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DRAFT REPORT

on discharge in respect of the implementation of the budget of the Agency for
the Cooperation of Energy Regulators for the financial year 2014
(2015/2191(DEC))

Committee on Budgetary Control

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the Agency for the Cooperation of Energy Regulators for the financial year 2014 (2015/2191(DEC))

The European Parliament,

- having regard to the final annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2014,
- 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 2014, 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 2014, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of xx February 2016 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2014 (– C8-),
- 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 1605/2002³, 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 Regulators⁴, 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 Communities⁵,
- 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 Council⁶, and in particular Article 108 thereof,

¹ OJ C 409, 9.12.2015, p. 18.

² OJ C 409, 9.12.2015, p. 18.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 211, 14.8.2009, p. 1.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ L 328, 7.12.2013, p. 42.

- 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 (A8-0000/2016),
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 2014;
 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).

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2014 (2015/2191(DEC))

The European Parliament,

- having regard to the final annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2014,
- 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 2014, 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 2014, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of xx February 2016 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2014 xxxxx/2016 – C8-xxxx/2016),
- 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 1605/2002³, 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 Regulators⁴, 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 Communities⁵,
- 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 Council⁶,

¹ OJ C 409, 9.12.2015, p. 18.

² OJ C 409, 9.12.2015, p. 18.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 211, 14.8.2009, p. 1.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ 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 (A8-0000/2016),
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 2014;
 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. 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 Agency for the Cooperation of Energy Regulators for the financial year 2014
(2015/2191(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 2014,
 - 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 (A8-0000/2016),
- 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 2014 was EUR 10 880 000, representing a decrease of 8,80 % compared to 2013; whereas the entire budget of Agency derives from the Union budget,
- B. 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 2014 ("the Court's report"), stated that it had obtained reasonable assurances that the Agency's annual accounts for the financial year 2014 were reliable and that the underlying transactions were legal and regular,

Follow-up of 2013 discharge

1. Notes from the Court's report that regarding two comments made in the Court's 2012 report and marked as "ongoing" in the Court's 2013 report, corrective actions have been taken and both recommendations are now marked in the Court's report as "completed"; notes, furthermore, that, regarding the three comments made in the Court's 2013 report, corrective actions have been taken and two comments are now marked as "completed" while one is marked as "not applicable";
2. Acknowledges from the Agency that:
 - a high cash balance of EUR 5 500 000 at year end, resulting partly from the receipt of an amending budget related to the implementation of Regulation (EU) No 1227/2011 of the European Parliament and of the Council¹ (the "REMIT regulation"), was balanced during 2014 and reduced to EUR 3 300 000 at the end of 2014; notes with satisfaction that the Court's report indicates that follow-up action as completed;
 - its revised policy on the prevention and management of conflicts of interests was adopted by the Agency's Administrative Board on 31 January 2015;

¹ 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).

acknowledges furthermore that that new policy is applicable to the Agency's staff, the members and alternates of all of the three Agency's boards, as well as to Agency Working Group (AWG) Chairpersons, Vice-Chairpersons and Task Force Convenors, who are in a position to steer the work of the AWGs;

- the CVs and declarations of interest of Agency's management board members, AWG Chairpersons, Vice-Chairpersons and Task Force Convenors were mostly published on the Agency's website; calls on the Agency to review and publish the remaining CVs and declarations of interest without delay, as provided for in its policy;

Budget and financial management

3. Notes that budget monitoring efforts during the financial year 2014 resulted in a budget implementation rate of 95 %, reaching the Agency's planned target and representing a decrease of 2,53 % compared with 2013; notes furthermore that the payment appropriations execution rate was at 69,84 %, representing an increase of 14,84 % compared with 2013; finds that the payment appropriations execution rate is below the Agency's target of 75 %, mainly due to the renewal or negotiation of the Agency's annual contracts towards the end of the year as well as due to the multiannual nature of the REMIT project;
4. Regrets that no agreement was reached for any contribution towards the Agency from the European Free Trade Association states, as the Third Energy Package is still to be incorporated into the Agreement on the European Economic Area;

