Basic information

2013/2240(DEC) DEC - Discharge procedure	Procedure completed
2012 discharge: Agency for the Cooperation of Energy Regulators (ACER) **Subject** 8.70.03.07 Previous discharges	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	SARVAMAA Petri (PPE)	10/10/2013
	Shadow rapporteur KADENBACH Karin (S&D) GERBRANDY Gerben-Jan (ALDE) STAES Bart (Verts/ALE) ANDREASEN Marta (ECR) DE JONG Dennis (GUE/NGL) VANHECKE Frank (EFD) EHRENHAUSER Martin (NI)	

Committee for opinion	Rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Budget	ŠEMETA Algirdas

Key events

Date	Event	Reference	Summary
26/07/2013	Non-legislative basic document published	COM(2013)0570	Summary

22/10/2013	Committee referral announced in Parliament		
17/03/2014	Vote in committee		
20/03/2014	Committee report tabled for plenary	A7-0208/2014	Summary
02/04/2014	Debate in Parliament		
03/04/2014	Decision by Parliament	T7-0300/2014	Summary
03/04/2014	Results of vote in Parliament		
03/04/2014	End of procedure in Parliament		
05/09/2014	Final act published in Official Journal		

Technical information

Procedure reference	2013/2240(DEC)
Procedure type	DEC - Discharge procedure
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	CONT/7/14222

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE521.640	27/01/2014	
Amendments tabled in committee		PE521.757	25/02/2014	
Committee report tabled for plenary, single reading		A7-0208/2014	20/03/2014	Summary
Text adopted by Parliament, single reading		T7-0300/2014	03/04/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	05849/2014	05/02/2014	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2013)0570	26/07/2013	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary

CofA	Court of Auditors: opinion, report	N7-0012/2014 OJ C 365 13.12.2013, p. 0001	10/09/2013	Summary

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act	
Budget 2014/0561 OJ L 266 05.09.2014, p. 0160	Summary

2012 discharge: Agency for the Cooperation of Energy Regulators (ACER)

2013/2240(DEC) - 26/07/2013 - Non-legislative basic document

PURPOSE: presentation by the Commission of the consolidated annual accounts of the European Union for the financial year 2012, as part of the 2012 discharge procedure.

Analysis of the accounts of the **Agency for the Cooperation of Energy Regulators (ACER)**.

CONTENT: this Commission document sets out the consolidated annual accounts of the European Union for the financial year 2012 as prepared on the basis of the information presented by the institutions, organisations and bodies of the EU, in accordance with Article 129 (2) of the Financial Regulation applicable to the EU's General Budget, including the Agency for the Cooperation of Energy Regulators (ACER).

In 2012, the tasks and budget of this agency were as follows:

- **description of ACER's tasks**: ACER, which is located in Ljubljana, was set up by Regulation (EU) No 713/2009 of the European Parliament and of the Council with a view to helping the Member States' regulatory authorities in the areas of electricity and natural gas to carry out their regulatory tasks in line with the applicable Community texts, if necessary by coordinating their action. Its aim is to give an opinion on any of the issues relating to the purpose for which it has been established;
- **ACER's budget for the 2012 financial year**: ACER's budget for 2012, as presented in the Commission document on the consolidated annual accounts of the European Union, gives the following figures:

  § **Commitment appropriations** :

  - **committed** : EUR 7 million;

  - **paid** : EUR 7 million;

  - **carried-over** : 0.

  § **Payment appropriations** :

  - **committed** : EUR 8 million;

  - **paid** : EUR 5 million;

  - **carried-over** : EUR 2 million.

Please refer also to the final accounts of the Agency for cooperation of Energy Regulators.

2012 discharge: Agency for the Cooperation of Energy Regulators (ACER)

2013/2240(DEC) - 10/09/2013 - Court of Auditors: opinion, report

PURPOSE : presentation of the EU Court of Auditors' report on the annual accounts of the

Agency for Cooperation of Energy Regulators (ACER) for the year 2012, together with the Agency's reply.

CONTENT: in accordance with the tasks conferred on the Court of Auditors by the Treaty on the Functioning of the European Union, the Court presents to the European Parliament and to the Council, in the context of the discharge procedure, a Statement of Assurance as to the reliability of the annual accounts of each institution, body or agency of the EU, and the legality and regularity of the transactions underlying them, on the basis of an independent external audit.

This audit concerned, amongst others, the annual accounts of the Agency for Cooperation of Energy Regulators (ACER).

In the Court's opinion, ACER's **Annual Accounts fairly present, in all material respects, its financial position as of 31 December 2012** and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer.

