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**TEXTS ADOPTED**

*Provisional edition*

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**Discharge 2016: Agency for the Cooperation of Energy Regulators (ACER)**

**1. European Parliament decision of 18 April 2018 on discharge in respect of the implementation of the budget of the Agency for the Cooperation of Energy Regulators for the financial year 2016 (2017/2174(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2016,
- 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 2016, together with the Agency's reply<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 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 20 February 2018 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0084/2018),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- 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>3</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>4</sup>, and in particular Article 24 thereof,

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<sup>1</sup> OJ C 417, 6.12.2017, p. 25.

<sup>2</sup> OJ C 417, 6.12.2017, p. 25.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 211, 14.8.2009, p. 1.

- 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>1</sup>, and in particular Article 108 thereof,
  - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0074/2018),
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 2016;
  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>1</sup> OJ L 328, 7.12.2013, p. 42.

**2. European Parliament decision of 18 April 2018 on the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2016 (2017/2174(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2016,
  - 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 2016, together with the Agency's reply<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 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
  - having regard to the Council's recommendation of 20 February 2018 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0084/2018),
  - having regard to Article 319 of the Treaty on the Functioning of the European Union,
  - 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>3</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>4</sup>, and in particular Article 24 thereof,
  - 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>5</sup>, and in particular Article 108 thereof,
  - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0074/2018),
1. Approves the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2016;
  2. Instructs its President to forward this decision to the Director of the Agency for the

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<sup>1</sup> OJ C 417, 6.12.2017, p. 25.

<sup>2</sup> OJ C 417, 6.12.2017, p. 25

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 211, 14.8.2009, p. 1.

<sup>5</sup> OJ L 328, 7.12.2013, p. 42.

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 18 April 2018 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 2016 (2017/2174(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 2016,
  - having regard to Rule 94 of, and Annex IV to, its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0074/2018),
- A. whereas in the context of the discharge procedure, the discharge authority stresses the particular importance of further strengthening the democratic legitimacy of the Union institutions by improving transparency and accountability, and implementing the concept of the performance based budgeting and good governance of human resources;
- B. whereas, according to its statement of revenue and expenditure<sup>1</sup>, the final budget of the Agency for the Cooperation of Energy Regulators (the ‘Agency’) for the financial year 2016 was EUR 15 872 582, representing an increase of 40,89 % compared to 2015; whereas the budget of Agency derives mainly from the Union budget; whereas the increase was due to new additional tasks expanding its mandate, including the completion of the internal energy market;
- C. whereas the Court of Auditors (the ‘Court’), in its report on the annual accounts of the Agency for Cooperation of Energy Regulators for the financial year 2016 (the ‘Court's report’), states 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 the 2014 discharge***

1. Recalls that, according to the Seat Agreement between the Agency and the Slovenian government, a European School is to be established in Slovenia; regrets however that, more than four years after the agreement, no European School has been set up;

***Budget and financial management***

2. Notes that budget monitoring efforts during the financial year 2016 resulted in a budget implementation rate of 98,11 %, reaching the Agency’s planned target and representing an increase of 3,02 % compared to 2015; notes furthermore that the payment appropriations execution rate was at 59,95 %, representing a decrease of 14,93 % compared to 2015;

***Commitments and carryovers***

3. Notes from the Court’s report that the carry-overs for Title III (operational expenditure) were very high at EUR 4 900 000 (86 %) of its committed appropriations, compared to EUR 1 400 000 (59 %) in 2015; notes furthermore that those carry-overs were

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<sup>1</sup> OJ C 113, 30.03.2016, p. 169

predominantly related to the long-term nature of the implementation of Regulation (EU) No 1227/2011 of the European Parliament and of the Council<sup>1</sup> with EUR 4 700 000 in 2016, compared to EUR 1 100 000 in 2015;

4. Notes from the Agency's reply that the high level of carry-overs is due to the timing of the annual contractual cycle which was established in 2013, when a substantial additional budget for the REMIT project was received by the Agency at the end of the year; notes however that the commitment appropriation for the financial year 2016 under the budget Chapter of REMIT expenditure was implemented at the maximum 100 % level; notes that the Agency will analyse the implementation of differentiated budget appropriations for Title III; calls on the Agency to inform the discharge authority about the decision taken on this matter;
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; points out, however, that the high share of cancelled carry-overs (9,8 %) could be considered to be a sign of inaccurate budget planning;

