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## TEXTS ADOPTED

*Provisional edition*

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### **P8\_TA-PROV(2018)0154**

#### **Discharge 2016: EU Agency for Railways (ERA)**

##### **1. European Parliament decision of 18 April 2018 on discharge in respect of the implementation of the budget of the European Railway Agency (now European Union Agency for Railways) for the financial year 2016 (2017/2162(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Railway Agency (now European Union Agency for Railways) for the financial year 2016,
- having regard to the Court of Auditors' report on the annual accounts of the European Railway Agency (now European Union Agency for Railways) 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 – C8-0072/2018),
- 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 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency<sup>4</sup>, and in particular Article 39 thereof,

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<sup>1</sup> OJ C 417, 6.12.2017, p. 166.

<sup>2</sup> OJ C 417, 6.12.2017, p. 166.

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

<sup>4</sup> OJ L 164, 30.4.2004, p. 1.

- having regard to Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004<sup>1</sup>, and in particular Article 65 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>2</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 and the opinion of the Committee on Transport and Tourism (A8-0079/2018),
1. Grants the Executive Director of the European Union Agency for Railways 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 Executive Director of the European Union Agency for Railways, 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 138, 26.5.2016, p. 1.

<sup>2</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 European Railway Agency (now European Union Agency for Railways) for the financial year 2016 (2017/2162(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Railway Agency (now European Union Agency for Railways) for the financial year 2016,
- having regard to the Court of Auditors' report on the annual accounts of the European Railway Agency (now European Union Agency for Railways) 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 – C8-0072/2018),
- 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 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency<sup>4</sup>, and in particular Article 39 thereof,
- having regard to Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004<sup>5</sup>, and in particular Article 65 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>6</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 and the opinion of

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<sup>1</sup> OJ C 417, 6.12.2017, p. 166.

<sup>2</sup> OJ C 417, 6.12.2017, p. 166.

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

<sup>4</sup> OJ L 164, 30.4.2004, p. 1.

<sup>5</sup> OJ L 138, 26.5.2016, p. 1.

<sup>6</sup> OJ L 328, 7.12.2013, p. 42.

the Committee on Transport and Tourism (A8-0079/2018),

1. Approves the closure of the accounts of the European Railway Agency (now European Union Agency for Railways) for the financial year 2016;
2. Instructs its President to forward this decision to the Executive Director of the European Union Agency for Railways, 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 European Railway Agency (now European Union Agency for Railways) for the financial year 2016 (2017/2162(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the European Railway Agency (now European Union Agency for Railways) 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 and the opinion of the Committee on Transport and Tourism (A8-0079/2018),
- 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 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 European Railway Agency (now European Union Agency for Railways) (“the Agency”) for the financial year 2016 was EUR 27 545 879, representing an increase of 4,56 % compared to 2015; whereas the budget of the Agency derives mainly from the Union budget;
- C. whereas the Court of Auditors (“the Court”), in its report on the annual accounts of the European Railway Agency (now European Union Agency for Railways) for the financial year 2016 (“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 2014 and 2015 discharges***

1. Acknowledges that it is not in the Agency’s power to decide to centralise all the Agency’s operations into one location; recalls that when it was created in 2004, the Agency’s double seat (Lille/Valenciennes) was decided by the Council; takes note of the Court’s remark about the possible savings that could be achieved with a single location solution; takes note of the analysis made by the Agency on the budgetary impact of having a double seat and of its recommendation to keep that double seat; stresses that it is likely that costs would be reduced if all operations were centralised in one location; points out that the reduction of costs might also be facilitated by a comprehensive seat agreement with the host Member State – which would also have the effect of clarifying the conditions under which the Agency and its staff operate – ending a situation in which the costs of operations are likely to be higher than necessary; calls on the Council to reconsider its previous decision and opt instead for centralising all the Agency’s operations into one location;

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<sup>1</sup> O.J. C 333, 09.09.2016, p.19

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

2. Notes that the budget monitoring efforts during the financial year 2016 resulted in a budget implementation rate of 99,20 %, representing an increase of 0,10 % compared to 2015 and that the payment appropriations execution rate was 91,57 %, representing an increase of 1,79 % compared to 2015;
3. Welcomes the fact that, in accordance with the provisions of the new Agency Regulation that entered into force in June 2016, the Agency is authorised to charge fees for some of its new competences;

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

4. Notes that, according to the Agency the level of the carry-overs were below the indicative ceilings used by the Court to assess the budget execution (i.e. 10 % for Title I, 20 % for Title II and 30 % for Title III) for all budgetary titles; further notes that payment appropriations carried over to 2017 (7,52 %) mainly concern operational expenditure and that 95,4 % of the appropriations carried over from 2015 have been executed;
5. Points out that carryovers 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 Authority and communicated to the Court;