The Court also considers that the **transactions underlying the annual accounts** of the Agency for the financial year ended 31 December 2012 are, in all material respects, **legal and regular.**

The report confirms that the Agency's 2012 budget amounted to EUR 4.8 million.

The report also makes a series of observations on the budgetary and financial management of the Agency, accompanied by the latter's response. The main observations may be summarised as follows:

The Court's observations:

- carried-over commitments: the Agency carried over committed appropriations (Agency's building and associated costs) amounting to EUR 1.7 million, representing 81 % of total committed title II appropriations. The Agency also made 20 budget transfers of some EUR 1 million euro and affecting 43 budget lines;

- recruitment: the audited recruitment procedures revealed shortcomings affecting transparency and equal treatment of candidates.

The Authority's reply:

- the EUR 4.2 million cash balance held in the Agency's bank account at year-end included the 2011 budgetary surplus of EUR 1.6 m paid back in January 2013, as the Agency received the request from the Commission only on 8 January 2013. The Agency's cash management aims to ensure that funds are available to cover outstanding liabilities as they occur ;

- the Agency is strictly following the interview and written test procedures as established in detail in the relevant Director decision 2012-17 on Guidelines on recruitment procedures and work of the Selection Committees on 20 March 2012, ensuring questions and assessment criteria are fixed before the start of the testing and interviews. In order to take account of the auditors comments the Agency agrees to revise the current procedure.

Lastly, the Court of Auditors' report contains **a summary of the Authority's activities in 2012**. This is focused on the following:

- opinions and framework guidelines, inter alia, on electricity ;
- reasoned opinions and recommendations on network codes ;
- joint report on market surveillance ;
- quarterly reports on regional initiatives on electricity ;
- two new Agency Working Groups established (implementation, monitoring and procedures Working Group and a market integrity and transparency Working Group), and the Rules for the functioning of the Working Groups were updated.

2012 discharge: Agency for the Cooperation of Energy Regulators (ACER)

2013/2240(DEC) - 05/02/2014

Having examined the revenue and expenditure accounts for the financial year 2012 and the balance sheet at 31 December 2012 of the Agency for the Cooperation of Energy Regulators (ACER), as well as the Court of Auditors' report on the annual accounts of the Agency for the financial year 2012, accompanied by the Agency's replies to the Court's observations, the Council recommends the European Parliament to give a discharge to the Director of the Agency in respect of the implementation of the budget for the financial year 2012.

The observations in the Court of Auditors' report in relation to the financial year 2012 call for some comments by the Council, which may be summarised as follows:

- in general, the Council welcomes the Court's opinion that, in all material respects, the Agency's annual accounts present fairly its financial position as at 31 December 2012 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Agency's Financial Regulation and the accounting rules adopted by the Commission's accounting officer, and that the underlying transactions for that financial year are legal and regular.
- **Eligible expenses**: notwithstanding this favourable opinion, the Council invites the Agency to remedy the weaknesses found by the Court concerning payments of the top up allowances in order to ensure compliance with the Staff Regulations.
- **Carry-overs**: the Council calls on the Agency to continue to improve its financial programming and monitoring of the budget implementation, in order to reduce the level of commitments carried over and budget transfers to the minimum necessary, in line with the budgetary principle of annuality.
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Treasury: furthermore, the Council regrets the shortcomings identified by the Court in the Agency's treasury management and urges the Agency to avoid excessive surpluses at the end of the year.

- **Recruitment**: the Council invites the Agency to improve its recruitment procedures and to ensure full transparency and an equal treatment of candidates.

2012 discharge: Agency for the Cooperation of Energy Regulators (ACER)

2013/2240(DEC) - 20/03/2014 - Committee report tabled for plenary, single reading

The Committee on Budgetary Control adopted the report by Petri SARVAMAA (EPP, FI) in which it recommended the European Parliament to grant discharge to the Director of the European Agency for the Cooperation of Energy Regulators discharge in respect of the implementation of the Agency's budget for the financial year 2012.

Noting that the Court of Auditors stated that it has obtained reasonable assurances that the annual accounts of the Agency for the financial year 2012 are reliable, and that the underlying transactions are legal and regular, Members approved the closure of the Agency's accounts. They made, however, a number of recommendations that needed to be taken into account when the discharge is granted, in addition to the general recommendations that appear in the draft resolution on performance, financial management and control of EU agencies.

