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European Union Agency for the Cooperation  
of Energy Regulators

# Consolidated Annual Activity Report

of The European Union Agency for the  
Cooperation of Energy Regulators

## 2019

In pursuance of FR 2018/1046, FFR No 2019/715<sup>1</sup>  
THE ANALYSIS AND ASSESSMENT OF THE ADMINISTRATIVE BOARD

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# THE ANALYSIS AND ASSESSMENT OF THE ADMINISTRATIVE BOARD

The Administrative Board has examined the Consolidated Annual Activity Report for the year 2019 of the European Union Agency for the Cooperation of Energy Regulators and notes that:

- the Agency aligned its policies and operational achievements with the EU priorities in the field of energy in line with ACER 2019 work programme: the completion of the internal energy market and the monitoring of trading in the wholesale energy markets of the Union remained at the heart of the Agency's objectives;
- the challenges faced by the Agency related to the completion of the internal energy market, including delivering the benefits to EU energy consumers, are correctly identified and the operational achievements contributing to the implementation of the EU energy policy priorities are convincingly presented;
- the Agency largely met its objectives through prioritisation and redeployment of staff, whenever possible, to overcome the difficulties encountered due to resource constraints and the need to allocate resources for peaks of unpredictable workload, especially when called to replace NRAs in the adoption of decisions requesting high-level expertise;
- resource constraints had an impact on the extent to which the Agency was able to contribute to the completion of the internal energy market to the benefit of energy consumers and the competitiveness of the Union, since some of the Agency's work could not be done to the extent which would be desirable;
- the Agency's key achievements for the year 2019 were:
  - a. the publication of the Annual Market Monitoring Report on the impact of the implementation of the Electricity and Gas Directives and Network Codes and Guidelines on the functioning of the EU wholesale electricity and gas markets, as well as on the remaining barriers to cross-border trade. It also covers retail price aspects and assesses the state of consumer rights on the remaining barriers to the Internal Energy Market;
  - b. the adoption of crucial acts whose implementation will be critical for the well-functioning of the EU electricity market eventually delivering benefits for consumers – i.e. the decision on the day-ahead and intraday capacity calculation methodologies for the Core Region (covering 13 EU Member States) and the Agency's recommendation on the implementation of the 70% cross-zonal capacity target;
  - c. the increase of transparency to network users on transmission tariff methodologies, how they compare to the EU requirements, and where some elements may be discriminatory or detrimental to cross-border trade;
  - d. its recommendation to the Union institutions on the regulatory response to the future challenges emerging from developments in the internal gas market ('The Bridge Beyond 2025'), addressing new developments such as decarbonisation and sector coupling;
  - e. its collection of more than three million records of wholesale energy market transactions and orders to trade per day, and to the extent possible, the monitoring of the wholesale energy markets of the Union, especially on cross-border trading.
- the Agency reached a high level rate of execution for commitment appropriations;
- the key performance indicator targets were largely met, with the exception of a few indicators concerning the improvement of REMIT data quality and market surveillance, due to the lack of sufficient resources;

- the Director has provided a clear declaration of assurance;
- controls and supervisory checks performed in 2019 provided no evidence of significant or repetitive errors in reporting by Agency departments, budget execution, human resources management or KPI implementation;
- monitoring reviews showed no instances of inadequate or ineffective controls that could expose the Agency to key risks.

The Director shall take immediate actions to address the comments made by the European Court of Auditors in its preliminary observations and to report, in due course, on the actions taken.

It concluded that:

**The Agency has successfully implemented the 2019 work programme. The available resources allocated to the activities described in the report were used for their intended purpose in accordance with sound financial management principles.**

For the Administrative Board

The Chair

Dr J. PENKER

18 June 2020

# EXECUTIVE SUMMARY

## Foreword by the Director of the Agency

It is a privilege for me to present the 2019 Consolidated Annual Activity Report ('CAAR') of the European Union Agency for the Cooperation of Energy Regulators ('ACER'). It describes the activities performed by the Agency, as well as the extent to which it met the objectives set out in its Work Programme, for the year preceding the beginning of my mandate, in January 2020, as its new Director.

As newly appointed director of ACER, let me therefore begin by expressing my gratitude for the work of my predecessor and his team, Alberto Pototschnig, the "father" of the organisation, on whose shoulders I now have the honour and opportunity to stand. The end of 2019 marked in some ways the conclusion of an important phase of the Agency, ranging from its establishment to its development into a significant actor in the EU's energy market. It is an honour for me to have the opportunity to bring my ideas and experience to consolidate and further build on what has been achieved so far. Despite my different background, I share Alberto's enthusiasm to be at the front line of the many changes impacting energy systems in Europe.

•••

This report was prepared at a difficult time for the world, the EU and inevitably also for the Agency. The Covid-19 pandemic and its political and economic aftermath will inevitably have a significant impact on the functioning of energy markets and their governance. This will inevitably affect, for good or for bad, also the way Member States and the EU institutions work together, including their approach to regulation. It is too early to have a full grasp of the consequences for the energy market and, ultimately, also for the Agency.

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The current report therefore covers what in retrospect may be seen as a "business as usual" year, despite the significant events and developments that occurred during its course in relation to the Agency's work. Allow me to list what these milestones were:

At the EU level, in 2019 the European Commission adopted the **European Green Deal**, which aims to make Europe the first climate-neutral continent by 2050. While focusing on its legal mandate and tasks allocated to it since its establishment, the Agency aims to contribute, from a regulatory perspective, to the implementation of the Green Deal and the broader energy and decarbonisation objectives set at political level.

In mid-2019, the **Clean Energy Package** (CEP) acts were adopted, allocating significant new tasks to the Agency, such as bidding zone review, European resource adequacy assessment, cross-border participation in capacity remuneration mechanisms and risk preparedness. The recast of the Agency's founding regulation has, inter alia, transferred directly to the Agency the competence to decide on EU-wide "terms and conditions or methodologies", the detailed technical rules for the implementation of the electricity guidelines (on Capacity Allocation and Congestion Management, on Forward Capacity Allocation, on System Operation and on Balancing).

As a consequence of the CEP, in the second half of the year the Agency amended its 2019 Work Programme, since some of the tasks it was allocated were due to be performed already in 2019, while other legal obligations, due to enter into force in 2020, required significant preparatory work. Hence, you will find some of the new tasks already reflected in this annual report.



The recast of the Agency's founding regulation also introduces **fees as a new source for the funding of services related to the Regulation on Wholesale Market Integrity and Transparency (REMIT)**. These fees shall be due to the Agency as of 2021 for collecting, handling, processing and analysing the information reported by market participants or by entities reporting on their behalf. The new REMIT fee model under development in 2020 constitutes both a new operational challenge for the Agency, as well as an opportunity in terms of putting the Agency's REMIT activities on sound financial footing in future years, especially since the subsidy from the EU budget is expected to be considerably reduced.

Following the end of ratification procedures in **Iceland, Liechtenstein and Norway**, an important European Economic Area (EEA) Joint Committee decision entered into force in September 2019, paving the way for the **participation** of these three EEA states of EFTA (European Free Trade Association) **to the Agency's Boards and Working Groups**. The contribution of these countries to the Agency's work, albeit with some limitations in relation to the areas covered, marks a welcome step forward in the Agency's remit in relation to the internal energy market.

•••

This report highlights the **Agency's key achievements in 2019** as concerns the Electricity and Gas sectors, as well as in the field of REMIT.

In Electricity, the Agency adopted an increasing number of **decisions** (both regional and EU-wide), opinions and recommendations, whose implementation will be **critical for the well-functioning of the EU electricity market**. In particular, the Agency's decision on the day-ahead and intraday capacity calculation methodologies for the Core Region (covering 13 EU Member States) and the Agency's recommendation on the implementation of the 70% cross-zonal capacity target should play a decisive role in the successful completion of a truly integrated electricity market delivering benefits for consumers.

In **Gas**, the Agency provided significantly more **transparency to network users** on transmission tariff methodologies, how they compare to the EU requirements, and where some elements may be discriminatory or detrimental to cross-border trade. It also moved forward on two concrete **cross-border issues** where the neighbouring institutions could not agree, thus avoiding a deadlock. The first one was on the choice of a booking platform on the German-Polish interconnection points (IPs), thus addressing the last IP in the EU without a joint booking platform. The second one was on the incremental capacity process on the Hungarian-Austrian border, where the Agency set the parameters to continue with the process of assessing market demand for new infrastructure on this border.

As concerns both Gas and Electricity, the publication of the **Market Monitoring Report**, remained one of the Agency's flagship deliverables. The report provides insight on the impact of the implementation of the Electricity and Gas Directives and Network Codes and Guidelines on the functioning of the EU wholesale electricity and gas markets, as well as on the remaining barriers to cross-border trade. It also covers retail price aspects and assesses the state of consumer rights.

The Agency also continued its efforts related to European **gas and electricity infrastructure**, monitoring the progress and identifying areas for improvement in the Member States' Ten Year National Development Plans (TYNDPs) and Projects of Common Interest (PCIs).

While focusing to a large extent on its legally mandated tasks, the Agency also published its Recommendation to the EU institutions on the **regulatory response to the future challenges emerging from developments in the internal gas market** ('The Bridge Beyond 2025'), addressing new developments such as decarbonisation and sector coupling.

Last, but not least, the Agency strived to make progress in the **implementation of REMIT**. The Agency collected on average more than three million records of wholesale energy market transactions and orders to trade per day. The increase in data collection exceeded all expectations and was due to increasing market liquidity following the implementation of network codes and market developments such as the increased use of algorithmic trading especially in intraday and day-ahead electricity markets. The Agency handled such an increase in the number of records reported despite the limitation in its financial and human resources.

Similarly, to the extent possible, the Agency continued to monitor EU wholesale energy markets. This is vital to foster open and fair competition for the benefit of final energy consumers. Given the persistent limitation in its human and financial resources, the Agency's focus in its market surveillance activities was on cross-border trading, as this is where it has a unique advantage vis-à-vis National Regulatory Authorities for Energy (NRAs). Significant advances by NRAs were registered in the field of REMIT investigations in 2019, with five sanctions being imposed for market abuse totalling almost four million euros in fines.

The Agency also provided further guidance to NRAs on REMIT issues, such as layering and spoofing and the application of market manipulation in REMIT through the ACER Guidance on withholding of available generation capacity in wholesale electricity markets.

•••

It should also be noted that the Agency is handling an increasing number of complex and contentious decisions, which has inevitably led to an increase in the number of appeals over the last couple of years. While such reviews are an essential part of the process, the fact that the Agency is called to defend its decisions in front of the Board of Appeal or the General Court, or to defend the rulings of the Board of Appeal in front of the General Court, inevitably puts additional strain on its resources. I think this is an area of activity "on the rise", also in light of the new domains which the Agency will be entering from this year onwards. As such, I suspect resource needs here will increase going forward.

•••

As in the past, the regulatory part of this CAAR mirrors the Agency's 2019 Programming Document, as revised following the adoption of the acts of the Clean Energy Package, in terms of activities, tasks and deliverables. The administrative part and the related annexes contain the information the Agency is required to report in line with the template for the CAAR for decentralised agencies.

It should be noted that in April 2020 the European Commission adopted a Communication containing a revised template of the CAAR to be followed by Agencies. ACER has adapted the information provided to the requirements of the new template, despite the fact that the drafting of the report was already at a very advanced phase when the new template was adopted.

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The administrative part of the report highlights the fact that the legality and consistency of the Agency's 2018 financial operations were confirmed by the European Court of Auditors, which did not formulate any comment on the way in which the Agency has been run. In 2019 the Agency also met all its budget implementation targets, further improving the rates achieved in 2018.

•••

Allow me to express my gratitude to my colleagues in the Agency for their effort, commitment and enthusiasm. The Agency's achievements would also not be possible without the strong support of the NRAs, through the Board of Regulators (BoR) and their expert contributions to the Agency's Working Groups.

The Agency's Administrative Board (AB) plays a crucial role in ensuring that ACER carries out its mission and performs the tasks assigned to it by legislation. I am grateful both to the BoR and AB for the support provided to the Agency and their confidence in me as demonstrated in the selection process for the new Director of the Agency. I will do my best to work with them in an open and transparent manner and hope to count on their support in the difficult times ahead.

Stakeholders were also central to the work of the Agency in 2019 and will remain so in the future. I thank them for their contributions and support to the Agency.

As an EU Agency, ACER cooperates as closely as possible with the EU institutions. The Agency is grateful for the support of the European Commission, in particular to the Directorate General for Energy (DG ENER), and the European Parliament, most notably its Committee on Industry, Research and Energy (ITRE). DG ENER and ITRE have been the Agency's closest allies over these years. It is thanks to their support and trust in the Agency, together with that of the Member States, that ACER's mandate has been further reinforced in the framework of the Clean Energy Package.

•••

On a personal level, I am thrilled to be, together with the Agency, at the front line, regulation-wise, of the many changes impacting energy systems in Europe. The energy landscape is evolving rapidly, driven in part by technology, by market actor innovation and in part by evolving political priorities, not least as regards decarbonisation of the broader economy, in which energy transitions play a crucial part. This regulatory landscape will probably further evolve, possibly not always in a predictable manner, with the inevitable deepening of the economic crises that Europe will face in the coming months and years.

This evolving landscape, crisis included, has implications for how the Agency should assess its resources, how it seeks to enhance its agility in delivering priority tasks and how it engages with its any stakeholders.

While history shows that trust among nations in moments of crisis tends to decrease, I remain firmly convinced that in the coming months and years we need "more Europe", not less. ACER will play a key role, to the extent possible, to build faith in increased mutual reliance, which I see as being the essence of its mandate.

Christian Pilgaard Zinglensen

Ljubljana, 18 June 2020

# INTRODUCTION: THE AGENCY IN BRIEF

ACER fosters a fully integrated and well-functioning Internal Energy Market, where electricity and gas are traded and supplied according to the highest integrity and transparency standards, and EU consumers benefit from a wider choice, fair prices and greater protection.



# Mission & Powers

## The Internal Energy Market

The Agency was established to support the **completion of the Internal Energy Market** and to fill the regulatory gap emerging in this process due to the mainly national competences of NRAs. The Agency thus initially focused its efforts on tasks related to the development of common market and network operation rules - through the preparation of Framework Guidelines, the evaluation of the Network Codes drafted by the European Network of Transmission System Operators (ENTSOs) and the promotion of their (early) implementation - and to the planning of the development of European energy networks - with its opinions on the Ten Year National Development Plans (TYNDPs). Since the Network Codes and Guidelines entered into force, the Agency has been monitoring their implementation and effects. This complements the more general monitoring of developments in the Internal Energy Market, which the Agency has been performing since 2012, with the publication of annual Market Monitoring Reports.

## Transparency of Wholesale Markets

New important responsibilities were assigned to the Agency by the Regulation on wholesale market integrity and transparency (REMIT), which introduced **explicit prohibitions of market abusive behaviour and established a new, sector-specific, monitoring framework to detect and deter market manipulation and insider trading**. In this respect, the Agency was tasked with collecting trade and fundamental data related to all wholesale energy market transactions, irrespective of where they are concluded (on organised markets, through other trading venues or over the counter) and of the type of product traded (for physical delivery or financial settlement), and to all orders to trade. It was also tasked with conducting an initial assessment and analysis of these transactions and orders to trade to identify suspicious events which are then notified to NRAs, responsible for investigations and enforcement.

The monitoring framework introduced by REMIT, which went live in October 2015, is unprecedented worldwide in terms of its geographical and product scope, and its implementation has posed a formidable challenge for the Agency, NRAs, market participants - which have to report trade data - and other stakeholders - responsible for reporting fundamental data.

With the information available, the Agency is set to detect instances of possible market manipulation, attempted market manipulation and trading based on inside information.

## Infrastructure

In 2013, the TEN-E Regulation introduced a new framework for the development of critical energy infrastructure - PCIs -, foreseeing a role for the Agency in the process of **identifying PCIs and in assisting NRAs in dealing with investment requests** - including for cross-border cost allocation - submitted by PCI promoters.

## Security of Supply

Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010, which applied from 1 November 2017, has strengthened the role of the Agency in ensuring energy supply security by foreseeing a number of new tasks for

the Agency, notably linked to the **enabling of permanent physical capacity to transport gas in both directions, the related cross-border cost allocation and the exemption requests.**

## Residual Powers

With the entry into force of the Network Codes and Guidelines envisaged, as secondary legislation, by the Third Package, the Agency was assigned additional important tasks and responsibilities in supporting the coordination of NRAs and the harmonisation of IEM rules, including by **stepping in when NRAs are unable to reach an agreement** on binding subsidiarity instruments.

## Clean Energy Package

In July 2019 the Agency was allocated **new tasks within the “Clean Energy for all Europeans Package” (CEP)**, which included a recast of the Agency’s founding regulation. The latter strengthened the role of the Agency with the assignment of additional tasks that are crucial for promoting greater competition and security of energy supply to the benefit of European consumers and citizens, as well as according it with greater responsibilities in some processes in which it was already involved.

