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REPORT

on discharge in respect of the implementation of the budget of the European
Railway Agency for the financial year 2013
(2014/2111(DEC))

Committee on Budgetary Control

Rapporteur: Ryszard Czarnecki

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the European Railway Agency for the financial year 2013 (2014/2111(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Railway Agency for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Railway Agency for the financial year 2013, together with the Agency's replies¹,
- having regard to the statement of assurance² 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 Communities³,
- 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 1605/2002⁴, 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 Agency⁵, and in particular Article 39 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 Communities⁶,

¹ OJ C 442, 10.12.2014, p. 232.

² OJ C 442, 10.12.2014, p. 232.

³ OJ L 248, 16.9.2002, p. 1.

⁴ OJ L 298, 26.10.2012, p. 1.

⁵ OJ L 164, 30.4.2004, p. 1.

⁶ OJ L 357, 31.12.2002, p. 72.

- 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 Council¹, 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 and the opinion of the Committee on Transport and Tourism (A8-0078/2015),
1. Grants the Executive Director of the European Railway Agency 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 Executive Director of the European Railway Agency, 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).

¹ OJ L 328, 7.12.2013, p. 42.

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the European Railway Agency for the financial year 2013 (2014/2111(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Railway Agency for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Railway Agency for the financial year 2013, together with the Agency's replies¹,
- having regard to the statement of assurance² 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 Communities³,
- 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 1605/2002⁴, 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 Agency⁵, and in particular Article 39 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 Communities⁶,

¹ OJ C 442, 10.12.2014, p. 232.

² OJ C 442, 10.12.2014, p. 232.

³ OJ L 248, 16.9.2002, p. 1.

⁴ OJ L 298, 26.10.2012, p. 1.

⁵ OJ L 164, 30.4.2004, p. 1.

⁶ OJ L 357, 31.12.2002, p. 72.

- 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 Council¹, 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 and the opinion of the Committee on Transport and Tourism (A8-0078/2015),
1. Notes that the final annual accounts of the European Railway Agency are as annexed to the Court of Auditors' report;
 2. Approves the closure of the accounts of the European Railway Agency for the financial year 2013;
 3. Instructs its President to forward this decision to the Executive Director of the European Railway Agency, 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).

¹ OJ L 328, 7.12.2013, p. 42.

3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Railway Agency for the financial year 2013 (2014/2111(DEC))

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Railway Agency 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 and the opinion of the Committee on Transport and Tourism (A8-0078/2015),
- A. whereas, according to its financial statements, the final budget of the European Railway Agency (“the Agency”) for the financial year 2013 was EUR 25 858 799, representing an increase of 0,23 % compared to 2012; whereas the entire budget of the Agency derives from the Union budget,
- B. whereas the Court of Auditors, in its report on the annual accounts of the European Railway Agency 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 three comments made in the Court’s 2011 report and marked as "Ongoing" or "Outstanding" in the Court's 2012 report, corrective actions were taken and one is now marked in the Court's 2013 report as "Completed" and two as "Ongoing"; notes furthermore that regarding the three comments made in the Court’s 2012 report, corrective actions were taken and two comments are now marked as "Completed" and one as "Ongoing";
2. Acknowledges from the Agency that:
 - it prepared, in agreement with the Commission, an amendment to its “Implementing Rule on use and engagement of Temporary Agents” in order to reduce the negative impact current rules have had on the Agency's activities in order to obtain more flexibility as to the length of contracts of operational staff as well as to reduce the risk of business disruption or loss of knowledge due to peaks in staff turnover;
 - it decided to implement adequate measures to ensure the continuity of IT services and systems that are horizontal to the Agency's business; notes that in this regard, a back-up server room has been installed in the premises of the Translation Centre for the Bodies of the European Union in Luxembourg; notes furthermore that the

Business Continuity Plan has been adopted by the Executive Director; notes that the Disaster Recovery Procedure is undergoing preparations and is planned to be tested in June 2015;

Budget and financial management

3. Notes that budget monitoring efforts during the financial year 2013 resulted in a budget implementation rate of 97,87 %, and that the payment appropriations execution rate was 88,12 %;

Commitments and carry-overs

4. Regrets to find from the Agency's annual accounts that the level of committed appropriations carried over to 2013 was EUR 2 398 742, whereas committed appropriations carried over to 2014 amounted to EUR 2 221 816; observes that the decrease in the accrued amount carried over in comparison to the previous year occurred because of the underestimation/overestimation of the 2013 budgetary expenses; reminds the Agency of its obligation to respect the budgetary principle of annuality;

Transfers

5. Notes that according to the annual activity report, as well as the Court's audit findings, the level and nature of transfers in 2013 have remained within the limits of the financial rules;