### ***Staff policy***

6. Notes that at the end of 2016 the Agency employed 165 permanent staff, of which 133 temporary agents, 29 contract agents and 3 seconded national experts, compared to 154 members of permanent staff at the end of 2015;
7. Notes with concern that 62 % of its staff is male and 38 % is female, an almost two to one imbalance; regrets that there is a significant gender imbalance in the senior management level and the management board of the Agency; recalls, however, that, regarding the gender balance in the management and executive boards, the members are proposed and appointed by the Member States but recommends that this issue should nevertheless be addressed as a matter of urgency;
8. Notes with satisfaction that the percentage of staff assigned to operational tasks increased from 65 % in 2015 to 70 % in 2016 and the percentage of staff assigned to administrative tasks decreased from 23 % to 18 %; regrets, however, that the evolution of that percentage is mainly due to a correction in the assignment of staff into the various categories; points out that such a reduction is not in line with the 5 % staff cut communicated by the Commission on the programming of resources for decentralised agencies;
9. Stresses that the work-life balance should be part of the staff policy of the Agency; stresses that the budget spent on well-being activities amounts to EUR 228,7 per staff and a staff away day was organised in 2016; observes that the average number of sick leave per staff is 3,2 days, well below the average in most other agencies;

10. Appreciates the fact that no harassment case were reported in 2016; supports the training organised to increase the awareness of the staff;
11. Notes with satisfaction the fact that the Agency did not receive any complaints, law-suits or reported cases linked to hiring or dismissal of staff in 2016;

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

12. Welcomes the fact that the Agency's administrative board adopted a conflict of interest policy for its members; takes note that the Agency consequently published most of the declarations of absence of conflicts of interests and CVs of its administrative board members on its website; calls on the Agency to report to the discharge authority on the publication of the missing documents;
13. Notes from the Agency that it continued to implement the action plan defined in the Agency's Antifraud Strategy; notes in particular that the Agency organised two training sessions on fraud prevention and two training sessions on ethics and integrity;
14. Notes that the Agency has included the fraud risk assessment in the regular Agency risk assessment and that the Agency's fraud risk register has been reviewed during 2016; takes note that the risks have been re-assessed medium to low and that no additional risks have been identified;
15. Acknowledges from the Agency that it is awaiting the model decision from the Commission in order to adopt its own decision on whistleblowing; notes however that, as long as the model decision is not proposed, the current Commission decision on whistleblowing is applicable; calls on the Agency to inform the discharge authority on the implementation of these guidelines;
16. Expresses the need to establish an independent disclosure, advice and referral body with sufficient budgetary resources, in order to help whistle-blowers use the right channels to disclose their information on possible irregularities affecting the financial interests of the Union, while protecting their confidentiality and offering needed support and advice;
17. Takes note of the grounds for refusal to access to document (1 case out of 44); calls on the Agency to use in the most regular and lawful manner the possibility to refuse access to documents while protecting personal data;

***Main achievements***

18. Welcomes the three main achievements identified by the Agency in 2016, namely:
  - it published a revised strategic vision, including the preparation for a strategy for international relations and the implementation of a communications strategy;
  - it implemented an updated governance structure and adjusted the Agency's organisation in light of the new Agency regulation; the Agency further implemented its Integrated Management System (IMS) in order to obtain ISO 9001 certification in the course of 2017;
  - it efficiently introduced the new name and mandate under the new legal regime

(4th Railway Package, in force as of 15 June 2016) and made significant progress in preparing for its new role;

19. Regrets however that the Agency does not use the input indicators to further improve the use of Key Performance Indicators (KPIs) and recommends that this should change;

#### ***Internal audit***

20. Acknowledges that no critical or very important recommendations were addressed to the Agency by the Commission's Internal Audit Service (IAS); notes that the IAS carried out a risk assessment exercise covering all operational and support processes;
21. Notes that regarding the previous audit on Stakeholder Relationship Management and External Communication, the IAS closed three important recommendations and the very important recommendation on reinforcement of recruitment procedure, and concluded that all except one recommendation were implemented by the Agency; notes furthermore that regarding the only recommendation still open marked as 'important' on 'the existing procedural framework applicable to stakeholder management and external communication', it was in the process of being implemented within the deadline of September 2017;