The CEP, which strengthened the role of the Agency with the assignment of numerous new responsibilities, some of which were performed already in 2019:

- directly revising and submitting the electricity sector Network Codes to the Commission for adoption;
- approving and amending, if necessary, the proposals for methodologies and calculations related to the European resource adequacy assessment in the electricity sector;
- approving and amending, where necessary, the proposals for technical specifications for cross-border participation in capacity mechanisms;
- approving the methodologies regarding the use of revenues from congestion income from cross-border exchanges in electricity;
- providing an opinion, at the request of the Commission, on the ENTSO-E’s evaluation of national adequacy assessments;
- approving and amending, where necessary, the methodologies for identifying electricity crisis scenarios;
- providing an opinion on the technical guidance for the calculation of CO<sub>2</sub> emission limits;
- monitoring the performance of the Member States in the area of security of electricity supply;
- monitoring and analysing the performance of Regional Coordination Centres (RCCs);
- monitoring progress of the Nominated Electricity Market Operators (NEMOs) in establishing their functions under the Guideline on capacity allocation and congestion management;
- providing operational assistance to NRAs, upon their request, regarding REMIT investigations.

The Agency was also given the mandate to be called to decide directly on the EU-wide “terms and conditions or methodologies” for the implementation of guidelines, or on the regional ones when they have an impact beyond the region. So far, the Agency’s involvement was limited to those cases in which the national regulatory authorities failed to agree or unanimously referred the decision to the Agency.

Briefly put, with the CEP the Agency has started delivering, along with the NRAs, ENTSO’s and

others, the foundations for a more integrated, efficient and competitive energy system in Europe, taking account of the decarbonisation objectives set at the political level.

## A Challenging Future

### The Green Deal

While focusing on its legal mandate and tasks allocated to it since its establishment, **the Agency aims to contribute, from a regulatory perspective, to the implementation of the European Union's Green Deal** and the broader energy and decarbonisation objectives set at political level. A large share of its activities already contribute, directly or indirectly, to cost efficient solutions for Member States and consumers, to building faith in increased mutual reliance among key actors in the energy market and ultimately to the EU's goal of becoming the world's first climate-neutral continent.

The energy transitions needed to achieve this trajectory also require new approaches to the infrastructure underpinning efficient markets. Increased cross-border and regional cooperation will help achieve the benefits of energy transitions at more affordable prices for EU energy consumers. At the same time, there are important discussions to take account of as to the balance between wider, pan-European approaches and more localised flexibility solutions. Similarly, for some of the political priorities set at European level there are important discussions ahead on the right balance between setting the right market framework on one hand and broader government planning and market actor coordination on the other. These will be important guideposts for the Agency's contributions to discussions on future energy challenges for Europe.

While energy transitions give rise to different challenges and opportunities across the economy, the EU's energy supply needs to remain secure and affordable for consumers and businesses. For this to happen, as also emphasised in the proposed Green Deal, it is essential to ensure that European markets are integrated, interconnected and digitalised, while respecting technological neutrality. The Agency plays a key role through its current activities and will seek to play a forward-looking role in these processes in the coming years, cooperating closely with NRAs.

The Agency has fuelled its vision by adopting in November 2019 a Recommendation to the EU Institutions and published the accompanying **"Bridge beyond 2025"** Conclusions Paper, developed jointly with the Council of European Energy Regulators (CEER), highlighting the **challenges facing the energy sector, and, in particular, the gas sector, in the path towards decarbonisation, and the most appropriate policy and regulatory response.**

### Engaging on the future gas market of Europe

The Commission has announced its intention to proceed, in the next couple of years, to a review of the gas market legislation, in order to adapt the role of gasses to the decarbonisation of the economy and to "mirror" in the gas sector some of the new governance and regulatory arrangements introduced for the electricity sector by the "Clean Energy for All Europeans" legislation. The Agency stands ready to engage on priority issues of regulatory relevance under this review and of course to implement the tasks subsequently allocated to it in the framework of the future gas market legislation.

### Engaging stakeholders for greater impact, communicating strategically and via

## **modern tools**

Cooperation with NRAs will remain an integral part of the Agency's strive to reach the above goals. Tackling the currently rapidly shifting energy landscape and taking into account the Agency's new tasks will require it to reinforce and adjust its approach to key stakeholders. Indeed, within the remit of the Agency's work, there is a multitude of stakeholders, many of whom have views of relevance for ACER's tasks and approaches. Whilst targeting all stakeholders does not seem a feasible option, greater engagement with key stakeholders is necessary, drawing on more strategic, proactive approaches and underpinned by more modern communication tools. This will be a key shift in the workings of the Agency over the coming years.

## **Redeploying resources to meet future challenges**

The Agency has struggled to obtain the resources it has deemed necessary so far to fully perform its mandate and legal obligations, most notably as concerns the surveillance of the wholesale energy market under the Regulation on wholesale energy market integrity and transparency (REMIT). As such, it puts ever more onus on the pursuit of internal efficiencies and synergies relevant for the strategic priorities mentioned above. This is easily written, more difficult to put into practice. The Agency will seek to regularly reassess and redistribute resources available in light of shifting priorities and to evaluate its internal organisation in order to have as agile and dynamic a structure as possible.

## **Putting the Agency's REMIT activities on sound financial footing**

The recast of the Agency's founding regulation introduces fees as a new source for the funding of REMIT related services. From 2021 these fees shall be due to the Agency for collecting, handling, processing and analysing the information reported by market participants or by entities reporting on their behalf. Implementing the new REMIT fee model constitutes both a new operational challenge for the Agency and very much also an opportunity in terms of putting the Agency's REMIT activities on sound financial footing for the years to come.

# **Institutional Framework**

From an institutional point of view, the Agency is accountable to the discharge authority (the European Parliament) and works closely with the Directorate-General (DG) for Energy, its partner DG at the European Commission. The regularity of its accounts is subject to supervision by the European Court of Auditors.



# Mission Statement

## MISSION

The European Union Agency for the Cooperation of Energy Regulators fosters a fully integrated and well-functioning Internal Energy Market, where electricity and gas are traded and supplied according to the highest integrity and transparency standards, and EU consumers benefit from a wider choice, fair prices and greater protection. For this purpose, we work with European Institutions, NRAs and stakeholders.

## VISION

Our vision is to be a leading agency for independent, high-quality regulation in Europe to implement the Internal Energy Market and the Energy Union.

# Objectives in Wider Context

## WIDER CONTEXT

### European Green Deal, Energy Union Strategy, UN Sustainable Development Goals

While the Agency is an independent body, it is fully committed to the **European Green Deal**, with a fully-integrated internal energy market in which energy should flow freely across the EU - without technical or regulatory barriers. The Agency therefore also contributes to the implementation of the **Energy Union Strategy**, in particular to the following two dimensions:

- Security, solidarity and trust - diversifying Europe's sources of energy and ensuring energy security through solidarity and cooperation between EU countries;
- A fully integrated internal energy market - enabling the free flow of energy through the EU through adequate infrastructure and without technical or regulatory barriers.

Many of the activities that the Agency is planning to perform over the next three years are instrumental to achieve the above objectives. In particular, while only some the Agency's tasks are directly related to security of energy supply, most of activities of the Agency significantly contribute to it. In fact, all of the four objectives listed below are instrumental to improving security of supply in the EU: a fully functioning internal energy market, better infrastructure with improved connections, greater transparency and integrity of the markets and addressing the longer-term regulatory challenges the EU is facing are all conducive to greater security of supply of Member States.

In addition, the Agency is increasingly involved in cybersecurity issues related to the energy market, on which it has developed significant expertise.

The Agency also contributes to the **United Nations sustainable development goal** of ensuring access to affordable, reliable, sustainable and modern energy for all.

## Agency Objectives

### Objective 1: Contribute to the completion of the Internal Energy Market and monitor its functioning

Supporting the integration of the electricity and gas markets in the European Union was the main role assigned to the Agency by its founding Regulation and other provisions in the Third Energy Package. While significant progress has been achieved and tangible benefits are being delivered to EU energy consumers, this remains an ongoing process that entails the following:

- **Contributing to the implementation of the provisions in the adopted Network Codes and Guidelines.** This includes a variety of specific tasks assigned to the Agency by these legal provisions that are instrumental to the integration and well-functioning of the internal electricity and gas markets. It also includes deciding on binding tertiary instruments (on so-called “terms and conditions or methodologies”) when NRAs fail to agree or upon their joint request;
- **Monitoring developments in the Internal Energy Market, the implementation of the Network Codes and Guidelines and their effects.** These monitoring activities may result in recommendations for amending Network Codes or Guidelines or for other regulatory interventions, which may require the involvement of the Agency.
- **Performing the tasks assigned to the Agency under the “Clean Energy for All Europeans” Package (CEP).**

### Objective 2: Contribute to the Infrastructure and Security of Supply Challenges

The Regulation (EU) No 347/2013 on Guidelines for trans-European energy infrastructure (TEN-E Regulation) introduced a new framework aimed at promoting the development of Projects of Common Interest (PCIs), i.e. infrastructure projects that are particularly beneficial in supporting a more integrated European energy market. According to the Third Package, the Agency was already involved in the energy network development process, but the TEN-E Regulation projected this involvement into a new dimension. As one of the many players involved, the Agency aims to contribute to the infrastructure challenge in line with its legal mandate by:

- **Assessing the cost-benefit analysis methodologies** developed by the ENTSOs and the consistent application of the criteria for identifying PCIs;
- **Providing opinions on the draft PCI lists**, in particular on the consistent application of the cost-benefit analysis and the selection criteria;
- **Taking decisions on investment requests and cross-border cost allocation** submitted by PCI promoters, when called to do so.
- Performing the **tasks assigned to the Agency under the CEP.**

PCI lists are adopted every two years. Ten-Year National Development Plans (TYNDPs), which are also developed every two years, but at present in different years for the electricity and gas sector, serve as the basis for the PCI lists. Investment requests may be submitted by promoters of PCIs included in the lists. Therefore, the TYNDP/PCI identification/investment request process runs over two years, repeating itself every two years. The Agency is crucially involved in all the stages of this process.

The Agency strives to enable efficient infrastructure investments to take place, with a particular focus on investments of cross-border relevance. Such investments should help further integrate the Internal Energy Market, as well as to increase security of supply. In particular, they should contribute to the elimination of the so-called energy islands.

All these achievements should be instrumental to the goals of the European Green Deal.

### **Objective 3: Increased integrity and transparency of wholesale energy markets**

A well-functioning pan-European energy market demands that energy is traded according to the highest transparency and integrity standards, so that prices reflect the fundamentals of demand and supply. This is also a major contributor to security of energy supply. REMIT aims at establishing the conditions for this to happen. Therefore, its effective implementation constitutes an integral part of the creation of an efficient Internal Energy Market, of promoting security of energy supply and, thus, of the Energy Union's strategy. REMIT introduced a new, unprecedented, sector-specific market-monitoring framework to detect market abuse in European wholesale energy markets, thus deterring such behaviour.

The Agency aims to ensure that REMIT is fully implemented so that consumers and other market participants can have confidence in the integrity of electricity and gas markets, that prices set on wholesale energy markets reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse.

In order to achieve the above, the Agency focuses on:

- Collecting wholesale energy market data at pan-European level for assessing and monitoring wholesale energy markets and data sharing with NRAs and other relevant authorities for their potential market monitoring and for their investigations and enforcement at national level.
- Detecting and deterring market manipulation and trading based on inside information. Given the sheer volume of transactions reported by market participants, the Agency performs its monitoring functions, consisting in an initial assessment or analysis of the reported transactions, in two stages. The first stage is based on the automatic screening performed by purposely-developed surveillance software. This screening is expected to identify anomalous events based on predefined "alerts". The second stage looks into these anomalous events ('triggered alerts') to identify those for which market abuse can be suspected and which are then notified to NRAs for their investigation. This second stage focuses on market participants' behaviour and must therefore be conducted by highly qualified experts, for example on false positives. Moreover, the Agency aims to ensure that NRAs carry out their activities under REMIT in a coordinated and consistent manner.

#### **Objective 4: Contribute to address longer-term regulatory challenges**

The Conclusions Paper “Energy Regulation: A Bridge to 2025”, issued in September 2014, presented European energy regulators’ conclusions on the challenges facing the electricity and gas sectors over the coming decade and recommendations on the appropriate regulatory response within the framework of the Europe’s Internal Energy Market. The Conclusions Paper covered a wide range of aspects related to: the gas and electricity sectors, including the changing face of electricity generation in the European Union; the changing role of Distribution System Operators; consumer empowerment and protection; and retail markets. The document also included a chapter on the governance of the process for the development of the internal European gas and electricity markets.

The “Clean Energy for All Europeans” Package addressed many of the challenges identified in the Conclusions Paper and provided an enhanced framework to deal with the future challenges in which the Agency will play an enhanced role.

In 2019, the Agency launched a public consultation ‘A Bridge Beyond 2025’ to seek stakeholder input in particular about the role gases and sector coupling could play in the decarbonisation agenda. A Conclusions Paper was issued jointly with CEER in November 2019, alongside an ACER formal Recommendation for changes to legislation.

The Agency and CEER noted that the priority for Europe’s energy sector is to decarbonise while maintaining security of supply, affordability for consumers and competitiveness for businesses. For the electricity sector, the “Clean Energy for all Europeans” Package (CEP) sets the path. For the gas sector and for cross-cutting aspects, such as infrastructure planning, legislation and policy need to be updated to facilitate decarbonisation, improve market functioning and maximise the opportunities arising from sector coupling.

For its contribution to long-term regulatory challenges, the Agency intends to focus on topics with regulatory relevance, for instance those linked to the Bridge Beyond 2025 Recommendation. These could include the future use of gas infrastructure, the role of power-to-gas installations, the possibilities for hydrogen in a decarbonised energy system, the development of hybrid infrastructure assets such as offshore grid linking multiple jurisdictions and the development of demand response.

A new dimension of risk for the energy sector, linked to its progressing digitalisation, comes from possible cyber-attacks. The Agency stands ready to contribute to efforts addressing such threats to the energy sector.

## The Agency's Key Achievements in 2019

### ELECTRICITY SECTOR:

In 2019, the Agency adopted an increasing number of **decisions** (both regional and EU-wide), opinions and recommendation, whose implementation will be critical for the well-functioning of the EU electricity market. In particular, the Agency's decision on the **day-ahead and intraday capacity calculation methodologies for the Core region** and the Agency's **recommendation on the implementation of the 70% cross-zonal capacity target** should play a decisive role in the successful completion of a truly integrated electricity market delivering benefits for consumers.

Other key achievements include:

1. The publication of the **electricity wholesale chapter** of the Market Monitoring Report, which provides significant insight on the impact of the implementation of the Network Codes and Guidelines on the functioning of the EU electricity market, as well as on the barriers to cross-border trade;
2. The constant and in-depth monitoring effort made by the Agency to follow all the **implementation projects** in Europe and to maintain a close interaction with all involved stakeholders through, in particular, the different European Stakeholder Committees;
3. The timely publication of the Agency's Opinion providing technical guidance for the **calculation of CO<sub>2</sub> emission limits**;
4. The preparatory work made by the Agency for the new important tasks foreseen in the **Clean Energy Package (CEP)**;
5. The constant effort made by the Agency to monitor the progress and identify areas for improvement in the electricity **TYNDP and PCI process**.

## GAS SECTOR:

In 2019, the Agency's key achievement in the gas sector relates to providing significantly more transparency to network users on transmission tariff methodologies, how they compare to the EU requirements, and where some elements may be discriminatory or detrimental to cross-border trade, as well as moving forward on two concrete cross-border issues where the neighbouring institutions could not agree, thus avoiding a deadlock. Furthermore, the Agency provided its views, based on its extensive experience, on how the internal gas market could be aligned with the Green Deal and how market functioning could be further improved. Concretely, this was achieved by:

1. The timely publication of 16 **reports on gas transmission reference price methodologies**, which highlight the extent to which these methodologies, which determine the tariffs paid by network users, are in line with the European requirements of, among others, non-discrimination between domestic and cross-border users.
2. ACER took two main decisions in the Gas area. The first one was on the choice of a **booking platform on the German-Polish interconnection points** (IPs), thus addressing the last IP in the EU without a joint booking platform.
3. The second main decision in the Gas area was on the **incremental capacity process on the Hungarian-Austrian border**, where the Agency set the parameters to continue with the process of assessing market demand for new infrastructure on this border.
4. The Agency published its Recommendation to the EU institutions on the **regulatory response to the future challenges emerging from developments in the internal gas market** ('The Bridge Beyond 2025'), addressing new developments such as decarbonisation and sector coupling.

## REGULATION ON WHOLESALE MARKET MONITORING AND INTEGRITY (REMIT):

In 2019, the Agency's key achievements in the field of REMIT are the collection of wholesale energy market transactions, including orders to trade, for ACER's and NRAs' market monitoring activities, the continuous market monitoring of EU wholesale energy markets by ACER and the provision of guidance and the coordination of cases for an increased integrity and transparency of EU wholesale energy markets, which is important to foster open and fair competition in wholesale energy markets for the benefit of final consumers of energy.

