31 December 2013, no critical recommendations were open and that the implementation of the three very important recommendations was on track;
19. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 29 April 2015<sup>16</sup> on the performance, financial management and control of the agencies.

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<sup>16</sup> Texts adopted of that date, P8\_TA-PROV(2015)0130.