Procurement and recruitment procedures

6. Encourages the Agency to make further progress in its recruitment procedures, especially for external experts, in order to guarantee transparency and equal treatment for applicants while also ensuring business continuity and preventing the loss of knowledge and experience;
7. Notes with concern from the Court's report that the Agency's procurement procedures would benefit from an improvement in the accuracy and documentation of information; expresses its deep concern about the Agency's staff management policy since it will have to replace half of its operational staff during the period of 2013-2015, which may cause major disruptions in the Agency's operational activities; urges the Agency to develop a coherent, transparent and objective policy in order to deal with the termination of contracts of its temporary staff;
8. Acknowledges that according to the Agency's founding regulation, its temporary employees can be recruited for a maximum five-year period, with a possible extension of a maximum of three years if it takes place within the Agency's first ten years of operation; ascertains that the Agency has used the eight-year period as a standard practice until 2013;
9. Notes with concern that in 2013 the Agency re-employed four temporary employees, whose contracts with the Agency had ended in 2013 after the maximum eight-year

period, for a further eight-year period, contrary to its founding regulation; takes note that the proposal for a revised founding regulation for the Agency, which has not yet been adopted by Parliament and Council, includes similar provisions; finds unacceptable the Agency's breach of its own laws and rules and urges the Agency to respect its recruitment procedures;

10. Is deeply concerned that the Agency does not ensure objective criteria, full transparency and equal treatment in its recruitment procedures; urges the Agency to lay down comprehensive, objective and transparent guidelines about examination conditions such as the required pass mark for interviews, the objective criteria for selecting candidates placed on reserve lists and the type and number of oral and written exam questions, etc.; calls on the Agency to lay down these guarantees in the vacancy notice for each vacant post by the end of September 2015; urges the Agency, in addition, to adopt an appeal procedure for candidates who were declared illegible to apply for a job in the Agency;

Prevention and management of conflicts of interests and transparency

11. Expresses its deep disappointment that the Agency has still not adopted a clear, comprehensive and objective policy for the prevention and management of conflicts of interests, despite the discharge authority and the Court's special recommendations for consecutive years;
12. Acknowledges from the Agency that it has set out to adopt its revised policy on the prevention and management of conflicts of interests as well as to publish the CVs and declarations of interests of the members of the Management Board during 2015; calls on the Agency to inform the discharge authority once the new policy is adopted and the CVs and declarations of interests are made publicly available;

Internal audit

13. Takes note that according to the Agency's Decision 81/2013 of 20 March 2013 amending the internal control standard of the internal audit function, the Internal Audit Capability was suppressed and the Commission Internal Audit Service (IAS) became the provider of the internal audit function; notes that in the same decision, the Agency set up an internal control coordinator (ICC) function; regrets that the recruitment procedure for the ICC post was lengthy and that as of January 2014, the selected candidate had not yet started working at the Agency; acknowledges that the position was filled in 2014;
14. Acknowledges that the IAS has carried out a follow-up audit on three previous audit engagements in November 2013;
15. Ascertains from the Agency that, as identified by the IAS, the following audits had recommendations pending completion at 31 December 2013:
 - "Human Resources Management (2009)" - one "Very Important" recommendation,
 - "Planning and Budgeting (2010)" - three "Important" recommendations,
 - "Expert management in interoperability (2011)" - two "Important" recommendations,

- “Building Block of Assurance (2012)” - two "Very Important" recommendations, four "Important" recommendations and one "Desirable" recommendation;
16. Acknowledges from the Agency that apart from one ‘Very Important’ recommendation from the Audit on Human Resources Management within the Agency, all the other recommendations were closed in 2014; urges the Agency to take the necessary measures to close the remaining recommendation;
 17. Notes with concern that the Court indicates in its annual audit report for 2012 that the Agency does not comply with its Internal Control Standard regarding business continuity and that no approved IT Business Continuity and Disaster Recovery plans exist; acknowledges that the Agency has decided to implement adequate measures in order to ensure the continuity of the IT services and systems that are horizontal to the Agency's business; calls on the Agency to inform the discharge authority on actions implemented;

Performance

18. Acknowledges from the Agency that the availability of information on the impact of its activities on Union citizens and on the railway business sector is provided through various participations and presentations in European railway exhibitions and fairs, as well as through the organisation of workshops, presentations and other events in Member States; notes furthermore that the information is communicated on the Agency's website through the publication of documents such as annual reports or newsletters;

Two locations

19. Deplores the fact that the use of two locations (Lille and Valenciennes) to carry out its activities exposes the Agency to additional costs; acknowledges the efforts made by the Agency to minimise the negative impact of the decision on its seat;
20. Calls for a single location for the Agency, in a place easily accessible by public transport in order to save scarce resources and increase its efficiency;

Other comments

21. Considers that if the Agency is to receive new powers as a result of the extension of its tasks as a certifying agency for railway material, part of the funding for the Agency should come from fees and charges levied on the railway industry which must, in all circumstances, be appropriate to the level of expenses incurred by the Agency and must not represent a disproportionate cost for the railway industry;

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22. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ... 2015¹ on the performance, financial management and control of the agencies.