### 1. Collecting millions of records of transactions per day

The Agency collects EU wholesale energy market data for assessing and monitoring wholesale energy markets. During 2019, the Agency collected, on average, more than 3 million records of transactions and orders to trade per day. The data collected is not only used by the Agency for its wholesale energy market surveillance activities and its monitoring of the Internal Energy market, but also by National Regulatory Authorities (NRAs) for their market monitoring at national and regional level. The increase in data collection exceeded all expectations and was due to increasing market liquidity following the implementation of network codes (e.g. the launch of the Cross-Border Intra-Day – XBID - platform) and market developments such as the increased use of algorithmic trading especially in intraday and day-ahead electricity markets. The Agency managed to handle such an increase in the number of records reported despite the limitation in its financial and human resources.

### 2. Delivering on market monitoring despite resource constraints

Given the persistent limitation in its human and financial resources, the Agency had to define strict priorities for its implementation of market surveillance under REMIT. In 2019 the Agency therefore decided to continue to focus its market surveillance activities on cross-border trading, as this is where it has a unique advantage vis-à-vis NRAs.

During 2019, the automated market surveillance screening of the data collected triggered around 14,000 alerts per month, of which 2,000 were classified as "high-intensity" alerts that were assessed by surveillance experts of the Agency. The results, i.e. potential breaches of REMIT, were shared with NRAs for their follow up, as they are responsible for investigation and enforcement under REMIT<sup>2</sup>. In several instances the Agency followed the shared alerts up by providing a preliminary initial assessment kick-starting the investigation of the relevant national regulatory authority.

In addition, in 2019 the Agency received 110 suspicious transactions reports from market participants, organised market places and other stakeholders. The Agency assessed these reports in order to complement them with further information and to securely notify them to the appropriate NRA(s) for their further follow up. The total number of cases under scrutiny at the end of 2019 was 218.

<sup>2</sup> Significant advances by NRAs were registered in the field of REMIT investigations in 2019, with five sanctions being imposed for market abuse totalling almost EUR 4 million in fines. See: <https://www.acer.europa.eu/en/remit/Pages/Overview-of-the-sanction-decisions.aspx>. Several other decisions and sanctions were applied for breaches of Articles 8 and 9 of REMIT.

### 3. Ensuring consistency in the implementation of REMIT across the Union

In 2019, the Agency provided further guidance to NRAs on the layering and spoofing, and on the application of market manipulation in REMIT through the ACER Guidance on withholding of available generation capacity in wholesale electricity markets.

## Tasks Deprioritised or Not Executed Due to Lack of Resources

The following tasks were deprioritised, cancelled, postponed or in part combined with other tasks, due to the limitation in available human resources, primarily in the REMIT policy area:

### MARKET INTEGRITY AND TRANSPARENCY:

Several activities under the task “Policy activity to support the Agency’s REMIT mandate” and under the task “REMIT Information Management” originally foreseen in the Work Programme were deprioritised, mainly those relating to enhancements of ARIS and the completion of the Agency’s mandate to collect derivatives and emission allowances reported under EU financial market legislation.

In addition, the Agency informed publicly on 20 November 2019 that it had to suspend, with immediate effect, the processing of the pending applications for registration of reporting parties as Registered Reporting Mechanisms (RRMs) under REMIT due to a level of resources incommensurate to its demanding workload, in particular under REMIT.

Moreover, the development of additional “bespoke alerts” to detect anomalous instances of trading behaviour, was significantly slowed down. Also, the enhancements of the Case Management Tool for the purpose of cooperation with NRAs was postponed.

### GAS:

The Gas Regional Initiatives Status Review Report was cancelled. The Congestion Report was slimmed down. Work on data improvements for Network Codes was minimised.

### ELECTRICITY AND GAS:

The retail chapter of the Market Monitoring Report was slimmed down.



# PART I: REGULATORY ACHIEVEMENTS IN 2019<sup>3</sup>

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3 The independent section on regulatory activities as per Article 22(5) (e) of Regulation (EC) No (EC) No 942/2019.



## Statement by Clara Poletti, Chair of the Board of Regulators (BoR)

The core of the Agency's mission and activities aim at promoting security of energy supply through a well-functioning internal energy market based on free competition, the optimal development of energy-sector infrastructure and market integrity and transparency to the benefit of European Union (EU) consumers. The Agency's role and responsibilities has been strengthened by the Clean Energy for all Europeans (CEP) package and work over the last year has focused on CEP implementation. The Agency also plays a critical role in: the integration and functioning of an interconnected internal energy market, and supporting the development and implementation of Network Codes and Guidelines and their subsidiary instruments; providing support on infrastructure-related issues; actively monitoring the integrity and transparency of wholesale energy markets; and contributing to an integrated approach to risk preparedness, to ensure security of supply.

The Agency's mandate and objectives are fully linked to the European Green Deal, which aims to make Europe the first climate-neutral continent by 2050. The European Green Deal poses new challenges, which require: further decarbonisation of the energy system (electricity and gas); a fully integrated and interconnected internal energy market; smart integration of renewables and sustainable solutions; and a framework for energy infrastructure which contributes to the above objectives.

The relentless efforts and contributions of the national regulatory authorities (NRAs) in the context of the Agency's BoR, Working Groups (AWGs, which have been formalised pursuant to the CEP) and the Task Forces are fundamental to the Agency's successful delivery of its tasks. I was also extremely pleased to welcome (as of the end of last year) the regulatory authorities of the EEA countries and the EFTA Surveillance Authority to the Agency's BoR and Working Groups.

In 2019, the Agency published the eighth annual Market Monitoring Report, which analysed market performance in 2018 with key input from NRAs. The latest edition of the Market Monitoring Report showed that market coupling in electricity contributed to maintaining a high level of efficiency in the use of available cross-border capacity in the day-ahead timeframe, reaching 87% in 2018. In the same year, average day-ahead electricity prices increased in most of Europe. Scope for further price convergence remains. Gas wholesale markets in Member States representing 70–80% of EU gas consumption continue to work well; however, progress in some of the least developed EU gas wholesale markets has been stagnant for years. Nevertheless, over recent years, Member States' gas sourcing costs have converged to a significant extent, bringing tangible benefits to consumers. In the 2012–2018 period, final household prices were not always responsive to changes in wholesale energy prices due inter alia to growing charges to fund renewable energy support schemes as well as high network costs and transportation tariffs. However, the connection between wholesale and retail prices seems to have improved over the last couple of years.

As mentioned above, a key challenge in the last year has been the implementation of the Clean Energy Package alongside Network Code implementation and monitoring. ACER and NRAs worked tirelessly to analyse the implementation of the various electricity and gas Network Codes, in order to present detailed, robust and useful monitoring reports. The Agency also worked with stakeholders through the European Stakeholder Committees and the Gas Network Codes Functionality Platform. A substantial number of decisions were made on proposals for certain terms and conditions under the Network Codes and Guidelines, some of which initially fell within the NRAs' mandate but, following the entry into force of the CEP, were transferred to the Agency for decision. In parallel, the Agency also provided opinions relating to European cross-border infrastructure development, including the lists of projects of common interest for electricity and gas and the Ten-Year Network Development Plans.

Through the Agency's Task Forces, Working Groups, Coordination Groups and the BoR, NRAs have been fully involved in each of the Agency's reports and acts considered for adoption, as well as in the work carried out to ensure market integrity and transparency. A fundamental objective of the Agency and NRAs is that energy is traded in accordance with the highest standards of transparency and integrity so that prices reflect the fundamental principles of supply and demand. Regulation (EU) No 1227/2011 (REMIT) introduces a comprehensive monitoring framework for wholesale markets, aimed at detecting and deterring market abuse. The Agency monitors the market, while NRAs have the powers to investigate cases of market abuse and to impose penalties. The Agency provides non-binding guidance on the application of REMIT (pursuant to Article 16(1)) to ensure that NRAs carry out their tasks under this regulation in a coordinated and consistent way. The Agency has also maintained a regular channel of communication with stakeholders to provide guidance on the application of REMIT and transaction reporting through the issuance of the REMIT Quarterly. As a result of the Agency's work and cooperation with NRAs, several NRAs imposed penalties on market players.

Furthermore, in 2019, European energy regulators considered the long-term regulatory challenges emerging from the CEP and changes to the energy system promoting decarbonisation, for the most part directly or indirectly related to the increased penetration of renewable sources in the EU energy system. To this end, the Agency has issued an ACER Recommendation on the regulatory response to the future challenges emerging from developments in the internal gas market. In conjunction with this Recommendation, it has also issued a joint ACER-CEER Conclusions Paper entitled "Bridge Beyond 2025" recommending an update to Europe's legislative framework for the gas sector, as well as future-proofing regulation to facilitate decarbonisation of the energy sector, to promote a competitive Internal Energy Market, and to maximise the opportunities arising from sector coupling.

Overall, the Agency has delivered on its Work Programme despite insufficient human resources and budget constraints thanks to the important contribution by NRAs. Such constraints continue to pose a huge risk to the timely delivery of the Agency's tasks, particularly following the entry into force of the CEP.

The need for coordination of national regulatory actions in respect of cross-border issues will increase further in the coming years, as the Union's energy system transforms to realise the benefits of the internal energy market including consumer welfare. This is widely recognised in the governance introduced by the CEP, and is reflected in the core of NRAs' duties: "NRAs should cooperate in regard to cross-border issues with the regulatory authority or authorities of the Member States concerned and with ACER, in particular through participation in the work of ACER's Board of Regulators". The BoR is actively involved in fulfilling all of the Agency's new responsibilities and I am honoured to serve as its Chair during this important energy system transition.

Clara Poletti

Chair of the Board of Regulators

Ljubljana, May 2020

# A. (POST-) COMPLETION OF THE INTERNAL ENERGY MARKET

*In 2019, the Agency focused on supporting the implementation of the adopted Network Codes and Guidelines and on monitoring such implementation.*



## Electricity Network Codes

In this area, the Agency focused its activities on supporting the implementation of the adopted Network Codes and Guidelines and on monitoring of such implementation. More specifically, during 2019, the Agency worked on the following deliverables:

Task	Assistance to NRAs for the approval of the regional terms and conditions or methodologies developed by TSOs, NEMOs or other entities, pursuant to the adopted Network Codes and Guidelines. Decisions on the terms and conditions or methodologies.
Legal basis	Articles 5 and 6 of Regulation (EU) 2019/942
Work Programme objective for 2019	<p>Specific objectives: the Agency will provide a framework for the cooperation among NRAs and will strive to facilitate the reaching of an agreement among the involved NRAs on whether to approve, reject or require amendments to the proposed regional terms and conditions or methodologies. The Agency will also decide directly on the EU-wide “terms and conditions or methodologies” for the implementation of guidelines, or on the regional ones when they have an impact beyond the region.</p> <p>Multi-annual objective: contribute to the completion and well-functioning of the IEM.</p>
Performance indicators and targets (deadlines)	<p>Coordinated NRAs decisions on the proposed regional terms and conditions or methodologies within the deadlines specified by the relevant Network Codes and Guidelines.</p> <p>Timely delivery of any ACER’s opinion or recommendation or decision on this matter.</p>
Achievement against target	<p>In 2019, the Agency issued the following decisions:</p> <ol style="list-style-type: none"> <li>a. ACER <a href="#">Decision 01-2019</a> on intraday cross-zonal capacity pricing methodology.</li> <li>b. ACER <a href="#">Decision 02-2019</a> on the Core regional design of the day-ahead and intraday common capacity calculation methodologies.</li> <li>c. ACER <a href="#">Decision 04-2019</a> on the amendment of capacity calculation regions.</li> <li>d. ACER <a href="#">Decision 07-2019</a> on all TSOs’ proposal for CSAM.</li> <li>e. ACER <a href="#">Decision 08-2019</a> on all TSOs’ proposal for RAOCM.</li> <li>f. ACER <a href="#">Decision 09-2019</a> on the SEE methodology for coordinated redispatching and countertrading.</li> <li>g. ACER <a href="#">Decision 14-2019</a> on the amendment of the harmonized allocation rules.</li> <li>h. ACER <a href="#">Decision 15-2019</a> on the Core regional design of long-term transmission rights.</li> <li>i. ACER <a href="#">Decision 16-2019</a> on the Nordic long-term capacity calculation.</li> </ol> <p>In 2019, the Agency followed the discussions and procedures for approval by NRAs at European level, and in some regions, to be informed about the process and understand possible reasons for disagreement in the cases in which decisions would be referred to the Agency. In some cases, when the Agency was concerned about the European interest, it also provided the NRAs with its view and informal input so that they could be taken into account in the NRAs’ decisions.</p>

Task	<p><b>Monitoring of the implementation of the adopted Network Codes and Guidelines</b></p> <p>This includes:</p> <ol style="list-style-type: none"> <li>Monitoring the implementation of the obligations (activities, deadlines, development of terms and conditions and methodologies) of ENTSO-E and other entities;</li> <li>Monitoring the effect of the implementation (effect on the harmonisation of applicable rules aimed at facilitating market integration, as well as on non-discrimination, effective competition and the efficient functioning of the market). For market-related network codes, this monitoring aspect will be part of the activities for the "Market Monitoring Report";</li> <li>Reporting to the Commission;</li> <li>Work on data collection tools to improve monitoring of the Network Codes and assessing their effectiveness in the internal market. Continuous work on data quality, testing of indicators designed to assess Network Codes and the effectiveness of codes to achieve a functioning internal market.</li> </ol>
Legal basis	Articles 5(1) and 6(2) of Regulation (EU) 2019/942
Work Programme objective for 2019	<p>Specific objectives:</p> <ol style="list-style-type: none"> <li>Continuous monitoring of the implementation activities with regard to the Network Codes and Guidelines.</li> <li>Timely identification of delays in and barriers to the implementation of the Network Codes and Guidelines and reporting on them.</li> <li>Monitoring the effect of the implementation of Network Codes and Guidelines (effect on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market). For market-related Network Codes, this monitoring aspect will be part of the activities for the "Market Monitoring Report" (See "Internal Energy Market monitoring - Cross-sectoral - Electricity and Gas).</li> <li>Providing opinions on ENTSO-E's plans and reports on the monitoring of the implementation of the adopted Network Codes and Guidelines;</li> <li>Providing opinions and recommendations on ENTSO-E and other entity's reports related to implementation monitoring;</li> <li>Determination and review of the relevant information and data required for the purpose of its monitoring activities pursuant to the adopted Network Codes and Guidelines;</li> <li>Providing recommendations to assist NRAs and market players in implementing the Network Codes and Guidelines, where necessary.</li> </ol> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
Performance indicators and targets (deadlines)	<p>Timely monitoring of the implementation activities and delivery of the implementation monitoring reports and necessary recommendations.</p> <p>Timely delivery of the opinions on ENTSO-E's implementation monitoring plan and reports, the lists of required information for monitoring the implementation of the adopted Network Codes and Guidelines, and opinions and requirements on ENTSO-E's and other entities' reports related to implementation monitoring.</p>
Achievement against target	<p>In 2019, the Agency monitored the Capacity Allocation &amp; Congestion Management (CACM), Forward Capacity Allocation (FCA) and Electricity Balancing (EB) Regulations, as well as, the Requirements for Generators (RfG) Network Code and continuously kept publishing the implementation status on its website and issued the following opinions and reports:</p> <ol style="list-style-type: none"> <li>ACER <a href="#">Opinion 08-2019</a> on amended MOP for ENTSO-E Central Information Transparency Platform.</li> <li>ACER <a href="#">Opinion 12-2019</a> on the ENTSO-E Balancing Monitoring Plan.</li> <li><a href="#">Second ACER Implementation Monitoring Report</a> of the RfG Network Code.</li> </ol>

<b>Recommendations to assist NRAs and market players in sharing good practices, with regard to the implementation of the Network Codes and Guidelines, where necessary</b>	
<b>Task</b>	
Legal basis	Article 6(2) of Regulation (EU) 2019/942.
Work programme objective for 2019	The aim of these recommendations is to provide guidance to TSOs, national regulatory authorities or market participants on how to implement specific requirements of the Network Codes or Guidelines or of Regulation (EC) No 714/2009, in order better to facilitate their efficient functioning so that they contribute to non-discrimination, effective competition and the efficient functioning of the market.  Multi-annual objective: contribute to the completion and well-functioning of the IEM.
Performance indicators and targets (deadlines)	Timely adoption of the recommendation enabling the addressees to take it into account within their respective processes.
Achievements against target	In 2019, the Agency issued a <a href="#">Recommendation on the implementation of the minimum margin available for cross-zonal trade pursuant to Article 16(8) of Regulation (EU) 2019/943</a> .