- **Legality and regularity**: Members noted with concern that in order to cover higher school fees, the Agency grants staff whose children attend primary or secondary school a top-up allowance which amounted to some EUR 23 000 in 2012, in addition to the education allowances provided for in the Staff Regulations. For Members, these allowances are not covered by the Staff Regulations and are, therefore, considered irregular even though they acknowledge that this situation is due to the lack of European Schools in the city where the Agency is based.
- **Budget and financial management**: Members noted that budget monitoring efforts during the financial year 2012 resulted in a budget implementation rate of 93.75% and that the payment appropriations execution rate was 66.8%. They regretted that the Agency carried over committed appropriations amounting to EUR 1.7 million, representing 81% of total committed appropriations relating mainly to the implementation of the REMIT regulation. They noted with concern that the Agency held EUR 4.2 million in cash at the end of the year, including the 2011 budget surplus of EUR 1.6 million resulting from an excessive call for funds in 2011. Members called on the Agency to report on its progress within the framework of the 2012 discharge follow-up.

Members also made a series of observations on transfers, procurement and recruitment procedures as well as comments on internal controls.

Lastly, they acknowledged that the Agency is reviewing its policy on the prevention and management of conflicts of interests on the basis of the Commission's Guidelines on the Prevention and Management of Conflict of Interest in EU Decentralised Agencies. They called on the Agency to inform the discharge authority of the assessment results once available.

2012 discharge: Agency for the Cooperation of Energy Regulators (ACER)

2013/2240(DEC) - 03/04/2014 - Text adopted by Parliament, single reading

The European Parliament adopted a decision concerning the discharge to be granted to the Director of the European Agency for the Cooperation of Energy Regulators discharge in respect of the implementation of the Agency's budget for the financial year 2012. The vote on the discharge decision approved the closure of the accounts (in accordance with Annex VI, Article 5(1) of the Rules of Procedure of the European Parliament.

Noting that the Court of Auditors stated that it has obtained reasonable assurances that the annual accounts of the Agency for the financial year 2012 are reliable, and that the underlying transactions are legal and regular, Parliament adopted by 524 votes to 67, with 9 abstentions, a resolution containing a series of recommendations that form an integral part of the discharge decision and as well as the general recommendations that appear in the draft resolution on performance, financial management and control of EU agencies.

These recommendations are summarised as follows:

- **Legality and regularity**: Parliament noted with concern that in order to cover higher school fees, the Agency grants staff whose children attend primary or secondary school a top-up allowance which amounted to some EUR 23 000 in 2012, in addition to the education allowances provided for in the Staff Regulations. For the Parliament, these allowances are not covered by the Staff Regulations and are, therefore, considered irregular even though they acknowledge that this situation is due to the lack of European Schools in the city where the Agency is based.
- **Budget and financial management**: Parliament noted that budget monitoring efforts during the financial year 2012 resulted in a budget implementation rate of 93.75% and that the payment appropriations execution rate was 66.8%. It regretted that the Agency carried over committed appropriations amounting to EUR 1.7 million, representing 81% of total committed appropriations relating mainly to the implementation of the REMIT regulation. It noted with concern that the Agency held EUR 4.2 million in cash at the end of the year, including the 2011 budget surplus of EUR 1.6 million resulting from an excessive call for funds in 2011. Parliament called on the Agency to report on its progress within the framework of the 2012 discharge follow-up.
- **Performance**: Parliament requested that the Agency communicate the results and impact its work has on European citizens in an accessible way, mainly through its website.

It also made a series of observations on transfers, procurement and recruitment procedures as well as comments on internal controls.

Lastly, Parliament acknowledged that the Agency is reviewing its policy on the prevention and management of conflicts of interests on the basis of the Commission's Guidelines on the Prevention and Management of Conflict of Interest in EU Decentralised Agencies. It called on the Agency to inform the discharge authority of the assessment results once available.

2012 discharge: Agency for the Cooperation of Energy Regulators (ACER)

2013/2240(DEC) - 03/04/2014 - Final act

PURPOSE: to grant discharge to the European Agency for the Cooperation of Energy Regulators (ACER) for the financial year 2012.

NON-LEGISLATIVE ACT: Decision 2014/561/EU of the European Parliament on discharge in respect of the implementation of the budget of the European Agency for the Cooperation of Energy Regulators for the financial year 2012.

CONTENT: with the present decision, the European Parliament grants discharge to the Director of the European Agency for the Cooperation of Energy Regulators in respect of its budget for the financial year 2012.

This decision is in line with the European Parliament's resolution adopted on 3 April 2014 and comprises a series of observations that form an integral part of the discharge decision (please refer to the summary of the opinion of 3 April 2014).

Amongst the main observations made, Parliament regretted the comments made by the Court of Auditors on the **legality and regularity of the transactions** (unauthorised school fees) and called on it to remedy the situation.