1 Texts adopted of that date, P7_TA-PROV(2015)0000

26.2.2015

OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM

for the Committee on Budgetary Control

on discharge in respect of the implementation of the budget of the European Railway Agency
for the financial year 2013
(2014/2111(DEC))

Rapporteur: Dominique Riquet

SUGGESTIONS

The Committee on Transport and Tourism calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Welcomes the finding of the Court of Auditors that the accounts of the European Railway Agency ('the Agency') for the 2013 financial year are in order;
2. Notes that the Agency's annual budget for 2013 was EUR 25,8 million in commitment and payment appropriations and that the implementation rates were 97,8 % in commitment and 88,2 % in payment appropriations;
3. Highlights the Agency's role in ensuring the safety and interoperability of European rail system; notes furthermore that a review of the Agency's role (e.g. one-stop-shop for vehicle authorisation and safety certification) and powers is currently under way as part of the Fourth Railway Package; stresses that should it be accorded greater powers, the Agency will need to be given the necessary financial, material and human resources to perform its new and additional tasks comprehensively and efficiently;
4. Considers that if the Agency is to receive new powers as a result of the extension of its tasks as a certifying agency for railway material, part of the funding for the Agency should come from fees and charges levied on the railway industry, which must in all circumstances be appropriate to the level of expenses incurred by the Agency and must not represent a disproportionate cost for the railway industry.
5. Reminds the Agency that the declarations of interests and CVs of the members of the Management Board should be publicly available; notes that a proposal in this regard was discussed at the meeting of the Administrative Board in November 2014 and that the

Board will come back to the issue at its next meeting in March 2015 when a decision is expected;

6. Encourages the Agency to make further progress in its recruitment procedures, especially for external experts, in order to guarantee transparency and equal treatment for applicants while ensuring business continuity and preventing the loss of knowledge and experience;
7. Recalls that there is room to improve the accuracy and documentation of information used in the Agency's procurement procedures;
8. Notes that the duration of contracts as initially anticipated (five years, extendable by three years) was modified by a decision of the Agency in order to allow indefinite contracts and that in order to align the practice with the rules, the regulation on the Agency which includes similar provisions should be adopted as soon as possible;
9. Takes note of the Court of Auditors' remarks on the existence of a secondary location in Lille, in addition to the headquarters in Valenciennes, underlines the necessity of carrying out all activities in one location in order to save scarce resources and increase and efficiency;
10. Stresses the need for the Agency to comply with its Internal Control Standard regarding business continuity and to set up IT Business Continuity and Disaster Recovery plans.
11. Proposes that Parliament grant the Executive Director of the European Railway Agency discharge in respect of the implementation of the Agency's budget for the financial year 2013.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	24.2.2015
Result of final vote	+: 37 -: 6 0: 0
Members present for the final vote	Lucy Anderson, Marie-Christine Arnautu, Georges Bach, Izaskun Bilbao Barandica, Deirdre Clune, Michael Cramer, Luis de Grandes Pascual, Andor Deli, Karima Delli, Isabella De Monte, Ismail Ertug, Jacqueline Foster, Bruno Gollnisch, Tania González Peñas, Dieter-Lebrecht Koch, Merja Kyllönen, Miltiadis Kyrkos, Bogusław Liberadzki, Peter Lundgren, Marian-Jean Marinescu, Georg Mayer, Gesine Meissner, Cláudia Monteiro de Aguiar, Jens Nilsson, Markus Pieper, Gabriele Preuß, Christine Revault D'Allonnes Bonnefoy, Dominique Riquet, Massimiliano Salini, Claudia Schmidt, Claudia Tapardel, Keith Taylor, Pavel Teli ka, István Ujhelyi, Wim van de Camp, Elissavet Vozemberg, Janusz Zemke, Roberts Z le, Kosma Złotowski, El bieta Katarzyna Łukacijewska
Substitutes present for the final vote	Rosa D'Amato, Werner Kuhn, Jörg Leichtfried

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	23.3.2015
Result of final vote	+: 20 -: 4 0: 0
Members present for the final vote	Nedzhmi Ali, Inés Ayala Sender, Ryszard Czarnecki, Dennis de Jong, Tamás Deutsch, Martina Dlabajová, Ingeborg Gräßle, Bernd Kölmel, Bogusław Liberadzki, Verónica Lope Fontagné, Monica Macovei, Georgi Pirinski, Petri Sarvamaa, Claudia Schmidt, Igor Šoltes, Bart Staes, Michael Theurer, Marco Valli, Derek Vaughan, Anders Primdahl Vistisen, Joachim Zeller
Substitutes present for the final vote	Caterina Chinnici, Iris Hoffmann, Monika Hohlmeier, Andrey Novakov, Julia Pitera, Miroslav Poche
Substitutes under Rule 200(2) present for the final vote	Laura Ferrara