<b>Investigation of the reasons when TSOs, NEMOs or other entities fail to submit terms and conditions or methodologies for the approval by NRAs, pursuant to the adopted Network Codes and Guidelines and reporting to the Commission</b>	
<b>Task</b>	
Legal basis	Article 9(4) of Commission Regulation (EU) 2015/1222, Article 4(4) of Commission Regulation (EU) 2016/1719, Article 4(7) of Commission Regulation (EU) 2017/2195 and Article 5(9) of Commission Regulation (EU) 2017/1485.
Work programme objective for 2019	To prevent significant delays in the implementation of the Network Codes and Guidelines and to facilitate further development in case of failures on TSOs or NEMOs side.  Multi-annual objective: contribute to the completion of the IEM.
Performance indicators and targets (deadlines)	Timely identification of the failure and information to the European Commission. Timely delivery of the report on the reasons for failure.
Achievement against target	In 2019, the Agency informed the European Commission on the following TSOs failure to submit a proposal on: <ul style="list-style-type: none"> <li>a. the long-term capacity calculation methodology for the Core;</li> <li>b. the long-term capacity calculation methodology for the Channel;</li> <li>c. the methodology for splitting long-term cross-zonal capacity for Channel;</li> <li>d. the redispatching and countertrading cost sharing methodology for SEE.</li> </ul> <p>The Agency cooperated with the European Commission, together with the concerned regulatory authorities and TSOs to define the way forward.</p>

Regulatory oversight of the implementation projects established pursuant to the Network Codes and Guidelines or, where relevant, in the framework of the early implementation process	
Task	
Legal basis	Relevant Network Codes and Guidelines.
Work Programme objective for 2019	Specific objective: facilitate the implementation of projects and ensure their timely completion, as well as the involvement of stakeholders within the implementation process. Multi-annual objective: contribute to the completion and well functioning of the IEM.
Performance indicators and targets (deadlines)	Completion of specific implementation projects within the deadlines established by the adopted Network Codes and Guidelines.
Achievement against target	In 2019, the Agency assisted TSOs and NRAs in facilitating the implementation of single day-ahead and intraday coupling. In this context, the Agency also dedicated efforts to solving practical implementation problems related to multi-NEMO arrangements, shipping, cost sharing and reporting, as well as improvements in governance of the market coupling operation function. In 2019, single intraday coupling was implemented on many additional bidding zone borders in the EU (second wave of SIDC). Further extensions are expected in future years. Furthermore, single day-ahead coupling has also been extended to some new borders, and activities have been performed to facilitate further extensions and completion of single day-ahead coupling (e.g. the merge of the SDAC and the 4MMC).
Facilitation of stakeholder involvement, as required, pursuant to the adopted Network Codes and relevant Guidelines	
Task	
Legal basis	To be established pursuant to the Network Codes and relevant Guidelines. For example, in Commission Regulation (EU) 2015/1222, this task is specified in Article 11.
Work programme objective for 2019	Specific objective: involvement of stakeholders within the implementation of the Network Codes and Guidelines and monitoring their operation and effect on the IEM. Multi-annual objective: contribute to the completion and well functioning of the IEM.
Performance indicators and targets (deadlines)	High level of stakeholder satisfaction and support to the implementation process of the Network Codes and Guidelines.
Achievement against target	The Agency, together with ENTSO-E, continued to organise the European Stakeholder Committees, which were established to inform and consult stakeholders about the requirements in the Guidelines/Network Codes during the implementation period. The Agency and ENTSO-E co-organised regular meetings to identify problems and propose improvements to the Guidelines/Network Codes. There are three stakeholder committees - Grid Connection, Market, and System Operation - and a Balancing Stakeholders Group. Additionally, the Agency launched public consultations during its decision making processes, accompanied by public workshops open to all interested stakeholders.



Review of the requests for amendments of the adopted Network Codes and Guidelines from interested persons and, where appropriate, based on these requests or at the Agency's own initiative, preparation of the amendment proposals for the European Commission	
Task	
Legal basis	Article 60 of Regulation (EU) 2019/943.
Work programme objective for 2019	<p>Specific objective: to improve the requirements and procedures (both technical and governance) for faster implementation and better functioning of IEM.</p> <p>Multi-annual objective: contribute to the completion and well- functioning of the IEM.</p>
Performance indicators and targets (deadlines)	Adequate support to stakeholders and regulators on the proposed amendments of the Network Codes and Guidelines.
Achievement against target	<p>The Agency and NRAs have started discussing possible amendments to the Guideline on Capacity Allocation and Congestion Management.</p> <p>Also, the Agency, in the frame of the Grid Connection European Stakeholder Committee, made first steps towards the identification of the necessary improvements to the Grid Connection Network Codes, including the connection of electricity storage mentioned in Article 59 (1) (e) of Regulation (EU) 2019/943.</p>
Performance of the specific obligations of the Agency pursuant the adopted Network Codes and Guidelines	
Task	
Legal basis	Relevant Network Codes and Guidelines.
Work programme objective for 2019	<p>Specific objective: the Agency's specific obligations pursuant to the Network Codes and Guidelines should be fulfilled in a timely manner, with the aim of improving transparency and reporting, facilitate cooperation, etc.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
Performance indicators and targets (deadlines)	Timely delivery of these obligations.
Achievement against target	<ol style="list-style-type: none"> <li>a. The Agency monitored the progress of NEMOs in establishing the Market Coupling Operator function for single day-ahead or intraday coupling. The Agency regularly informed the European Commission with regard to progress and of any delays in implementation.</li> <li>b. The Agency published the report on the costs of establishing, amending and operating single day-ahead coupling and single intraday coupling.</li> <li>c. The Agency continuously updated its website related to electricity market Network Codes, where the Agency maintains all the information related to the implementation of market-related Network Codes, including all the proposals for 'terms and conditions and methodologies', their approval procedures, relevant reports, documents, and an up-to-date list of designated and operating NEMOs.</li> </ol>

The Clean Energy for all Europeans Package brought new tasks to the Agency, aiming to facilitate a clean energy transition and the implementation of the Energy Union strategy goals.



## Electricity - New tasks under the CEP

The Clean Energy Package for all Europeans (CEP) assigned various new tasks to the Agency, some of which were, partly or fully, performed already in 2019:

Task	Best Practice Report on transmission and distribution tariff methodologies
Legal basis	Article 18(9) of Regulation (EU) 2019/943
Work Programme objective for 2019	<p>Within 3 months following the entry into force, in order to mitigate the risk of market fragmentation, ACER shall provide a best practice report on transmission and distribution tariff methodologies while taking account of national specificities.</p> <p>Given the tight deadlines to deliver this report and the lack of appropriate human resources, the Report will focus on the transmission sector and will mainly aim at providing an overview of the existing practices in Europe.</p> <p>The best practice report shall address at least:</p> <ol style="list-style-type: none"> <li>the ratio of tariffs applied to producers and to consumers;</li> <li>the costs to be recovered by tariffs;</li> <li>time differentiated network tariffs; locational signals;</li> <li>locational signals;</li> <li>the relationship between transmission tariffs and distribution tariffs;</li> <li>methods to ensure transparency in the setting and structure of tariffs;</li> <li>groups of network users subject to tariffs including, where applicable, the characteristics of those groups, forms of consumption, and any tariff exemptions;</li> <li>losses in high, medium and low-voltage grids.</li> </ol>
Performance indicators and targets (deadlines)	Timely delivery of the Report.
Achievement against target	An ACER report providing a status review of European countries' practices regarding transmission tariffs has been published by the end of 2019. The report will be followed by a separate ACER report on distribution tariffs towards the end of 2020. These reports will contribute to delivering an ACER best practice report on transmission and distribution tariff methodologies, as well as towards pursuing the objectives indicated in recital (40) of that Regulation to increase transparency and comparability in tariff-setting.

Task	Opinion on technical guidance for the calculation of CO2 emission limits
Legal basis	Article 22(4) of Regulation (EU) 2019/943
Work objective programme for 2019	<p>By 6 months following the entry into force, in order to mitigate the risk of market fragmentation ACER shall provide an opinion providing technical guidance related to the calculation of the CO2 emission limit values</p> <p>Given the tight deadlines to deliver this opinion and the lack of appropriate human resources, the Opinion will focus on requirements regarding CO2 emission limits.</p> <p>The opinion shall incorporate the following requirements regarding CO2 emission limits:</p> <ol style="list-style-type: none"> <li>a. from 4 July 2019 at the latest, generation capacity that started commercial production on or after that date and that emits more than 550 g of CO2 of fossil fuel origin per kWh of electricity shall not be committed or to receive payments or commitments for future payments under a capacity mechanism;</li> <li>b. from 1 July 2025 at the latest, generation capacity that started commercial production before 4 July 2019 and that emits more than 550 g of CO2 of fossil fuel origin per kWh of electricity and more than 350 kg CO2 of fossil fuel origin on average per year per installed kW shall not be committed or receive payments or commitments for future payments under a capacity mechanism.</li> </ol>
Performance indicators and targets (deadlines)	Timely delivery of the Opinion.
Achievement against target	The Agency issued its Opinion on 19 December 2019, i.e. within 6 months after the entry into force of the Electricity Regulation.

## Gas Network Codes

In this area, the Agency's activities mainly focused on Network Codes implementation and implementation monitoring. The implementation monitoring reports already cover congestion management procedures, capacity allocation mechanisms and balancing. In 2019, the Agency successfully delivered its first in-depth report on implementation of the Network Code on Harmonised Transmission Tariff Structures, as well as a review of the reference price methodologies published in the national consultation documents. Furthermore, the Agency monitored the implementation of the amended Network Code on Capacity Allocation Mechanisms by issuing a substantive report on conditional capacities that were stipulated in capacity contracts, and followed how the first incremental process unfolded. In other subject areas, like gas balancing, the Agency focused on contentious issues, like how Member States applying interim measures terminated those, and continued to monitor the effectiveness of the codes.

Beyond monitoring implementation, the Agency supported the coherent and coordinated implementation of the Network Codes and Guidelines across the EU and highlighted where the application of the Gas Directive and Gas Regulation were non-compliant. The Agency encouraged the implementation of the Codes through the existing structures of the Gas Regional Initiatives (GRI), the Joint Functionality Platform and the newly established Baltic region Gas Market Coordination Group (RGMCG).



In the area of Gas network codes, the Agency's activities mainly focused on implementing the codes and monitoring their implementation. Beyond monitoring, the Agency supported the coherent and coordinated implementation of the Network Codes and Guidelines across the EU.

# Network Codes, their implementation and monitoring

Task	Preparation of the Conditional Capacity report
Legal basis	Article 38(4) of Commission Regulation (EU) 2017/459 (CAM NC).
Work Programme objective for 2019	<p>Specific objectives: A report on conditional capacities explaining the effects of these conditional products concerning efficient network use and market integration of the Union.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
Performance indicators and targets (deadlines)	Report delivered by 6 April 2019.
Achievement against target	On 5 April 2019 the Agency published its <a href="#">Report on the conditionalities stipulated in contracts for standard capacity</a> products for firm capacity and an underlying consultancy <a href="#">Study</a> as required by the EU Regulation establishing a Network Code on Capacity Allocation Mechanisms in gas transmission systems.

Task	Finalise outstanding tariff consultation reviews as required by Network Code on Tariff Structures
Legal basis	Article 27(3) of Commission Regulation (EU) 2017/460 (Tariff NC).
Work programme objective for 2019	<p>Specific objectives: better to align the application of tariff principles across the Union, by requiring the Agency to review the application of the tariff principles in the national implementations.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning. The review is foreseen to occur every five years.</p>
Performance indicators and targets (deadlines)	Reports to be delivered within two months following the end of the public consultation. Process running over a period expected to end by 31 May 2019.
Achievement against target	<p>The Agency started the review based on Article 27(2) in March 2018. The consultation process was supposed to be finalized by the legal deadline of 31 May 2019 according to Article 27(5). Yet, several national public consultations did not comply with this deadline and the work of the Agency continued throughout 2019.</p> <p>In 2019, <b>16 Agency Reports</b> were issued concerning the analysis of the national tariff consultation documents:</p> <ol style="list-style-type: none"> <li>1. <a href="#">Analysis of the consultation document for Interconnector UK</a> 3 January 2019</li> <li>2. <a href="#">Analysis of the consultation document for Belgium</a> 7 February 2019</li> <li>3. <a href="#">Analysis of the consultation document for Italy</a> 14 February 2019</li> <li>4. <a href="#">Analysis of the consultation document for Germany</a> 15 February 2019</li> <li>5. <a href="#">Analysis of the consultation document for Czech Republic</a> 28 February 2019</li> <li>6. <a href="#">Analysis of the consultation document for Slovakia</a> 6 March 2019</li> <li>7. <a href="#">Analysis of the consultation document for Hungary</a> 15 March 2019</li> <li>8. <a href="#">Analysis of the consultation document for Greece</a> 28 March 2019</li> <li>9. <a href="#">Analysis of the consultation document for Ireland</a> 10 April 2019</li> <li>10. <a href="#">Analysis of the consultation document for Croatia</a> 17 April 2019</li> <li>11. <a href="#">Analysis of the consultation document for BBL</a> 24 May 2019</li> <li>12. <a href="#">Analysis of the consultation document for Lithuania</a> 4 July 2019</li> <li>13. <a href="#">Analysis of the consultation document for Estonia</a> 26 September 2019</li> <li>14. <a href="#">Analysis of the consultation document for Spain</a> 11 November 2019</li> <li>15. <a href="#">Analysis of the consultation document for France</a> 4 December 2019</li> <li>16. <a href="#">Analysis of the consultation document for Latvia</a> 7 December 2019</li> </ol>

Task	Implementation monitoring of the Network Code on Harmonised Transmission Tariff Structures
Legal basis	Article 36 of Commission Regulation (EU) 2017/460 (Tariff NC).
Work programme objective for 2019	<p>Specific objective: ensure a comprehensive report with NRA involvement and appropriate data collection.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
Performance indicators and targets (deadlines)	Report: 2020 or 2021, depending on the needs for additional data collection and its complexity.
Achievement against target	The Report on Implementation monitoring for the Network Code on Harmonised Transmission Tariff Structures was published in April 2020. In the last quarter of 2019 the preparatory work started, with the involvement of NRAs, for example in the analysis of the relevant country assessment sheets and other data collection activities.

Task	Implementation Monitoring Report updates for the Network Code on Capacity Allocation Mechanisms and Balancing, with a focus on reported issues or outstanding tasks, Agency Recommendation on tariff multipliers
Legal basis	<p>Article 9 of Regulation (EC) No 715/2009</p> <p>Article 38 of Commission Regulation (EU) 2017/459</p> <p>Article 13(3) of Commission Regulation (EU) 217/460</p>
Work programme objective for 2019	<p>Specific objective: involve ENTSO, TSOs and NRAs in this process, in particular asking them to contribute to data collection, taking into account potential IT changes needed for the incremental capacity process. Provide practical recommendations in the implementation report.</p> <p>Specific Tariff objective: reduce the maximum level of multipliers, which can be at high levels at certain IPs.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
Performance indicators and targets (deadlines)	<p>Implementation monitoring reports. 2020 and 2021</p> <p>Recommendation on multipliers: 1 April 2021</p>
Achievement against target	<p>Implementation Monitoring Report updates are foreseen for the incremental process for the Network Code on Capacity Allocation Mechanisms and for the interim measures of the Balancing Network Code, where most interim measures, with the exception of balancing platforms, had to be ended by April 2019. The data collection for these reports started in the last quarter of 2019. The Fourth Implementation Monitoring Report on the Balancing Network Code was published in early April 2020, while the incremental process will be issued later in the year.</p> <p>The data collection for the implementation monitoring report on tariffs will support the Recommendation on multipliers due by 1 April 2021.</p>

Continuous work on data quality, indicators on market effects of the Network Codes, appropriate data collection tools to improve monitoring of the Network Codes	
Legal basis	Article 9 of Regulation (EC) No 715/2009
Overview (status)	Enhance the tools to reach improved data collection and efficient and timely access to comparable data. Data quality in particular requires continuous attention, given that the improvements needed on ENTSOG's Transparency Platform have not been achieved yet.
Work programme objective for 2019	Specific objective: Involve ENTSOG and to the extent possible find joint solutions. Multi-annual objective: Contribute to the completion of the IEM and the monitoring of its functioning.
Performance indicators and targets (deadlines)	Improved reports supported by effective data collection tools and good data quality. Established effects monitoring indicators
Achievement against target	In 2019 a joint data mapping group of ACER and ENTSOG reviewed large parts of the implementation monitoring data in search for a more effective data collection, as well as potential automation of the collection processes. The process is unfinished as there is no agreement on the way forward.  The Agency however pursues data quality and data improvement work next to its statutory obligations and has aimed to automate certain reporting activities. Given the limited resources that could be committed to such projects, progressing on these topics may take time.