#### ***Staff policy***

6. Notes that the Agency employed 112 staff, 60 temporary staff (out of 69 posts authorised under the Union budget), 26 contract staff, 4 seconded national experts, 12 trainees, 8 interim staff and 2 experts from Federal Energy Regulatory Commission at the end of 2016; notes that the Agency received 15 additional Temporary Agents' positions in 2016; notes that the gender balance ratio was 38 % female to 62 % male staff;
7. Observes that, according to the job screening exercise, 75,20 % of the Agency's jobs are operational, 19,01 % are in the area of administrative support and coordination and 5,79 % are neutral;
8. Stresses that the work-life balance should be part of the staff policy of the Agency; notes that the budget spent per staff on well-being activities amounts to EUR 133,12 and that a staff away day was organised in 2016; observes that the average number of sick leave per staff is six days;
9. Welcomes the decision adopted in 2017 of the administrative board on preventing psychological and sexual harassment; supports the training and information sessions organised to increase the awareness of the staff;
10. Notes with appreciation the fact that the Agency did not receive any complaints, law-suits or reported cases linked to hiring or firing of staff in 2016;

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

11. Acknowledges that the Agency continued in 2016 to implement its policies related to

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<sup>1</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).

ethics and integrity, such as the policy on the prevention and management of conflicts of interest, as well as its anti-fraud and whistleblowing policies; notes that there were no whistleblowing cases in the Agency in 2016;

12. Notes that the Agency published all the declarations of interest and CVs of the Board of Regulators members and alternates on its website;
13. Welcomes the decision, which came into effect in November 2017, regarding the introduction of a register of meetings of the Director of the Agency with external stakeholders; calls on the Agency to speed up the process to be assessed in the 2017 discharge procedure;
14. Notes the resignation from the Administrative Board of a member, for whom a potential conflict of interests was identified;
15. Notes the grounds for refusal to access to documents; expects the Agency to use in the most lawful and regular manner the possibility to refuse access to document while protecting confidential or personal data;

### ***Main achievements***

16. Welcomes the three main achievements identified by the Agency in 2016, namely that it:
  - began to fully monitor trading in wholesale energy products across the Union in line with Regulation (EU) No 1227/2011;
  - adopted a decision requiring the introduction of capacity allocation on the Austrian–German border;
  - issued its annual Market Monitoring Report on the remaining barriers to the Internal Energy Market;
17. Welcomes the fact that the Agency uses impact indicators and outcome indicators to measure its performance; regrets, however, that there are no systematic *ex-ante* assessments for planning and controls, and no systematic *ex-post* evaluations to measure performance;

### ***Internal controls***

18. Notes that an assessment of the effectiveness of the 16 internal control standards (ICS) was performed in 2016; notes that, with a view to strengthening the control environment, the following areas were identified: IT governance and security, business continuity, document management; observes that the Agency is compliant with the minimum requirements underlying each control standard; calls on the Agency to inform the discharge authority about the implemented measures;
19. Notes with appreciation that no significant or material weaknesses in the Agency's ICS became evident in 2016;

### ***Internal audit***

20. Notes from the Court's report that the Commission's Internal Audit Service (IAS) conducted an audit report in May 2016 which highlighted a strong need to clarify roles and responsibilities and to analyse workload in the procurement cell in order to achieve more efficient processes and procedures and to significantly improve the procurement planning and monitoring; notes that the Agency and the IAS agreed on a plan to take corrective action; acknowledges from the Agency that, out of the six recommendations, two "very important" and three "important" have already been closed and that the Agency planned to close the last recommendation by October 2017; calls on the Agency to inform the discharge authority about the measures taken;
21. Note that the IAS conducted a full risk assessment and an IT risk assessment in February 2016; notes that that assessments resulted in a new strategic audit plan for the Agency for the period 2017 to 2019, formulating the audit topics for the next planning period and led to five actions that were required to be completed by the end of 2017; looks forward to the Agency's reporting on the IAS audits in its 2017 annual activity report;
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22. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 18 April 2018<sup>1</sup> on the performance, financial management and control of the agencies.

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<sup>1</sup> Texts adopted, P8\_TA-PROV(2018)0133.