



2016/2189(DEC)

7.3.2017

AMENDMENTS

1 - 27

Draft report

Inés Ayala Sender

(PE593.856v01-00)

2015 discharge: Agency for the Cooperation of Energy Regulators (ACER)
(2016/2189(DEC))

Amendment 1
Monica Macovei

Proposal for a decision 1
Citation 9 a (new)

Proposal for a decision

Amendment

- *having regard the ECA special Report No 15/2012 "Management of conflict of interest in selected EU Agencies";*

Or. en

Amendment 2
Inés Ayala Sender

Proposal for a decision 1 1
Paragraph 1

Proposal for a decision

Amendment

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 2015 / *Postpones its decision on granting the Director of the Agency for the Cooperation of Energy Regulators discharge in respect of the implementation of the budget of the Agency for the financial year 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 2015;

Or. es

Amendment 3
Ryszard Czarnecki, Raffaele Fitto, Notis Marias

Proposal for a decision 1
Paragraph 1

Proposal for a decision

Amendment

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 2015*** / Postpones its decision on granting the Director of the Agency for the Cooperation of Energy Regulators discharge in respect of the implementation of the budget of the Agency for the financial year 2015;

1. Postpones its decision on granting the Director of the Agency for the Cooperation of Energy Regulators discharge in respect of the implementation of the budget of the Agency for the financial year 2015;

Or. en

Amendment 4
Monica Macovei

Proposal for a decision 1
Paragraph 1

Proposal for a decision

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 2015*** / Postpones its decision on granting the Director of the Agency for the Cooperation of Energy Regulators discharge in respect of the implementation of the budget of the Agency for the financial year 2015;

Amendment

1. Postpones its decision on granting the Director of the Agency for the Cooperation of Energy Regulators discharge in respect of the implementation of the budget of the Agency for the financial year 2015;

Or. en

Amendment 5
Inés Ayala Sender

Proposal for a decision 2 2
Paragraph 1

Proposal for a decision

1. Approves the closure of the accounts of the Agency for the

Amendment

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Cooperation of Energy Regulators for the financial year 2015 / *Postpones the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2015;*

Cooperation of Energy Regulators for the financial year 2015;

Or. es

Amendment 6
Ryszard Czarnecki, Raffaele Fitto, Notis Marias

Proposal for a decision 2
Paragraph 1

Proposal for a decision

1. *Approves the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2015 / Postpones the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2015;*

Amendment

1. Postpones the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2015;

Or. en

Amendment 7
Benedek Jávor
on behalf of the Verts/ALE Group

Motion for a resolution
Recital B a (new)

Motion for a resolution

Amendment

Ba. whereas in the context of the discharge procedure, Parliament stresses the special importance of further strengthening the democratic legitimacy of the institutions of the Union by improving transparency and accountability, implementing the concept of performance based budgeting and good governance of human resources;

Amendment 8
Monica Macovei, Ryszard Czarnecki

Motion for a resolution
Paragraph 2 a (new)

Motion for a resolution

Amendment

2a. Notes that some of the staff members who received undue payments, allowances included, have not returned them; calls on the Agency to take urgent measures for recovering the undue payments and inform the discharge authority by June 2017 on the recovering the undue payments; recalls that the European citizens money are at stake and should be the leading principle in dealing with the financial matters; regrets that the European Court of Auditors failed to find this matter and protect the tax payers;

Amendment 9
Monica Macovei, Ryszard Czarnecki

Motion for a resolution
Paragraph 3 a (new)

Motion for a resolution

Amendment

3a. Notes the high level of appropriations carried over, explained by the Agency through the commitments at year-end, mainly streaming from the long-term nature of the REMIT project implementation; notes the Agency's statement on the uncertainty on the annual budgetary allocation and calls for additional explanations as annual budgetary allocations differ from one year to another to most EU bodies; calls the

Agency to do its utmost to respect the principle of annuality;

Or. en

Amendment 10
Petri Sarvamaa

Motion for a resolution
Paragraph 5

Motion for a resolution

5. *Points out* that carry-overs *are* often partly or fully justified by the multiannual nature of the agencies' operational programmes and do not necessarily indicate weaknesses in budget planning and implementation nor are they always at odds with the budgetary principle of annuality, in particular if they are planned in advance by the Agency and communicated to the Court; notes the fact that the Agency found it difficult to reconcile the principle of annuality with the multi-annual nature of the REMIT implementation project;