Review of the requests for amendments to the adopted Network Codes from interested persons and, where appropriate, based on these requests or on the Agency's own initiative, preparation of the amendment proposals for the European Commission, if appropriate amendment of the Transparency Annex	
Legal basis	Article 7 of Regulation (EC) No 715/2009
Work programme objective for 2019	Specific objective: create a framework to enable the Agency to collect sensible requests and ensure stakeholder involvement to the process. Propose the review of legislative texts, based on the experiences collected through the implementation monitoring process.  Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.
Performance indicators and targets (deadlines)	Amendments, public consultations preceding amendments.  As established by Article 7 of Regulation (EC) No 715/2009, no specific deadlines are foreseen.
Achievement against target	No requests for amendments were received in 2019, based on Article 7, however the Agency has reviewed under the Joint Functionality process two potential cases for such requests. One of the requests tabled by stakeholders on the <a href="#">Joint Functionality Platform</a> requested greater clarity on the implementation of the virtual interconnection points, the other issue was about market area operators and storage operators that do not have to follow the communication protocols of Article 23 of the Interoperability Network Code. Both issues could lead to network code amendments, if and when the European Commission will open the relevant network codes for review.

Task	Assistance to NRAs pursuant to the adopted Network Codes and Guidelines
Legal basis	The Network Codes and Guidelines provide specific roles for the Agency in the NRAs' decision-making processes established pursuant to these Network Codes and Guidelines. The roles include facilitating coordination between parties seeking agreement, providing opinions and recommendations on issues that need coordinated decisions and, in specific cases, issuing a decision when the parties seeking agreements were not able to find it.
Work programme objective for 2019	Specific objective: an efficient decision-making process for the adoption of different terms and conditions or methodologies developed pursuant to Network Codes and Guidelines.  Multi-annual objective: contribute to the completion and well- functioning of the IEM.
Performance indicators and targets (deadlines)	Timely delivery of decisions, opinions and recommendations.
Achievement against target	<p>In 2019 the Agency took over from the NRAs the selection of a web-based booking platform at the German-Polish border, concerning the "Malinow" physical interconnection point ("IP") and "GCP" virtual interconnection point ("VIP") and chose the joint booking platform by an Agency Decision.</p> <p>The procedure for the selection of the above-mentioned capacity booking platform was performed according to Article 37(1) and (2) of Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a Network Code on Capacity Allocation Mechanisms in gas transmission systems.</p> <p>The Agency's Decision has been appealed at its Board of Appeal by Gaz-System, one of the interested TSOs. On 6 February 2020 the Agency's Decision was upheld by the Board.</p> <ol style="list-style-type: none"> <li>1. <a href="#">Agency Decision</a> of 6 August 2019</li> <li>2. <a href="#">Decision of the Board of Appeal</a> of 7 February 2020</li> </ol>
Task	Shortened ACER report on monitoring of Congestion at interconnection points
Legal basis	Point 2.2.2.1.2 of Annex I to the Commission's Decision of 24 August 2012 (CMP Guidelines).
Work programme objective for 2019	Specific objectives: CMP Scope list.  Data consistency and quality, to be addressed with ENTSOG where relevant.  Multi-annual objective: Contribute to the completion of the IEM and the monitoring of its functioning.
Performance indicators and targets (deadlines)	The timely delivery of the report and the collection of data for the report.  Target date: Q2
Achievement against target	On 28 May 2019 the Agency published the <a href="#">sixth edition of the Annual Report on Contractual Congestion at Interconnection Points</a> , including its technical annex. Next to congestion, this report relies on ENTSOG's Transparency Platform; data related concerns surface in the report.



Task	Facilitation of the stakeholder involvement, as required by the adopted Network Codes and Guidelines
Legal basis	Delivering on the Intent of the Agency Regulation with a view to its Article 14.
Work programme objective for 2019	Multi-annual objective: Contribute to the completion and well- functioning of the IEM. Reaching out to stakeholders and obtaining continuous feedback on the functioning of the regulatory framework.
Performance indicators and targets (deadlines)	Ongoing dialogue on the regulatory framework aiming at improvements on a national or EU level.
Achievement against target	<p>Joint Functionality platform development:</p> <p>An example of a project to serve stakeholders further by improving the existing platform with new IT tools in terms of communication between stakeholders and between stakeholders and the owners of the platform, the Agency and ENTSOG. The implementation of the project agreed in 2019 between the Agency and ENTSOG will be completed in 2020.</p> <p>Balancing Fraud workshop and process:</p> <p>Following two balancing fraud cases in the Netherlands and Germany, the Agency in cooperation with its Balancing Task Force and ENTSOG and its TSOs started an informal process to understand the underlying issues of fraud and discussed relevant policy instruments that could improve the situation in this context. Some of these learnings were included in the Bridge Beyond 2025 Conclusion Paper.</p>

## Gas Regional Initiatives

Task	Involvement focusing on market integration projects and support for delayed implementations to improve compliance with the Network Codes, address regional market issues and NRA's capabilities to integrate their national markets into the internal market
Legal basis	<p>Several articles on regional cooperation in Regulation (EU) 2019/942 and Regulation (EC) No 715/2009</p> <p>Article 6 of Regulation (EC) No 715/2009</p>
Work programme objective for 2019	<p>The Agency will coordinate, through the Gas Regional Initiatives (GRI) Coordination Group, and support the active GRI regions. The expectation is that the active regions will remain South South East and South, with the North West region remaining inactive. The Baltic region has informally joined the GRI and may formally become part of it in the future.</p> <p>Specific objective: to foster the implementation of Network Codes and to promote regional market integration.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p> <p>As part of the promotion of regional market integration, NRAs will report periodically on the implementation of the Gas Target Model and the Agency will summarise and evaluate the results of the self-evaluation and the proposed measures.</p>
Performance indicators and targets (deadlines)	Provided in the regional Work Plans and the Gas Target Model.

Task	Involvement focusing on market integration projects and support for delayed implementations to improve compliance with the Network Codes, address regional market issues and NRA's capabilities to integrate their national markets into the internal market
Achievement against target	<p>The Agency was involved in the work of South GRI and South South-East GRI initiatives in 2019, focusing on market integration projects and supporting countries with delayed implementations on Network Code compliance. In the South-south-East region two regional meetings - in May and November - were organised under the auspices of the Agency.</p> <p>In addition, the Agency published its Decision on the compliance programme submitted by Balansys S.A. (pursuant to Article 7(4) of Directive 2009/73/EC). Balansys S.A. is a joint undertaking owned by the TSOs Fluxys Belgium NV/SA and Creos Luxembourg S.A., acting as gas balancing operator for balancing in the regional BeLux market.</p>

## Electricity and Gas Internal Market Monitoring

As regards the Agency's work on Internal Energy Market monitoring, Article 15 of Regulation (EU) 2019/942 specifies that the Agency shall monitor the internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This activity must be carried out in close cooperation with NRAs, the European Commission and other relevant organisations, and without prejudice to the competences of competition authorities. This work was combined with part of the Agency's obligation under article 7(3) of Regulation (EU) 1227/2011.

Market monitoring is becoming increasingly sophisticated, as the relevant developments in the European electricity and gas markets are followed more closely, the time series provide longer periods for analysis and the markets themselves evolve. Since 2017, the Market Monitoring Report is produced in different volumes, published at different times (as and when they are completed), thus making its structure more flexible and moving the publication of the monitoring results closer to the time of the monitored developments. The market monitoring report continued to be enriched with additional indicators to measure the effectiveness of the various Network Codes and Guidelines in gas and with an assessment of cross-zonal capacity with regard to the 70% Clean Energy Package target and an assessment of the consistency between established capacity mechanisms (CMs) and adequacy issues, in electricity.

Task	8 <sup>th</sup> Market Monitoring Report
Legal basis	<p>Article 15 of Regulation (EU) No 2019/942</p> <p>Article 5 of Regulation (EU) No 2019/942 ; Article 9(1) of Regulation (EC) No 714/2009; Article 9(1) of Regulation (EC) No 715/2009; Network Codes and Guidelines</p> <p>Article 7(3) of Regulation (EU) No 1227/2011</p>
Work programme objective for 2019	<p>Specific objective: contribute to the identification and removal of barriers to wholesale market integration (for gas also including the Gas Target Model Metrics) and of barriers to entry; assess access to networks (including by electricity produced or gas sourced from renewable energy sources); evaluate consumer welfare benefits or losses as a result of market integration (or lack thereof), and compliance with consumer rights including protection and enforcement of consumer rights. The MMR will also assess the market effects of the (implemented) network codes on the market integration process and the functioning of the Internal Energy Market (Art. 9 of Regulation (EC) No 715/2009 for gas and Article 9 of Regulation (EC) No 714/2009 for electricity, regarding the “Monitoring of the implementation of the adopted Network Codes and Guidelines”). For this purpose, the specific data collection provisions in the relevant Network Codes will be taken into account, and data collection tools will be improved. Creation of transparency on retail price decomposition in electricity and natural gas.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning by creating market and data transparency through economic analysis and issuing of recommendations. Leverage of the MMR by European policy makers in the legislative process.</p>
Performance indicators and targets (deadlines)	<p>Timely completion of the Annual Market Monitoring Report.</p> <p>Expected completion date: November 2019 (parts delivered earlier).</p> <p>Positive feedback and uptake of conclusions and recommendations by the European Parliament and the European Commission. Reference to the MMR and use of its analysis by stakeholders. Possibility of a survey following the publication and presentation of the report.</p>
Achievement against target	<p>The <b>Annual Market Monitoring Report</b> was published on schedule, within the set objectives. The publication dates for the various volumes of the report were:</p> <ul style="list-style-type: none"> <li>• 4 October: publication of the <b>gas wholesale</b> and <b>retail</b> volumes;</li> <li>• 30 October: publication of the <b>retail</b> and <b>consumer protection</b> Volumes;</li> <li>• 11 November: publication of the <b>electricity wholesale</b> Volume.</li> </ul> <p>The market monitoring report was extensively used to support the discussions leading to the inclusion of relevant legal provisions of the Clean Energy Package, adopted in 2019. For example, it supported the discussions regarding the adoption of a minimum commercial cross-zonal capacity target and regarding the need for developing a coordinated European adequacy assessment approach.</p>



In 2019, the Agency continued to work on electricity TSO cooperation by formulating opinions on and monitoring relevant ENTSO-E documents.

## Electricity TSO Cooperation

The tasks related to the Agency's work on electricity TSO cooperation, pursuant to Article 4 of Regulation (EU) No 2019/942, consist in: formulating opinions on draft statutes, list of members and draft rules of procedure of ENTSO-E; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSO-E's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSO-E; and monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency worked in 2019 on the following deliverables:

	<p>Opinion on the electricity national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Union-wide network development plan.</p> <p>Opinions on ENTSO-E's annual Summer and Winter supply outlooks.</p> <p>Opinions on ENTSO-E's annual work programme 2020 and ENTSO-E's annual report 2018.</p> <p>Opinion on ENTSO-E's updated common incidents classification scale methodology.</p> <p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund.</p> <p>Internal Monitoring Report on G-charge.</p> <p>Opinion on the implementation of the Union-wide electricity</p> <p>Infrastructure 10-Year Network Development Plan and</p> <p>Investments to create new interconnector capacity</p>
<b>Tasks</b>	
Legal basis	<p>Article 1(4) of Annex Part A, Commission Regulation (EU) No 838/2010</p> <p>Article 4(3)(b) and 4(4) of Regulation (EU) 2019/942 in conjunction with Article 30(1)(a) of Regulation (EU) 2019/943</p> <p>Article 4(3)(b) of Regulation (EU) 2019/942 in conjunction with Article 59(d) of Regulation (EU) 2019/943</p> <p>Article 4(3)(b) of Regulation (EU) 2019/942 in conjunction with Article 30(1)(i) of Regulation (EU) 2019/943</p> <p>Article 4(3)(b) of Regulation (EU) 2019/942 in conjunction with Article 30(1)(i) of Regulation (EU) 2019/943</p> <p>Article 48(2) of Regulation (EU) 2019/943</p> <p>Article 4(3)(b) of Regulation (EU) 2019/942 in conjunction with Article 30 (1)(d) of Regulation (EU) 2019/943</p> <p>Articles 11(a) and 11(b) of Regulation (EU) 2019/942</p> <p>Articles 4(3)(b) and 4(4) of Regulation (EU) 2019/942 in conjunction with Article 30(1)(b) and Article 48 of Regulation (EU) 2019/943</p>
Work programme objective for 2019	<p>Specific objective: Perform the monitoring tasks and delivering the report and the opinions mentioned above.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Performance indicators and targets (deadlines)	<p>Timely delivery and quality of the documents.</p> <p>Monitoring report on 2018 ITC implementation</p> <p>Opinion on ENTSO-E's Work Programme and TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant.</p> <p>Opinion on ENTSO-E's other documents: after receipt of the document by ENTSO-E.</p>

Tasks	<p>Opinion on the electricity national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Union-wide network development plan.</p> <p>Opinions on ENTSO-E's annual Summer and Winter supply outlooks.</p> <p>Opinions on ENTSO-E's annual work programme 2020 and ENTSO-E's annual report 2018.</p> <p>Opinion on ENTSO-E's updated common incidents classification scale methodology.</p> <p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund.</p> <p>Internal Monitoring Report on G-charge.</p> <p>Opinion on the implementation of the Union-wide electricity Infrastructure 10-Year Network Development Plan and Investments to create new interconnector capacity</p>
Achievement against target	<p>The Agency adopted and published the following deliverables envisaged in its 2019 annual work programme:</p> <ul style="list-style-type: none"> <li>• <a href="#">Opinion on ENTSO-E's annual work programme 2019</a> - January 2019</li> <li>• <a href="#">Opinion on ENTSO-E's winter outlook report 2018/2019 and summer review 2018</a> - January 2019</li> <li>• <a href="#">Opinion on the implementation of the EU Electricity ten-year network development plan</a> - January 2019</li> <li>• <a href="#">Opinion on ENTSO-E updated common Incidents Classification Scale Methodology</a> - January 2019</li> <li>• <a href="#">Opinion on the ENTSO-E's draft ten-year network development plan 2018</a> - March 2019</li> <li>• <a href="#">Opinion on the national electricity network development plans and their consistency with the EU ten-year network development plan</a> - May 2019</li> <li>• <a href="#">Opinion on the ENTSO-E annual report 2018</a> - July 2019</li> <li>• <a href="#">Opinion on ENTSO-E's summer outlook report 2019 and winter review 2018/2019</a> - July 2019</li> <li>• <a href="#">Report to the European Commission on the implementation of the ITC mechanism in 2018</a> - December 2019</li> <li>• The results of the monitoring carried of G-charges carried out by the Agency for years 2013-2018 is provided in the Annex 3 of the <a href="#">ACER Practice report on transmission tariff methodologies in Europe</a> - December 2019</li> </ul>



The Agency continued its careful oversight of ENTSO-G's activities in 2019.

## Gas TSO Cooperation

The tasks related to the Agency's work on gas TSO cooperation, pursuant to Article 4 of Regulation (EU) No 2019/942, consist in: formulating opinions on the draft statutes, list of members and draft rules of procedure of ENTSOG; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSOG's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOG; and monitoring progress of new gas infrastructure projects (focusing on Projects of Common Interest), the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency continued its careful oversight of ENTSOG's activities and during 2019 issued Opinions on the following aspects:

Tasks	<p>Opinion on ENTSOG's draft Community-wide ten-year network development plan</p> <p>Opinions on ENTSOG's annual Summer and Winter supply outlooks</p> <p>Opinions on ENTSOG's annual work programme 2020 and ENTSOG's annual report 2018</p> <p>Opinion on ENTSOG's common network operation tools including a common incidents classification scale</p> <p>Opinion on ENTSOG's research and development plan</p> <p>Opinion on ENTSOG's recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators</p>
Legal basis	<p>For all deliverables: Article 4 of Regulation (EU) No 2019/942.</p> <p>For Work Programme and TYNDP: Article 4 of Regulation (EU) No 2019/942 and Article 9(2) Regulation (EC) 715/2009.</p> <p>For Opinions on ENTSOG's common network operation tools including a common incidents classification scale and research plans: Article 8(3)(a) of Regulation 715/2009.</p>
Work programme objective for 2019	<p>Specific objective: upon receipt of ENTSOG's TYNDP, the Agency will deliver its opinion within the stated deadline.</p> <p>Other opinions will be provided upon receipt from ENTSOG of the relevant documents, within a reasonable time (usually two to three months), if they are not already covered by the opinion(s) on ENTSOG's Annual Work Programme and Annual Report.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Performance indicators and targets (deadlines)	<p>Timely delivery of the reports and opinions.</p> <p>Specifically for the Opinions on ENTSOG's Work Programme and TYNDP: within two months after receipt of the document by ENTSOG if considered non-compliant.</p>
Achievement against target	<p>The Agency adopted and published the following deliverables envisaged in its 2019 annual work programme:</p> <ul style="list-style-type: none"> <li>• <a href="#">Opinion on ENTSOG's annual winter supply outlook 2018/2019</a> - 9 January 2019</li> <li>• A "No objection letter" was sent to ENTSOG and the European Commission on the annual Winter supply outlook 2019/2020 - 14 January 2020</li> <li>• <a href="#">Opinion on the implementation of the EU gas TYNDP</a> - 15 January 2019</li> <li>• <a href="#">Opinion on ENTSOG's common network operation tools</a> including a common incidents classification scale - 30 January 2019</li> <li>• <a href="#">Opinion on ENTSOG's recommendations relating to the coordination of technical cooperation between the European Union and third-country transmission system operators</a> - 25 March 2019</li> <li>• <a href="#">Opinion on ENTSOG's 2018 draft European-wide ten-year network development plan (TYNDP)</a> - 27 June 2019</li> <li>• <a href="#">Opinion on ENTSOG's annual summer supply outlook</a> - 25 September 2019</li> <li>• <a href="#">Opinion on ENTSOG's annual report for 2018</a> - 8 October 2019</li> <li>• <a href="#">Opinion on ENTSOG's annual work programme 2020</a> - 13 December 2019</li> </ul>



## B. TASKS TO SAFEGUARD THE SECURITY OF GAS SUPPLY

The Agency's tasks within the framework of Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply include:

- Taking decisions on cross-border cost allocation (CBCA);
- Issuing opinions on exemption requests;
- Issuing opinions on the elements of coordinated decisions;
- Participating in consultations pertaining to the establishment of permanent bi-directional capacity at interconnection points;
- Participating in the Gas Coordination Group.