#### ***Internal controls***

22. Notes with satisfaction that the Agency is now certified ISO 9001;
23. Notes that the Agency's administrative board has adopted its management standards in April 2016; notes furthermore that in line with the Agency's management standard 16, the management assessed the adequacy of the design and effectiveness of the implementation of its management standards as part of the Agency management system review; acknowledges from the Agency that even if some areas where improvements can be made were identified (ERA MS 3 - Ethical and organisational values, ERA MS 4 - Objectives, strategic planning and reporting, ERA MS 5 - Business Continuity, ERA MS 8 - Stakeholder relation management, ERA MS 9 - Process management, ERA MS 10 - Human resources management, ERA MS 13 - Data and information management), it can be considered that the Agency's control system as a whole works as intended and adequately mitigates the main risks to the achievement of the Agency's objectives;
24. Notes that the Agency has further developed its Integrated Management System (IMS) based on requirements specified in the Internal Control Standards and ISO 9001 series standards with the view to meeting the conditions necessary if the Agency is to successfully take on new activities and gain efficiency; welcomes the analysis carried out by ERA within the IMS framework concerning exceptions and non-compliance with rules and the training actions to be organised in 2017 on procurement and contract management in order to remedy to these events;
25. Notes that the assessment of the effectiveness of the IMS pointed out some areas where improvements can be made regarding compliance and effectiveness, in particular with regard to ethical and organisational values, business continuity, stakeholder relations management, and human resource management, and in particular that it identified the gap between the competencies available in-house and the competencies required; expects the Agency to ensure complete implementation of the ERA Management Standards by 2017,



as foreseen;

26. Regrets that the target of 95 % for the execution of payment within the set deadline of 30 days has not been reached; notes that the reasons for the delays in payment remain the same as in 2015, i.e. delays in processing invoices by the Agency's staff, shortage of cash and disagreement with suppliers on the content of the invoices; asks the Agency to adopt remedial actions in order to reach the 95 % target within a reasonable period;

#### ***Other comments***

27. Welcomes the adoption of the Agency Regulation<sup>1</sup>, which entered into force on 15 June 2016; notes with satisfaction that by the end of the transitional period (16 June 2019), this expected strategic change will transform the Agency from a mere policy preparation and dissemination role into an authority working directly for the industry as regards authorisations for safety certifications and rolling stock; acknowledges from the Agency that this transition is expected to deliver huge benefits in terms of reduced costs;
28. Highlights the Agency's strategic role in improving the competitiveness of rail with other modes of transport and helping to develop an efficiently operating single European rail area without borders by reducing administrative and technical barriers, by encouraging market entry and ensuring non-discrimination, by spending public money more efficiently on public rail transport services and by ensuring better governance of the infrastructure; welcomes the focused programme on the cleaning-up of national rules in order to reduce the impact or eliminate the existing barriers between Member States;
29. Highlights the Agency's role in ensuring the safety and interoperability of the European rail system in order to contribute to creating a more competitive European railway sector and improving the quality of the rail transport services; supports the Commission's vision of a European railway system that leads the world on safety performance;
30. Welcomes the Agency's role in the follow-up of the development, testing and implementation of European Railway Traffic Management System (ERTMS), as well as in evaluating the specific ERTMS projects; welcomes the start of negotiations between the EU and Switzerland within the framework of the Agreement on the Carriage of Goods and Passengers by Rail and Road with a view to Switzerland's participation in the European Union Agency for Railways; stresses that, as the Agency receives greater responsibilities, it will need to be given the necessary financial, material and human resources to perform its new and additional tasks effectively and efficiently; draws attention to the study commissioned recently by the Committee on Budgets on the financing arrangements for European agencies, and to the fact that possibilities should be developed to allow for a greater self-financing of the Agency; notes, with concern, the contradiction between the recently approved legislation extending the scope of the Agency's mission and the budgetary cuts related to the Agency to be implemented within the scope of the multi-annual financial framework 2014-2020;
31. Recalls the European Parliament's position in the budgetary procedure for recovering total

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<sup>1</sup> Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).

amounts relocated from the Connecting Europe Facility to the European Fund for Strategic Investments; stresses that funding for the completion of the single European rail area should be safeguarded also with a view to modernising and expanding rail infrastructures in the outlying regions of the Union; stresses further that the deployment of the ERTMS should be brought forward in order to further implement common technical standards and maximise the benefits in terms of interoperability;

32. Notes that the 2016 risk assessment exercise highlighted new risks, as compared to 2015, related to the late and inconsistent transposition of the 4th Railway Package legislation, to the obsolescence of ERTMS change management tools, to railway noise reduction, to delays in the reduction of national rules and to data management;

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33. 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.