Amendment

5. *Notes* that carry-overs *may* often *be* partly or fully justified by the multiannual nature of the agencies' operational programmes and do not necessarily indicate weaknesses in budget planning and implementation nor are they always at odds with the budgetary principle of annuality, in particular if they are planned in advance by the Agency and communicated to the Court; notes the fact that the Agency found it difficult to reconcile the principle of annuality with the multi-annual nature of the REMIT implementation project;

Or. en

Amendment 11
Monica Macovei, Ryszard Czarnecki

Motion for a resolution
Paragraph 8 a (new)

Motion for a resolution

8a. Notes with concern that the Agency published in 2016 a vacancy notice to recruit a budget officer as an AD8, breaching the establishment plan providing for the availability of the AD5 position only; calls on the Agency to send

by June 2017 to the discharge authority all the vacancy notices and employments in the breach of the establishment plans since January 2015 to the present date; calls on the European Court of Auditors to thoroughly verify this case and possible similar others and to inform the discharge authority by June 2017;

Or. en

Amendment 12
Monica Macovei

Motion for a resolution
Paragraph 8 b (new)

Motion for a resolution

Amendment

8b. Is concerned that the Agency refused to reintegrate a staff member who won the 2014 Court case F/34); calls on the Agency to solve this matter in accordance to the Court's decisions, by June 2017; regrets that the European Court of Auditors failed to disclose this case in its report on this Agency and calls on ECA to thoroughly verify this case and possibly similar others and to inform the discharge authority by June 2017;

Or. en

Amendment 13
Monica Macovei

Motion for a resolution
Paragraph 8 c (new)

Motion for a resolution

Amendment

8c. Is concerned that the 2013-2016 reclassifications on positions and grades were not introduced into to the

establishment plan submitted to the European Commission; in 2015 the Administrative Board was informed that the extra contract agents would be employed for a few months to respond to the immediate shortage of staff, but instead, the Agency had employed in the next period more extra staff for longer terms although it benefitted with 15 extra staff to whom other agencies contributed; the Agency's director failed to follow the DG BUDG and DG HR which had strongly expressed against the Director's decision to mitigate issues related to the establishment plan and the contract agents as resulting from an 2016 ACER Administrative Board meeting; moreover, apparently, all the reclassified staff members receive their salaries based on a 2016 decision of the Director, contrary to the DG BUDG and EC decisions; calls therefore on the Agency to respect and follow the European Commission line and decisions on human resources and implicitly the funding resources, reminding that the funding come from the tax payers money and asks that the discharge authority be informed on these issues by June 2017; calls on the European Court of Auditors to look into these matters and inform the Parliament by June 2017 and also explain by the same date the failure to refer to these problems in the area of ACER human resources and management in its report on the 2015 ACER activity;

Or. en

Amendment 14
Monica Macovei

Motion for a resolution
Paragraph 8 d (new)

Motion for a resolution

Amendment

8d. *Notes with concern that the 2015 ACER staff engagement survey, although stating some progress, shows that the results of the Administration Department are below the average and decreasing from 2013, contrary to the rest of the Agency; calls therefore on the Agency to inform the discharge authority by June 2017 on the measures taken by the Management following the survey recommendations in this area; calls on the European Court of Auditors to look into administration and human resources policies and practices and inform the Parliament by June 2017;*

Or. en

Amendment 15
Monica Macovei, Ryszard Czarnecki

Motion for a resolution
Paragraph 8 e (new)

Motion for a resolution

Amendment

8e. *Is concerned that the Head of Administration Department was reclassified in 2014 as AD12 being in conflict of interest as the person concerned was a member of the committee deciding the promotions; calls on the Agency to inform by June 2017 the discharge authority on all cases of conflict of interest in the human resources practice of the Agency; regrets that the European Court of Auditors failed to disclose this case in its report on this Agency and calls on ECA to thoroughly verify this case and possibly similar others in the last three years and to inform the discharge authority by June 2017;*

Amendment 16
Monica Macovei

Motion for a resolution
Paragraph 14

Motion for a resolution

14. Notes that the Agency's *administrative* Board adopted the policy for the prevention and management of conflicts of interests, applicable to its staff with specific provisions for management, as well as to its *administrative board*, its *board of regulators*, its *board of appeal*, its working group chairs and co-chairs and its task-force convenors; notes, furthermore, that the Agency published the declarations of conflicts of interests *on its website but points out that some CVs and declarations of the members of the board of regulators remain missing; notes that in 2016, the administrative board detected a potential conflict of interests of one of its members and followed the ad hoc procedure provided for; asks the Agency to provide further information about this issue to the discharge authority;*