In relation to this area, the Agency worked in 2019 on the following deliverables:

Task	<p><b>Decisions covering the cross-border cost allocation, if the Commission decision pursuant to point 10 of this Annex requires bi-directional capacity</b></p> <p><b>Opinions on proposals or exemption requests for permanent bi-directional capacity</b></p> <p><b>Opinions on the elements of the coordinated decisions taken, taking into account any possible objection</b></p>
Legal basis	Regulation (EU) No 2017/1938
Work programme objective for 2019	<p>Specific objectives:</p> <p>For decisions on CBCA: deliver the decision on CBCA within three months from the day of receipt of the decision from the Commission (with a possible extension of two months in case additional information is needed).</p> <p>For opinions on consultation documents: to be provided if appropriate, within four months from the date of receipt of the consultation document.</p> <p>For opinions on the elements of coordinated decisions: deliver the opinion within three months from the date of receipt of the coordinated decision.</p> <p>Multi-annual objective: contribute to the measures to safeguard the security of gas supply.</p>
Performance indicators and targets (deadlines)	Timely delivery of the decisions and opinions
Achievement against target	In 2019, no requests were received from the Commission to issue CBCA decisions and no coordinated decisions requiring the issuing of an opinion were received.

# C. GUIDELINES FOR TRANS-EUROPEAN ENERGY INFRASTRUCTURE

The tasks assigned to the Agency under the TEN-E Regulation mostly relate to the process of selection and monitoring of the implementation of Projects of Common Interest (PCIs).

In relation to this area, the Agency worked in 2019 towards the following deliverables:

## Electricity and Gas

Task	Annual consolidated report on progress of projects of common interest and (if appropriate) recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation
Legal basis	Article 5(5) of Regulation (EU) No 347/2013
Work programme objective for 2019	Specific objective: assess the progress of projects of common interest and, if appropriate, provide recommendations to facilitate their implementation and overcome difficulties. Multi-annual objective: contribute to the infrastructure challenge.
Performance indicators and targets (deadlines)	Timely delivery of the report Upon the receipt of the submissions from project promoters, the Agency will deliver its consolidated report within three months from the day of receipt. The work will be performed by Agency's staff in close cooperation with INEA with respect to its financial monitoring duties.
Achievement against target	The Agency adopted its <a href="#">annual consolidated report and recommendations</a> on 27 June 2019.

Task	Opinion(s) on ENTSO-E's and/or ENTSO-G's methodologies for cost-benefit analysis, if updated
Legal basis	Article 11(6) of Regulation (EU) No 347/2013
Work programme objective for 2019	Specific objective: updated and improved CBA methodology(ies). Multi-annual objective: contribute to the infrastructure challenge.
Performance indicators and targets (deadlines)	Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.
Achievement against target	No updated CBA methodologies were received from the ENTSOs, however the Agency cooperated extensively with NRAs and ENTSO-E on this topic.

Task	Opinions on the draft regional lists of proposed projects of common interest, in particular on the consistent application of the criteria and the cost-benefit analysis across regions
Legal basis	Point 12 of Annex III.2, Regulation (EU) 347/2013. Article 22 of Regulation (EU) No 2019/942.

Opinions on the draft regional lists of proposed projects of common interest, in particular on the consistent application of the criteria and the cost-benefit analysis across regions	
Task	
Work programme objective for 2019	<p>Specific objective: deliver the opinion within three months from the date of receipt of the draft PCI list.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Outputs	The Agency will provide the opinion to the Commission.
Performance indicators and targets (deadlines)	Timely delivery of the opinion within three months from the date of receipt of the draft PCI list from the Commission.
Achievement against target	<p>The Agency adopted its <a href="#">Opinion on the draft gas PCI lists</a> on 25 September 2019</p> <p>The Agency adopted its <a href="#">Opinion on the draft regional list of proposed electricity projects of common interest</a> 2019 on 30 September 2019</p>
Decisions on investment requests including on cross-border cost allocation <sup>4</sup>	
Task	
Legal basis	Article 12(6) of Regulation (EU) No 347/2013
Overview (status)	Promoters of projects of common interest may submit an investment request including a request for cross-border cost allocation (CBCA). Where the national regulatory authorities concerned have not reached an agreement on the investment request within six months, or upon their joint request, the Agency shall take the decision on the investment request including cross-border cost as well as the way the cost of the investments are reflected in the tariffs within three months (with a possible two months extension in case additional information is needed).
Work programme objective for 2019	<p>Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Performance indicators and targets (deadlines)	Delivery of a decision within three months from the date of referral to the Agency (subject to a possible extension).
Achievement against target	With respect to the investment request for the gas interconnector South-Transit East Pyrenees (STEP) between France and Spain, ACER communicated on 20 June 2019 to the project promoters (ENAGAS and TERECA) and NRAs (CRE, CNMC and ERSE) the outcome of its assessment and notified the European Commission.

<sup>4</sup> This task is conditional and is executed upon request, however as it pertains specifically to infrastructure, it is included under "Guidelines for Trans-European Energy Infrastructure."

# D. TASKS SUBJECT TO SPECIFIC CONDITIONS

## Tasks initiated by others

In 2019, the Agency was called to perform the following tasks on request:

Task	Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions
Legal basis	Article 6(10) Regulation (EU) 2019/942; Article 63 of Regulation (EU) 2019/943, or Article 36 of Directive 2009/73/EC for decisions on exemptions
Work programme objective for 2019	Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.  Multi-annual objective: contribute to the infrastructure challenge.
Performance indicators and targets (deadlines)	Delivery of a decision within six months from the date of referral to the Agency (subject to a possible extension).  According to Article 24(2) of Regulation 2019/942, the Electricity Working Group or the Gas Working Group, as relevant, will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Achievement against target	In Gas, the Agency adopted a decision on incremental capacity for the HUAT project on 9 April 2019 under the CAM Network Code:  For the decisions adopted in Electricity, see section on Electricity Network Codes.

Task	"Peer reviews", as submitted to the Agency pursuant to Article 6(5) of Regulation (EU) No 2019/942
Legal basis	Article 6(5) and (6) of Regulation (EU) No 2019/942
Work programme objective for 2019	Specific objective: provision of a fact-based opinion and, in cases of lack of compliance with the Opinion, within four month from the date of its adoption, of an information report regarding lack of compliance to the Commission and the Member State concerned.  Multi-annual objective: contribute to the completion and well- functioning of the IEM.
Performance indicators and targets (deadlines)	Delivery of the Opinion within four months from the request and submitting the information report regarding lack of compliance to the Commission and the Member State concerned (if applicable) within a reasonable time.
Achievement against target	No requests were received in 2019.

Task	Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942
Legal basis	Article 6(7) of Regulation (EU) 2019/942
Work programme objective for 2019	Specific objective: issuance of an opinion to support NRAs in the application of the legal provisions at issue.  Multi-annual objective: contribute to the completion and the well- functioning of the IEM.

Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942	
Task	
Outputs	The Agency shall provide the opinion with regard to the application of Guidelines referred to in Regulation (EU) 2019/943, Regulation (EC) No 715/2009, Directive (EU) 2019/944 or Directive 2009/73/EC after consultation with the Commission within three months.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Achievement against target	No requests were received in 2019.

Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission	
Task	
Legal basis	Article 3 of Regulation (EU) 2019/942
Work programme objective for 2019	Specific objective: provide support and advice to the European Parliament, the Council and the European Commission, by delivering the requested opinions and recommendations.  Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.
Performance indicators and targets (deadlines)	Timely delivery of the opinions and recommendations.
Achievement against target	No requests were received in 2019.

## Opinions and Recommendations on the Agency's own Initiative

In 2019 the Agency decided to issue the following:

Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission	
Task	
Legal basis	Article 3 of Regulation (EU) 2019/942
Work programme objective for 2019	Specific objective: further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.  Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Achievement against target	On November 19, the Agency published its Recommendation on the regulatory response to the future challenges emerging from developments in the internal gas market (the so-called 'Bridge beyond 2025'), to address topics such as decarbonisation and sector coupling.

## E. WHOLESALE MARKET MONITORING – REMIT

Since July 2016 the Agency has been fully operational with its data collection under REMIT. In the area of REMIT, the resources available to the Agency were not sufficient to ensure the effective operation of the REMIT activities throughout 2019. This is also due to the fact that the Agency was not provided with the appropriate resources in order to adequately fulfil the additional tasks assigned to it over several previous years which lead to a backlog of IT investments which had to be cleared.

The following activities under the task “Policy activity to support the Agency’s REMIT mandate” originally foreseen in the Work Programme were deprioritised in line with the available human resources:

- Review of the REMIT operations and rulebook, in particular with regard to the review of the electronic formats for data collection (XML schemas), only started in 2019 with a focus on the minimum necessary to improve data quality and has otherwise been postponed beyond 2019;
- Improvement of the market participant registration format pursuant to Article 9(3) of REMIT and improvements of the Agency’s IT solution CEREMP, which has been postponed beyond 2019.

In addition, the Agency did not request the reporting of contracts reportable at request of the Agency according to Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 in 2019.

The following activities under the task “REMIT Information Management and operation of the Agency’s REMIT Information Systems” were deprioritised:

- Further development and enhancement of CEREMP due to the changes of the ACER registration form made in 2017/2018, which has been postponed beyond 2019;
- Collection of EMIR derivatives and emission allowances (postponed from previous years for budgetary reasons), which has been postponed beyond 2019;
- Publication of aggregated REMIT information for transparency reasons (postponed from previous years for budgetary reasons), which was limited only to the use of aggregated REMIT information for transparency reasons for publications in the REMIT Quarterly and the Agency’s Market Monitoring Report, but has otherwise been postponed beyond 2019;
- Sample transaction data requests for market participants from the Agency’s REMIT Information System in order to verify completeness, accuracy and timeliness of data submission to the Agency to facilitate market participants’ compliance with Article 11(2) of the Implementing Regulation, which was postponed beyond 2019;
- Enhancements of the Agency’s Case Management Tool and Notification Platform, which have been postponed beyond 2019;

In addition, the Agency informed publicly on 20 November 2019 that it had to suspend, with immediate effect, the processing of the pending applications for registration of reporting parties as Registered Reporting Mechanisms (RRMs) under REMIT due to a level of resources incommensurate to its demanding workload, in particular under REMIT.

The cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries, in particular with regard to a closer cooperation with ESMA, national financial market authorities and, if applicable, competition authorities, will remain at the current level of cooperation.

Moreover, the available human and financial resources for market surveillance tasks are insufficient to fully deliver the mandate of the Agency. As a result:

- the market monitoring activities will necessarily be scaled down to what can be provided given the resources available. More specifically, market monitoring will focus on cross-border trading aspects as NRAs cannot cover this themselves as they do not have and cannot have an EU-wide vision of wholesale energy trading;
- the enhancement of existing and development of additional “bespoke alerts”, which are used to screen the EU wholesale markets and detect anomalous instances of trading behaviour, will be significantly slowed down;
- enhancements of the Case Management Tool for the purpose of cooperation with NRAs will be postponed; and
- providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations (pursuant to Article 6(8) of Regulation (EU) No 2019/942).

Furthermore, the Agency is responsible for ensuring that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way. In this context, the Agency introduced case prioritisation in order to determine which of the received cases should be given priority in being notified to relevant regulators. Cases where there was the risk of an inconsistent application of the REMIT provisions were assigned high priority. Case prioritisation has assisted in managing the backlog of cases.

In relation to the implementation of REMIT and the operation of the REMIT information management, as well as to the monitoring of trading activities in the European wholesale energy market, the Agency worked in the following areas:

Task	Policy activity to support the Agency’s REMIT mandate
Legal basis	Articles 1(3), 7, 8 and 16 of Regulation (EU) No 1227/2011 (REMIT) and Articles 3(2), 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014
Work programme objective for 2019	Specific objective: this review may result in the formulation of proposals to the European Commission for technical updates of REMIT, according to Article 6 of REMIT, or of the REMIT Implementing Regulation, the drafting of recommendations and updating of ACER Guidance, including on Brexit related REMIT matters.
	Multi-annual objective: Increased integrity and transparency of wholesale energy markets
Performance indicators and targets (deadlines)	No strict deadline. However, timely completion of the revisions and, if necessary, of the recommendations to the Commission will ensure effectiveness of REMIT implementation.

Task	Policy activity to support the Agency's REMIT mandate
Achievement against target	<p>The Agency published the following updates of its ACER Guidance and its REMIT Reporting User package in 2019:</p> <ul style="list-style-type: none"> <li>• updated 4<sup>th</sup> edition of ACER Guidance to enhance the disclosure of inside information by market participants on 16 July 2019;</li> <li>• updated Manual of Procedures on transaction data, fundamental data and inside information reporting on 16 July 2019;</li> <li>• updated FAQs on REMIT fundamental data and inside information collection on 16 July 2019;</li> <li>• launch of a public consultation on inside information disclosure experiences of market participants under REMIT on 16 July 2019;</li> <li>• updated Transaction Reporting User Manual, Annexes IV and VI, in April, May, October and December 2019.</li> </ul> <p>On 31 July 2019, some suggestions for a review of the REMIT legal framework were submitted to the Directorate-General for Energy at technical level.</p>

Task	Registration of market participants and third parties acting on their behalf ('reporting parties') according to Article 8 of REMIT
Legal basis	Articles 8 and 12(1) of Reg. 1227/2011, Article 11(1) of Commission Regulation (EU) No 1348/2014
Work programme objective for 2019	<p>Continue to process applications of registering reporting parties and to supervise reporting parties under REMIT ensuring lasting impact of supervisory activities at individual reporting party level</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>Decreasing number of Registered Reporting Mechanisms (RRM) applicants in the application process;</p> <p>Application of the ongoing supervision measures according to the Agency's requirements.</p>
Achievement against target	<p>Whilst the overall number of RRM applicants in the application process decreased in 2019, the overall number of approved RRMs increased to 120 in 2019. However, the Agency had to inform publicly on 20 November 2019 that it had to suspend, with immediate effect, the processing of the pending applications for registration of reporting parties as RRMs under REMIT, due to a level of resources incommensurate to its demanding workload, in particular under REMIT.</p> <p>The ongoing supervision measures concerning the compliance of RRMs with the technical and organisational requirements for reporting data to the Agency were mainly focussing on the completeness, accuracy and timely submission of data considered most relevant for market surveillance purposes due to the limited resources available to the Agency to perform this task.</p>

Task	REMIT Information Management and operation of the Agency's REMIT Information Systems
Legal basis	Articles 7 to 10 and 12 of Reg. 1227/2011
Work programme objective for 2019	<p>Specific objective: To collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.</p> <p>To operate the Agency's REMIT Information Systems operationally reliable.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>



REMIT Information Management and operation of the Agency's REMIT Information Systems	
Task	
Performance indicators and targets (deadlines)	<p>Continuous work on improving REMIT data quality measured by the number of yearly internal REMIT data quality reports.</p> <p>99% of planned system availability.</p> <p>Time from discovery of an incident until resolution;</p> <p>Time from discovery until escalation to Director/stakeholders.</p>
Achievement against target	<p>REMIT data quality work had to be de-prioritised due to preparatory work on a potential REMIT fee model.</p> <p>Overall, 99% of planned system availability achieved, but repeated availability issues during the entire year due to aged infrastructure, in particular in Q3/2019 where the 99% of planned system availability could not be achieved. No incident concerning confidentiality or integrity of information occurred in 2019.</p>
Market monitoring of trading activity in wholesale energy markets	
Task	
Legal basis	Article 7 and 8 of Reg. (EU) 1227/2011
Work programme objective for 2019	<p>Specific objectives:</p> <p>Market Monitoring of the data collected according to Article 8 of Reg. (EU) 1227/2011.</p> <p>Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p>
Performance indicators and targets (deadlines)	100% of the prioritised cross-border triggered alerts are preliminarily assessed and disseminated with NRAs in a secure way.
Achievement against target	<p>In 2019, the Agency performed market surveillance pursuant to Article 7 of REMIT in a stable manner based on REMIT data. The Agency successfully shared each month on average 75 manually assessed triggered alerts with NRAs.</p> <p>However, the Agency lacks the required resources to perform appropriately this task. Therefore, the Agency had to resort to prioritisation in the manual assessment of triggered alerts with only a fraction of these being (manually) assessed. Moreover, the level of data quality requires further improvement.</p> <p>The alerts triggering on cross-border trading is a priority for the Agency, although overall market monitoring activities go beyond it.</p>
Coordination of NRAs and other relevant authorities carrying out their REMIT cases tasks	
Task	
Legal basis	Article 16(1) of Regulation (EU) 1227/2011; Article 6(8) of Regulation (EU) No 2019/942
Work programme objective for 2019	<p>Specific objectives: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.</p> <p>Ensuring that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way, including the update of the Agency's guidance on the application of REMIT definitions and coordination of NRAs' investigation activities on cross-border market abuse instances.</p> <p>Assistance to national regulatory authorities regarding their REMIT investigations.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>95% of all NRA decisions consistent with the ACER guidance.</p> <p>0% chance of not notifying priority cases to the relevant authorities.</p>

Task	Coordination of NRAs and other relevant authorities carrying out their REMIT cases tasks
Achievement against target	In 2019, the Agency received and administratively processed 110 new cases which were duly notified to the relevant regulatory authorities. At the end of 2019 the Agency recorded in total 218 pending cases which are potential breaches of REMIT. Out of these all the priority cases (67) have been successfully followed up with the relevant authorities.