Commitments and carryovers

5. Acknowledges that the carry-overs relating to Title II administrative expenditure appropriations amounted to EUR 980 000, representing 41 % of appropriations for Title II administrative expenditure; notes furthermore that those carry-overs were mainly related to studies for the implementation of the REMIT regulation as well as to annual contracts renewed towards the year end;
6. Takes note that a total of EUR 1 570 000 from Title III committed appropriations was carried over into 2015, representing 62 % of committed appropriations for operational expenditure; notes furthermore that the rate of the Title III carry-overs was reduced by 29 % compared with the year 2013; emphasises that those carry-overs were mainly related to the complex multi-annual activity of REMIT implementation, for which the Implementing Regulation was adopted on 17 December 2014¹;
7. Acknowledges that the Court's report states that the Agency made two pre-financing payments at the end of 2014 stemming from the appropriations received through an amending budget late in 2013 and amounting to EUR 1 560 000; notes that those payments were associated with contracts on REMIT-related services being provided in the period 2015 to 2017; takes note that the Agency had to suspend part of the REMIT implementation project due to the adoption of the REMIT regulation taking place later than originally expected; points out that although in contradiction with the principle of

¹ Commission Implementing Regulation (EU) No 1348/2014 (OJ L 363, 18.12.2014, p. 121)

annuality, those payments will allow the Agency to finance its future REMIT-related activities and awarded contracts as originally planned;

Procurement and recruitment procedures

8. Notes with satisfaction that the Agency adopted its revised policy on recruitment procedures and the work of the Selection Panels in April 2014; notes furthermore that this policy includes specific conditions for interviews and written tests, as well as strict provisions to ensure the anonymity of candidates; acknowledges the Agency's assertion that that policy ensures a step forward in its commitment to transparency and equal treatment of its staff;

Internal controls

9. Acknowledges that the Agency's status review of the implementation of the Internal Control Standards (ICS) showed no significant weaknesses becoming evident in 2014; acknowledges furthermore that following the status review the Agency considers itself compliant with the minimum requirements underlying each ICS; calls on the Agency to continue strengthening its internal controls and to ensure that the introduced controls work effectively and contribute to the achievement of its objectives;

Internal audit

10. Notes that the Commission's Internal Audit Service (IAS) conducted an audit on the Agency according to its Strategic Audit Plan for the Agency for 2013 – 2015 on the topic "Development of Framework Guidelines and Opinion on Network Codes"; takes note that in the course of the audit, the IAS identified areas for improvement and provided one recommendation rated as "very important" as well as five recommendations rated as "important";
11. Ascertains that, in response to the recommendations made by the IAS, the Agency prepared an action plan to resolve the identified shortcomings; notes that the IAS endorsed the action plan as adequately addressing the identified risks;
12. Notes that 10 out of 11 recommendations issued by the IAS in its 2013 audit have been closed while one recommendation marked as "important" is marked as partially implemented and remains to be completed during the year 2015;

Performance

13. Takes note that the Agency reviewed its system of Key Performance Indicators (KPIs), by which it introduced a distinction between performance indicators and KPIs intended to give management a clearer indication of whether the Agency's overall objectives were being met; notes that the new system will be applied in 2015, within the new structure of the Agency's Work Programme;
14. Welcomes the fact that in order to record and keep track of the budgetary transactions, the Agency uses ABAC, the same financial system used by the Commission, with the SAP system integrated as back-end for the accounting part;

Other comments

15. Points out that, according to the Seat Agreement between the Agency and the host Member State, a European School will be established in the host Member State; regrets that more than four years after that agreement, no European School has been set up; acknowledges the Agency's assertion that the government of the host Member State is assessing the necessary legal amendments and arrangements in order to find the optimal solution; encourages the Agency and the host Member State to resolve that issue and calls on the Agency to inform the discharge authority of state of play of the negotiations;

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16. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [xx xxxx 2016]¹ [on the performance, financial management and control of the agencies].).

¹ Texts adopted of that date, P[8_TA(-PROV)(2016)0000].