Amendment

14. Notes that the Agency's Administrative Board adopted the policy for the prevention and management of conflicts of interests, applicable to its staff with specific provisions for management, as well as to its Administrative Board, its Board of Regulators, its Board of Appeal, its working group chairs and co-chairs and its task-force convenors; notes, furthermore, that the Agency published the declarations of conflicts of interests;

Amendment 17
Benedek Jávor
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 14

Motion for a resolution

14. Notes that the Agency's administrative Board adopted the policy for the prevention and management of

Amendment

14. Notes that the Agency's administrative Board adopted the policy for the prevention and management of

conflicts of interests, applicable to its staff with specific provisions for management, as well as to its administrative board, its board of regulators, its board of appeal, its working group chairs and co-chairs and its task-force convenors; notes, furthermore, that the Agency published the declarations of conflicts of interests on its website but points out that some CVs and declarations of the members of the board of regulators remain missing; notes that in 2016, the administrative board detected a potential conflict of interests of one of its members and followed the ad hoc procedure provided for; asks the Agency to provide further information about this issue to the discharge authority;

conflicts of interests, applicable to its staff with specific provisions for management, as well as to its administrative board, its board of regulators, its board of appeal, its working group chairs and co-chairs and its task-force convenors; notes, furthermore, that the Agency published the declarations of conflicts of interests on its website but points out that some CVs and declarations of the members of the board of regulators remain missing; ***calls on the Agency to publish these documents and allows the public the necessary overview on its senior management***; notes that in 2016, the administrative board detected a potential conflict of interests of one of its members and followed the ad hoc procedure provided for; asks the Agency to provide further information about this issue to the discharge authority;

Or. en

Amendment 18
Barbara Kappel

Motion for a resolution
Paragraph 14

Motion for a resolution

14. Notes that the Agency's administrative Board adopted the policy for the prevention and management of conflicts of interests, applicable to its staff with specific provisions for management, as well as to its administrative board, its board of regulators, its board of appeal, its working group chairs and co-chairs and its task-force convenors; notes, furthermore, that the Agency published the declarations of conflicts of interests on its website but points out that some CVs and declarations of the members of the board of regulators remain missing; notes that in 2016, the administrative board detected a potential

Amendment

14. Notes that the Agency's administrative Board adopted the policy for the prevention and management of conflicts of interests, applicable to its staff with specific provisions for management, as well as to its administrative board, its board of regulators, its board of appeal, its working group chairs and co-chairs and its task-force convenors; notes, furthermore, that the Agency published the declarations of conflicts of interests on its website but points out that some CVs and declarations of the members of the board of regulators remain missing; notes that in 2016, the administrative board detected a potential

conflict of interests of one of its members and followed the ad hoc procedure provided for; asks the Agency to provide further information about this issue to the discharge authority;

conflict of interests of one of its members and followed the ad hoc procedure provided for; asks the Agency to provide further information about this issue to the discharge authority *and to ensure more transparency*;

Or. de

Amendment 19
Monica Macovei

Motion for a resolution
Paragraph 14 a (new)

Motion for a resolution

Amendment

14a. *Is concerned that some CVs and declarations of the Members of the Board of Regulators remain missing; notes that in 2016, the Administrative Board detected a potential conflict of interests entailed in Level III of one of its members and followed the ad hoc procedure provided for; asks the Agency to provide further information about this issue to the discharge authority by June 2017; calls on the European Court of Auditors to provide by June 2017 detailed information on these matters;*

Or. en

Amendment 20
Monica Macovei

Motion for a resolution
Paragraph 14 b (new)

Motion for a resolution

Amendment

14b. *Emphasizes with concern that in the cases of Austria, Belgium, Croatia, Cyprus, Italy, Portugal, Poland,*

Netherlands, Latvia, Romania and UK the Members of Boards of Regulators were in conflict of interest by working, advising or cooperating with entities in the energy field while being in the Board of Regulators of this energy related Agency; urges the Agency to call upon the respective countries to withdraw their members that are subject of conflict of interests and replace them with individuals complying with Union's requirements on conflict of interest until June 2017; asks the Agency to provide detailed information about this issue to the discharge authority by June 2017;