Task	Cooperation with NRAs, ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries
Legal basis	Articles 1(3), 10, 16 of Regulation (EU) No 1227/2011
Work programme objective for 2019	<p>Specific objectives:</p> <p>Development of a common understanding on REMIT policy matters with NRAs and promotion of best practices for the application of REMIT, including on Brexit-related issues.</p> <p>Cooperation with other relevant authorities on REMIT-related matters.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>Publication of REMIT Q&amp;As on an ad-hoc basis;</p> <p>Promotion of best practices for the implementation of REMIT.</p> <p>Conclusion of MoUs with additional relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.</p>
Achievement against target	<p>Coordination of REMIT Q&amp;As with NRAs, but no updated publication of the REMIT Q&amp;A document in 2019 for resource reasons.</p> <p>Ad hoc participation of ACER staff in the ESMA Commodity Derivatives Task Force and ad hoc participation of ESMA staff in the ACER Market Integrity and Transparency Working Group.</p> <p>Conclusion of an MoU with the Energy Community Secretariat which allow the Secretariat's participation in the ACER Market Integrity and Transparency Working Group meetings in 2020.</p>

Task	Annual Report on the Agency activities under REMIT
Legal basis	Article 7(3) of Regulation (EU) No 1227/2011
Work programme objective for 2019	<p>Specific objectives:</p> <p>To assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market.</p> <p>Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>Provide recommendations for potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	Quarterly publications of the REMIT Quarterly.
Achievement against target	Publications of four quarterly editions of the REMIT Quarterly in 2019.

Task	Facilitation of the stakeholder involvement, as required, pursuant to REMIT and the REMIT Implementing Regulation
Legal basis	Article 14 of Regulation (EU) No 2019/942; Article 8 of Regulation (EU) No 1227/2011; Articles 5(2), 10(3) and 11(1) of Commission Regulation (EU) No 1348/2014
Work programme objective for 2019	Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Performance indicators and targets (deadlines)	Ongoing dialogue on the REMIT data collection regime aiming at improvements at EU level.
Achievement against target	The Agency held an Energy Market Integrity and Transparency Forum with energy market stakeholders on 5 and 6 September 2019 and stakeholder roundtable meetings with Associations of Energy Market Participants, Organised Market Places, Inside Information Platforms from 26 to 28 November 2019.

# PART II (a): MANAGEMENT



## 2.1 ADMINISTRATIVE BOARD

The Administrative Board is the governing body of the Agency. It is charged with the appointment of the main bodies of the Agency, including the Director, and with exercising budgetary powers. The Director is accountable to the Administrative Board with respect to administrative, budgetary and managerial matters. Following the approval of the Board of Regulators, the Administrative Board adopts the work programme of the Agency for the coming year. It also plays a central role in establishing the budget, including the drafting of the financial rules applicable to the Agency, and the communication plans of the Agency. In addition to its prerogatives with regard to the budget, the Administrative Board ensures that the Agency carries out its mission and performs the tasks assigned to it in accordance with the Agency Regulation.

### DECISIONS AND OPINIONS

The Administrative Board met four times in the course of 2019. In particular, the Administrative Board was convened, in ordinary session, on 31 January, 13 June, 25-26 September, and 12 December. It adopted the following 23 decisions:

No.	Subject matter	Adoption
1	Appointment of No. 1 Alternate Member of the Board of Regulators	* 11/01/2019
2	Appointment of No. 2 Reporting Officer - Annual Appraisal of the Director (ad interim) - Year 2019	30/01/2019
3	Appointment of No. 2 Members and No 3 Alternate Members of the Board of Regulators	* 30/01/2019
4	Appointment of No. 2 Alternate Members of the Board of Regulators	* 19/02/2019
5	Estimate of Revenue and Expenditure for the year 2020	** 21/03/2019
6	Anti-Fraud Strategy for the Agency	** 22/03/2019
7	Replacement of No. 1 Reporting Officer - Annual Appraisals of the Director (ad interim)	13/06/2019
8	Financial Regulation of the Agency	** 21/06/2019
9	Establishment of the working groups for Electricity and Gas	** 04/07/2019
10	Internal Rules of Procedure of the Working Groups of the Agency	** 04/07/2019
11	Appointment of No. 1 Member of the Board of Regulators	* 05/08/2019
12	Appointment of No. 1 Alternate Member of the Board of Regulators	* 29/08/2019
13	Outside Activities of the Director (ad interim)	** 29/08/2019
14	Delegation of powers AACC to the Director	** 14/09/2019
15	Request to opt-out – Administrative Inquiries and Disciplinary Proceedings	26/09/2019
16	Conditions of Employment of Contract Staff	26/09/2019
17	Reimbursement of Travel and Subsistence Expense and setting Indemnities for the Board of Appeal	26/09/2019
18	Appointment of No. 1 Member and No. 1 Alternate Member of the Board of Regulators	* 04/12/2019
19	Rules of Procedure of the Agency	** 11/12/2019
20	Appointment of the Director of the Agency	12/12/2019
21	Opt-out of Commission Decision C-2019 2548 of 5 April 2019	12/12/2019
22	Budget and Establishment Plan - Financial Year 2020	12/12/2019
23	Restriction of Data Subject Rights	12/12/2019

\* Adopted by the Chair acting under the authority delegated by the AB pursuant to decision AB 05bis/2010 of 21 September 2010.

\*\* Adopted by written procedure following the Chair's declaring the urgency of the situation.

The AB also adopted 1 opinions in the course of the year 2019:

No.	Subject matter	Adoption
1	Opinion on the approval of the Final Accounts for the financial year 2019	13/06/2019

## RISK AND CONTROL ISSUES DISCUSSED

The AB discussed several risks and control issues, some of which could not be solved due to the interdependency with the budgetary constraints faced by the Agency.

The Administrative Board discussed and adopted the revised anti-fraud strategy of the Agency to enhance the prevention and detection of frauds and to counter any illegal activity affecting the financial interests of the Union. The revised strategy was based on a risk assessment undertaken by the Agency to define the fraud risks to which the Agency could be exposed in accomplishing its mandate.

The Administrative Board further adopted the new Financial Regulation of the Agency based on Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union<sup>5</sup>.

The implementation of REMIT and the Clean Energy for all Europeans Package represented the Agency's main challenge in 2019, due to the gap between the minimum allocation of human resources that the Agency considered necessary to meet the objectives assigned to it and the staffing allocation under the subsidies received from the Union budget.

Ineffective application of REMIT, even if due to reasons beyond the Agency's control, has created a reputational risk for the Agency (in addition to the economic damage suffered by taxpayers due to the negative effects on markets), and more generally for the Union in terms of perceived deterrence.

Human resource constraints at the Agency, even beyond REMIT, remained a major concern in 2019, especially since an increasing number of important and contentious decisions have been assigned to the Agency following the entry into force of the Clean Energy for all Europeans Package. The Agency adopted measures to reduce the very short-term risks by attempting to raise the awareness of EU institutions, NRAs and stakeholders of the benefits of the proper implementation of REMIT, by adopting practical solutions and through the implementation of internal security measures. However, due to the timing of the adoption of the Package and the inherent shortage of human resources, the long-term risks inherent to the increase of the decision-making powers of the Agency in a number of complex and contentious issues could not be adequately assessed and addressed in the programming document of the Agency. The level of litigation following the adoption decisions by the Agency will require additional support from the Union Budget and a revision of the working of the Board of Appeal of the Agency in the years to come.

Furthermore, with a view to appointing the next Director of the Agency, and due to the unsuccessful closure of the selection procedure launched in the course of the year 2017, the Administrative Board successfully appointed the new Director of the Agency.

<sup>5</sup> OJ L 193, 30.7.2018, p. 1.

## 2.2 MAJOR DEVELOPMENTS

At the EU level, in 2019 the European Commission adopted the **European Green Deal**, which aims to make Europe the first climate-neutral continent by 2050. While focusing on its legal mandate and tasks allocated to it since its establishment, the Agency aims to contribute, from a regulatory perspective, to the implementation of the Green Deal and the broader energy and decarbonisation objectives set at political level.

In mid-2019 the **Clean Energy Package** (CEP) acts were adopted, allocating significant new tasks to the Agency (see Part I of this report). The CEP included also the recast founding regulation of the Agency. As a consequence, the Agency amended its Annual Work Programme in the second half of the year, since some of the tasks it was allocated were due to be performed already in 2019, while other legal obligations, due to enter into force in 2020, required significant preparatory work already in 2019.

Inter alia, the recast of the Agency's founding regulation introduces **fees as a new source for the funding of REMIT related services**. These fees shall be due to the Agency as of 2021 for collecting, handling, processing and analysing the information reported by market participants or by entities reporting on their behalf. The new REMIT fee model under development in 2020 constitutes both a new operational challenge for the Agency, as well as an opportunity in terms of putting the Agency's REMIT activities on sound financial footing in future years, especially since the subsidy from the EU budget is expected to be reduced under the EU's next multiannual financial framework.

On 5 May 2017, the European Economic Area (EEA) Joint Committee adopted Decision No 93/2017 amending Annex IV (Energy) to the EEA Agreement ("Decision No 93/2017"). This decision incorporates the third energy package in the EEA Agreement under certain provisos and with some exceptions. Decision No 93/2017 entered into force in September 2019, after its adoption with constitutional requirements by all three EEA EFTA States **Iceland, Liechtenstein and Norway, paving the way for the participation of these countries to the Agency's boards and working groups**.

Last, but not least, at the end of the year, the **term of the Agency's outgoing Director, Alberto Pototschnig**, who acted as Director ad interim in 2019 pending the selection of his successor, **expired**. Mr Pototschnig was, until the end of 2019, the first and only Director of the Agency since its establishment. The end of 2019 therefore marked the conclusion of an important phase of the Agency, ranging from its establishment to its development into a significant actor in the EU's energy market.

## 2.3 BUDGETARY AND FINANCIAL MANAGEMENT AND OTHER ADMINISTRATIVE TASKS

### 2.3.1 BUDGETARY AND FINANCIAL MANAGEMENT

The Agency's budget for the financial year that ended on 31 December 2019 was funded by a subsidy from the general EU budget amounting to EUR 16 147 153. In addition, an amount of EUR 66 836.78 was recognised under fund source C4 as assigned revenue stemming from recovered overpaid amounts and liquidated damages. No agreement was reached regarding contributions to the Agency from EFTA countries.

Appropriations not used at the end of the financial year 2019 amounted to EUR 198 348.47. These comprised:

- unused 2019 appropriations amounting to EUR 80 183 (with EUR 79 801.25 stemming from fund source C1 and EUR 3 811.75 from fund source C4);
- cancelled appropriations carried over from 2018 amounting to EUR 118 181.56;
- exchange rate differences amounting to negative EUR 16.09.

The above amounts will be returned to the European Commission during the course of 2020 and their calculation is presented in the table below.

		EUR '000	
	Title	2019	2018
<b>Revenue</b>		<b>16 243</b>	<b>13 566</b>
of which:			
Revenue	9	16 243	13 566
<b>Expenditure</b>		<b>(13 198)</b>	<b>(10 813)</b>
of which:			
Staff expenditure	1	(9 033)	(8 276)
Administrative expenditure	2	(1 881)	(1 807)
Operational expenditure	3	(2 284)	(730)
<b>Payment appropriations carried over to the following year</b>		<b>(2 932)</b>	<b>(2 648)</b>
of which:			
Staff expenditure	1	(215)	(176)
Administrative expenditure	2	(831)	(950)
Operational expenditure	3	(1 887)	(1 522)
<b>Cancellation of unused appropriations carried over from year n-1</b>		<b>114</b>	<b>87</b>
<b>Evolution of assigned revenue (B)-(A)</b>		<b>(29)</b>	<b>1</b>
Unused appropriations at the end of current year (A)		33	4
Unused appropriations at the end of previous year (B)		4	5
<b>Exchange rate differences</b>		<b>(0)</b>	<b>0</b>
<b>Budget result</b>		<b>198</b>	<b>192</b>



During the 2019 financial year, the Agency implemented 99.50% of its commitment appropriations. EUR 2 932 046.92 was carried over into 2020 to cover legal obligations that were pending at year-end. The budget implementation by title and chapter of the 2019 budget is presented in the table below.

Title Chapter	Heading	Appropriation	Committed	% Committed	Paid	% Paid	Balance commitments	Balance payments
		(1)	(2)		(3)		(1-2)	(2-3)
<b>TITLE 1</b>	<b>Expenditure relating to staff and resources</b>							
CHAPTER 11	Staff in active employment	9,079,874.00	9,073,749.43	99.93%	8,886,986.66	97.88%	6,124.57	186,762.77
CHAPTER 12	Missions and duty travel	95,000.00	94,830.07	99.82%	93,070.04	97.97%	169.93	1,760.03
CHAPTER 13	Socio-medical infrastructure	52,005.00	40,470.00	77.82%	20,425.00	39.28%	11,535.00	20,045.00
CHAPTER 14	Social services	40,500.00	38,221.98	94.38%	32,087.59	79.23%	2,278.02	6,134.39
	<b>TOTAL TITLE 1</b>	<b>9,267,379.00</b>	<b>9,247,271.48</b>	<b>99.78%</b>	<b>9,032,569.29</b>	<b>97.47%</b>	<b>20,107.52</b>	<b>214,702.19</b>
<b>TITLE 2</b>	<b>Agency's building and associated costs</b>							
CHAPTER 20	Agency's premises costs	1,123,703.00	1,113,846.29	99.12%	1,039,728.98	92.53%	9,856.71	74,117.31
CHAPTER 21	Data processing	379,620.00	379,493.00	99.97%	136,092.34	35.85%	127.00	243,400.66
CHAPTER 22	Movable property and associated costs	294,100.00	292,873.31	99.58%	254,909.91	86.67%	1,226.69	37,963.40
CHAPTER 23	Current administrative expenditure	685,701.00	664,193.29	96.86%	375,941.34	54.83%	21,507.71	288,251.95
CHAPTER 24	Computer infrastructure, telecommunication and postage	261,671.00	261,560.06	99.96%	74,659.00	28.53%	110.94	186,901.06
	<b>TOTAL TITLE 2</b>	<b>2,744,795.00</b>	<b>2,711,965.95</b>	<b>98.80%</b>	<b>1,881,331.57</b>	<b>68.54%</b>	<b>32,829.05</b>	<b>830,634.38</b>
<b>TITLE 3</b>	<b>Operational expenditure</b>							
CHAPTER 30	Representation expenses	4,640.00	4,025.18	86.75%	3,696.08	79.66%	614.82	329.10
CHAPTER 31	Operational missions	179,000.00	174,726.67	97.61%	159,327.54	89.01%	4,273.33	15,399.13
CHAPTER 32	Stakeholder involvement, public relations and website	139,500.00	126,517.25	90.69%	41,585.82	29.81%	12,982.75	84,931.43
CHAPTER 33	Translations	187,462.00	179,462.00	95.73%	118,094.90	63.00%	8,000.00	61,367.10
CHAPTER 34	Professional indemnity	4,500.00	4,500.00	100.00%	4,500.00	100.00%	0.00	0.00
CHAPTER 35	REMIT operations	3,619,877.00	3,618,501.47	99.96%	1,893,817.88	52.32%	1,375.53	1,724,683.59
	<b>TOTAL TITLE 3</b>	<b>4,134,979.00</b>	<b>4,107,732.57</b>	<b>99.34%</b>	<b>2,221,022.22</b>	<b>53.71%</b>	<b>27,246.43</b>	<b>1,886,710.35</b>
	<b>GRAND TOTAL BUDGET 2019</b>	<b>16,147,153.00</b>	<b>16,066,970.00</b>	<b>99.50%</b>	<b>13,134,923.08</b>	<b>81.35%</b>	<b>80,183.00</b>	<b>2,932,046.92</b>

A number of budgetary transfers were made in the 2019 financial year to reallocate resources from areas where budgetary savings were identified towards areas where a resource shortage emerged, to ensure the achievement of the Agency's annual objectives. Six lots of budgetary transfers within and between headings were approved in the course of 2019.