Or. en

Amendment 21
Monica Macovei

Motion for a resolution
Paragraph 14 c (new)

Motion for a resolution

Amendment

14c. Notes that together with national regulatory authorities the Agency has responsibilities regarding the monitoring of the European wholesale energy market; calls upon the Agency to communicate to the discharge authority the list of the meetings with lobbyist, professional associations, representatives of the industry operators as well as in the annual activity reports; asks the Agency to present the minutes of these meetings even in a confidential procedure by June 2017;

Or. en

Amendment 22
Monica Macovei, Ryszard Czarnecki

Motion for a resolution
Paragraph 15

Motion for a resolution

15. Notes ***with satisfaction*** that the Agency adopted an anti-fraud strategy for the period 2015 to 17, following guidance from OLAF, and that awareness-raising training has been provided to all staff;

Amendment

15. Notes that the Agency adopted an anti-fraud strategy for the period 2015 to 17, following guidance from OLAF, and that awareness-raising training has been provided to all staff; ***calls upon the Agency to present the results of the implementation of this strategy up to date;***

Or. en

Amendment 23
Monica Macovei

Motion for a resolution
Paragraph 15 a (new)

Motion for a resolution

Amendment

15a. Urges the Agency to adopt internal guidelines on whistleblowing; recommends the Agency to disseminate these rules among its staff so that all employees to be aware of it; asks the Agency to provide by June 2017 details on the whistle-blower cases in 2015 (if any) and how they were handled and finalized; deplores the fact that the Agency has no rules on "revolving doors" and urges the Agency to put in place such rules as a matter of urgency establishing dissuasive sanctions such as the reduction of pensions or prohibition to work at least 3 years in similar bodies; reiterates only integrity and transparency uphold the public trust;

Or. en

Amendment 24
Barbara Kappel

Motion for a resolution
Paragraph 16

Motion for a resolution

16. Notes that the Act on Implementation of International Education Programmes was adopted in the host Member State on 16 June 2016 and entered into force on 15 July 2016; ***notes that the host Member State initiated a feasibility study following adoption of the Act; recalls that the Agency has repeatedly signalled to the host Member State the urgency of the establishment of an European School in Ljubljana;***

Amendment

16. Notes that the Act on Implementation of International Education Programmes was adopted in the host Member State on 16 June 2016 and entered into force on 15 July 2016;

Or. de

Amendment 25
Zigmantas Balčytis

Motion for a resolution
Paragraph 16

Motion for a resolution

16. Notes that the Act on Implementation of International Education Programmes was adopted in the host Member State on 16 June 2016 and entered into force on 15 July 2016; notes that the host Member State initiated a feasibility study following adoption of the Act; recalls that the Agency has repeatedly signalled to the host Member State the urgency of the establishment of an European School in Ljubljana;

Amendment

16. Notes that the Act on Implementation of International Education Programmes was adopted in the host Member State on 16 June 2016 and entered into force on 15 July 2016; notes that the host Member State initiated a feasibility study following adoption of the Act; recalls that the Agency has repeatedly signalled to the host Member State the urgency of the establishment of an European School in Ljubljana; ***deplores the fact that more than four years after the entry into force of the agreement between the Agency and the Slovenian Government, a European School has still not been set up;***

Amendment 26
Monica Macovei, Ryszard Czarnecki

Motion for a resolution
Paragraph 17 a (new)

Motion for a resolution

Amendment

17a. Is concerned that the decision making in the ACER is not perceived as objective and transparent and the senior management does not have a clear vision on leading the Agency and setting up its goals, as resulting from the 2015 ACER Staff Engagement Survey; in addition, the Agency's leadership took decisions contrary to the European Commission and failed to consult and take into account the staff opinions, creating a split contrary to a team work, which does not fall into good leadership and management;

Or. en

Amendment 27
Monica Macovei, Ryszard Czarnecki

Motion for a resolution
Paragraph 17 b (new)

Motion for a resolution

Amendment

17b. Notes with concern that the mandatory mobility is not enforced in the Agency and therefore some decisions could lead to arbitrary management; calls on the Agency to apply the mandatory mobility of the staff performing sensitive functions, such as administration, human and financial resources in order to eliminate the risks associated to sensitive management tasks, which should be

object to mitigating controls and specific ex post controls; calls on the Agency to inform the discharge authority, by June 2017, on measures taken to practice the mandatory mobility;

Or. en