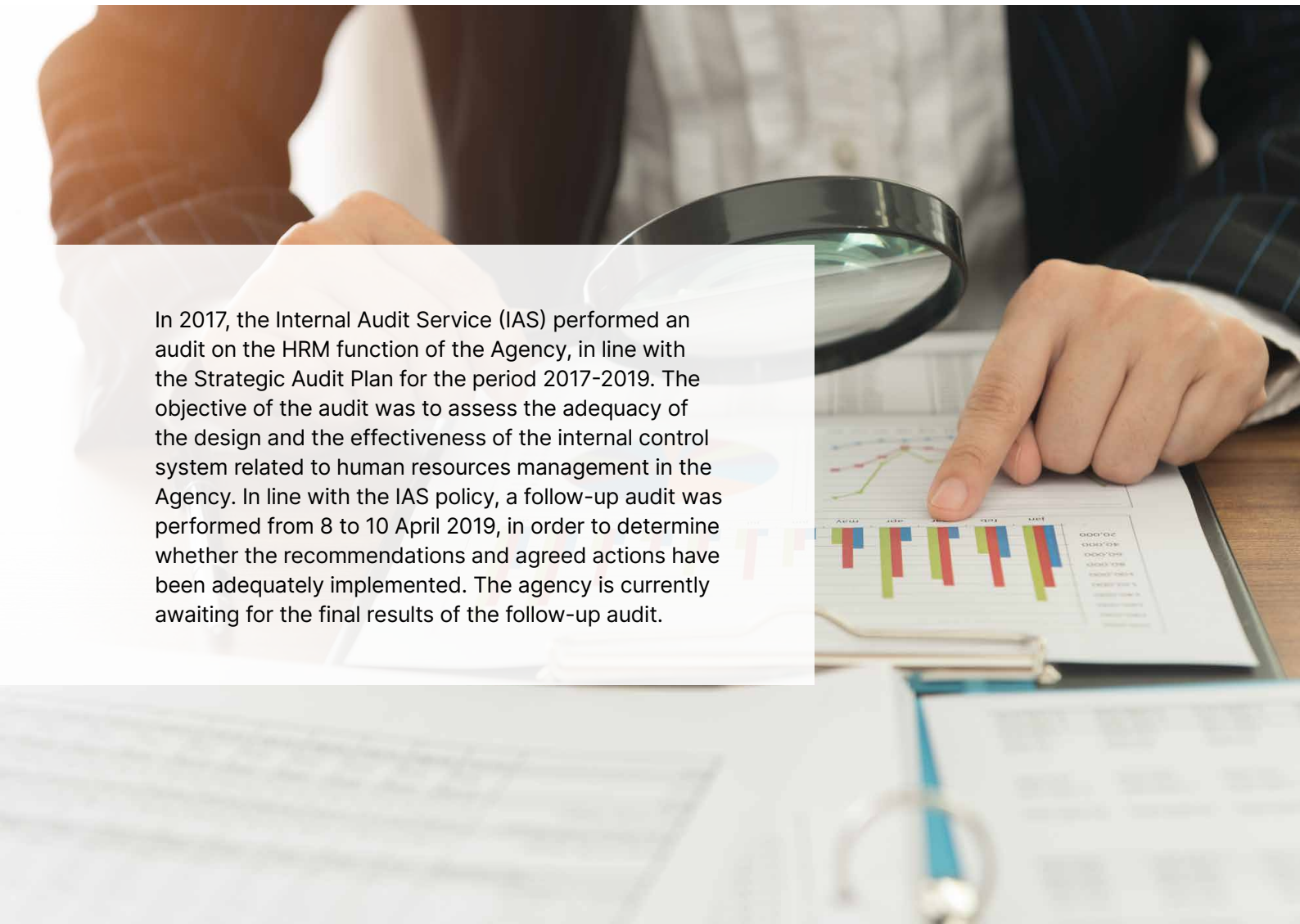
The Agency ensured timely payment of its suppliers and therefore was not required to pay any interest for late payment.

The regularity and legality of the underlying transactions is verified and confirmed by the European Court of Auditors (ECA) during their annual audit, which for the financial year 2019 took place in December 2019 and was finalised in February 2020. The findings of the audit will be published in ECA's annual report towards the end of 2020.

The Agency used to perform regular ex-post controls on the underlying transactions but given the fact that no findings were reported for several periods neither by the Agency nor by ECA, the controls were discontinued for cost/benefit reasons in order to avoid unnecessary costs.

During the 2019 financial year the Agency performed its annual assets impairment check by analysing its entire inventory. The exercise was concluded with the disposal of inventory items no longer in use due to their obsolescence.

Detailed information on budget implementation by fund source is presented in Annex II.



In 2017, the Internal Audit Service (IAS) performed an audit on the HRM function of the Agency, in line with the Strategic Audit Plan for the period 2017-2019. The objective of the audit was to assess the adequacy of the design and the effectiveness of the internal control system related to human resources management in the Agency. In line with the IAS policy, a follow-up audit was performed from 8 to 10 April 2019, in order to determine whether the recommendations and agreed actions have been adequately implemented. The agency is currently awaiting for the final results of the follow-up audit.

Task	Budget Implementation and Audit
Work programme for 2019	<p>The objectives for 2019 were as follows:</p> <ul style="list-style-type: none"> <li>• Apply current accounting standards and rules in order to draw accurate financial statements that present a fair view of the Agency's financial performance and position and receive an unqualified audit opinion<sup>6</sup>.</li> <li>• Implement in a timely manner the recommendations from the Internal Audit Service (IAS), the European Court of Auditors (ECA) and the external audit firm.</li> <li>• Coordinate the budget planning, consumption forecast, budget reviews and transfer of appropriations aiming at achieving higher budget implementation rates.</li> <li>• Ensure proper assets management in order to safeguard the property of the Agency and minimise fraud.</li> <li>• Ensure proper treasury management through availability of liquidity to cover Agency's obligations towards its suppliers and on time execution of payments.</li> <li>• Provide specific training and support to financial actors to ensure a smooth workflow within the financial circuits.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>• Provisional accounts prepared and presented by 1 March 2019, final accounts by 1 July 2019.</li> <li>• Unqualified opinion from ECA.</li> <li>• Minimum 95% budget implementation for commitment appropriation and 75% for payment appropriation by 31 December 2019.</li> <li>• Replenished bank account balance.</li> <li>• Presentation of financial matters delivered by end of June 2019.</li> </ul>
Objective against target	All the above targets were successfully achieved.

<sup>6</sup> This specific objective will not apply in case the Agency will continue to outsource its accountings services to the Commission's Accounting Officer.

### 2.3.2 PROCUREMENT AND FACILITY MANAGEMENT

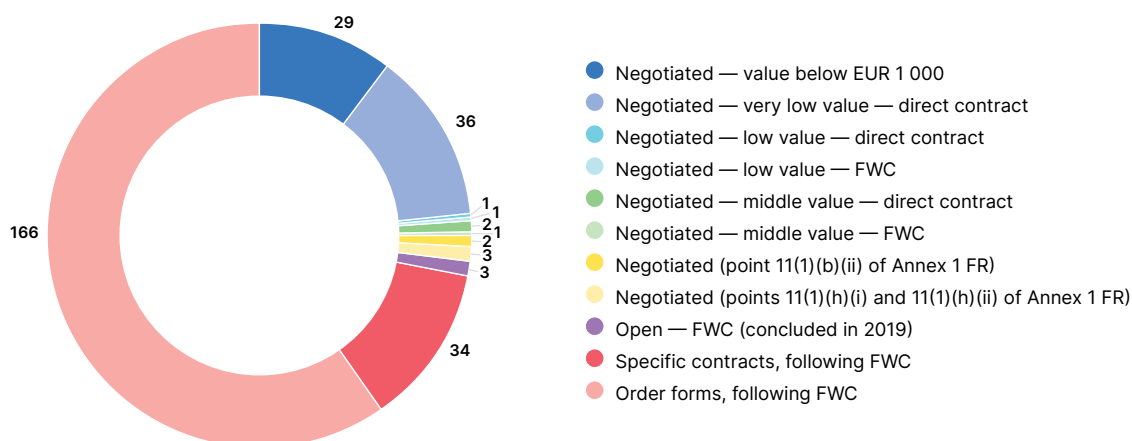
Task	Procurement and Facility Management
Work programme objective for 2019	<p>The objectives for 2019 were as follows:</p> <ul style="list-style-type: none"> <li>• Further improve effectiveness and efficiency of the procurement processes and implement measures to streamline and optimise the procurement processes for the implementation of the work programme.</li> <li>• Manage the Agency's premises in line with the evolving needs of the Agency, including, whenever necessary, the expansion of the occupancy of the office surface and the necessary fitting out works and procurement of equipment to ensure smooth continuation of the Agency's work.</li> <li>• Ensure the security in the Agency's premises, in line with the Agency's security policy.</li> </ul>
Performance indicators and targets (deadlines)	<p>At least 90% implementation of the adopted 2019 Procurement Plan.</p> <p>The Agency's premises managed in line with the Agency's facility management plan and within the allocated budget by the end of 2019.</p>
Achievement against target	<p>Taking into account the adopted 2019 Procurement Plan (with 47 procurement procedures planned), the implementation rate of the adopted 2019 Procurement Plan was 142% (67 procurement procedures completed by the end of 2019).</p> <p>The Agency successfully completed the refurbishing and equipping of an additional floor, and started occupying it in March 2019.</p>

During the 2019 financial year, as part of the internal ex-post controls implemented by the Agency and complementary to the ex-post controls carried by ECA, the Agency performed an ex-post control on an open procurement procedure in order to draw conclusions on the proceeding and mitigate future risks. No inconsistencies or apparent weakness were identified.

In addition to the adopted annual procurement plan and the report on its implementation, the Agency prepares annual statistics, which are reported to the European Court of Auditors and Internal Audit Services. These statistics, which are also used by the management of the Agency to analyse the workload in procurement, include all procurement procedures listed in the annual procurement plan, which are of a more strategic nature and relate to the core business of the Agency, as well as procurement procedures for services and goods needed for the daily functioning of the Agency. The number, type and value of all procurement procedures concluded in 2019 are presented in Annex VI.

The following graph shows the total number of procurement procedures of each type concluded in 2019.

Number and type of procurement procedures in 2019



### 2.3.3 ICT INFRASTRUCTURE

Task	ICT Development
Work programme objective for 2019	<p>The objectives for 2019 were as follows:</p> <ul style="list-style-type: none"> <li>• Ensure the fine-tuning of ICT governance procedures and that further coordination between the different IT teams is in place.</li> <li>• Further enhance the service orientation by having in place and fine-tuning the right procedures and rules (ITIL based) and adapting the IT Team's members work profiles to this.</li> <li>• Continue to work on the implementation of the Information security policy in order to ensure a secure IT environment.</li> <li>• Acquire and further develop applications and services to cover the Agency departments' needs and to maintain or renew the existing ones. The IT Team shall collect and assess business requirements and contribute to their implementation to support the efficient functioning of the Agency.</li> <li>• Put in place the necessary ICT overarching infrastructure, covering multiple units/ departments, and ensuring synergies (cross-departmental) in a unified IT environment.</li> <li>• Ensure high-level IT support services to enable the Agency's staff to perform their tasks effectively.</li> </ul>
Performance indicators and targets (deadlines)	<p>Rules and procedures of ITIL based service management to be fully functional.</p> <p>Implementation on Information security policy in line with the adopted planning.</p> <p>The needed IT applications and services to be developed, maintained and fine-tuned under the necessary IT development contracts during the whole of 2019.</p> <p>Successful and timely completion of the tasks included in the 2019 IT Action Plan by Q4 2019.</p> <p>85% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2019.</p>
Achievement against target	<p>The IT team adapted ITIL processes in its daily work of service delivery. The evaluation of supporting tooling (ITSM) was extended to address cross-departmental needs and the evaluation was concluded. The tool will be rolled out after filling the vacancy of the IT Service Officer for IT Service Management in 2020.</p> <p>In line with the planning, the Agency developed seven new standards and all related guidelines for the implementation of the Information Security Policy. Also, a risk assessment and gap analysis was performed in order to assess the priorities for the Agency in the implementation of the Information Security Policy. In the course of 2020 and 2021, with the new architecture design, all principles and standards shall be embedded in the core of the ACER services, in line with the expected deadlines.</p> <p>The IT applications and services were maintained and fine-tuned/ revised according to stakeholders' needs during 2019. Major efforts were put into security enhancements for the Agency's core application (HR, Financial tool) but also in adopting standard European Commission tools (e.g. ARES, SYSPER). To facilitate efficient communication and reduce costs of web-based conferencing and collaboration, the Skype for Business platform was made available to all staff. Enhancements regarding high availability and fail-over mechanisms were made at the Disaster Recovery site provided by the European Union Intellectual Property Office (EUIPO) in Alicante to ensure business continuity of the Agency's critical infrastructure. Security improvements in cooperation with CERT-EU to enhance the Agency's ICT infrastructure security were put in place.</p> <p>The IT action plan for 2019 was successfully implemented.</p> <p>99,69% of staff was satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2019.</p>

## 2.4 DELEGATION AND SUB-DELEGATION OF THE POWERS OF IMPLEMENTATION TO AGENCY STAFF

For the reporting period, budget implementation powers were delegated to three authorising officers within the Agency, limiting the amounts and content of the authorising powers for these officers. The delegations cover all budget lines and are issued annually for each budget period. Each delegation is accompanied by a charter of tasks and responsibilities signed by each sub-delegated authorising officer.

The below table details the delegated tasks by function.

Authorising officer by sub-delegation function and grade	Authorisation of:	Limit amount
Head of Department –Administration, grade AD 12	Individual and provisional commitments	EUR 750,000
	Legal commitments	
	Payments orders	
	Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations	
Planning and Programming Officer, grade AD 10	Individual and provisional commitments	EUR 300,000
	Legal commitments	
	Payments orders	
	Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations	
Financial Officer, grade AD 5	Payment orders	EUR 2,500
	Recovery orders	
	Technical and accounting adjustments	

## 2.5 HUMAN RESOURCES MANAGEMENT

On 31 December 2019, the Agency's workforce was composed of 123 members: 67 Temporary Agents (55 Administrators and 12 Assistants), 26 Contract Agents, 4 Seconded National Experts, 14 trainees and 12 (FTE) interim assistants. Two positions, one of Contract Agent and one trainee were vacant.

The organisational chart and the Agency's Establishment Plan are presented in Annex III and Annex IV, respectively.

Along with the revision and improvement of internal human resources (HR) processes, guidelines and templates, the Agency adopted the following AB Decisions and Director's Decisions (DDs) in the area of Human Resources Management:

- Decision No 14/2019 of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators of 14 September 2019 on the delegation to the Director of the European Union Agency for the Cooperation of Energy Regulators of the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants of the European Union on the Authority Empowered to Conclude Contracts of Employment.
- Decision No 15/2019 of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators of 26 September 2019 on the request for non-application by analogy from the Implementing Rules to the Staff Regulations.
- Decision No 16/2019 of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators of 26 September 2019 on the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants of the European Union, governing the conditions of employment of contract staff employed under the terms of Article 3a.
- Director Decision 2019-02 of 4 February 2019 concerning the financial contribution to expenses sustained by persons invited to the written examination and the oral interview for a selection procedure and to a pre-employment medical examination.
- Director Decision 2019-03 of 12 February on Learning and Development Policy of the Agency for the Cooperation of Energy Regulators.
- Director Decision 2019-07 of 5 April 2019 on the appointment of the members of the Joint Reclassification Committee.
- Director Decision 2019-24 of 2 July 2019 on establishing the Agency's Joint Committee and its terms of reference.
- Director Decision 2019-25 of 2 July 2019 on the appointment of the members of the Agency's Joint Committee.
- Director Decision 2019-26 of 2 July on the reclassification of Temporary and Contract staff following the finalization of the 2018 Appraisal Exercise.
- Director Decision 2019-42 of 12 December 2019 on the extension of the validity of reserve lists of successful candidates.

The number of leave days authorised per grade under the flexitime and compensatory leave scheme is presented in the following tables:

#### Flexi leave days / Grade

CONTRACT TYPE	CATEGORY	GRADE	No. OF DAYS
TA	AD	11	1.5
TA	AD	10	30
TA	AD	9	35
TA	AD	8	64
TA	AD	7	45.5
TA	AD	6	75
TA	AD	5	68.5
TA	AST	5	33
TA	AST	4	9
TA	AST	3	14.5
CA	FGIV	16	16
CA	FGIV	15	6
CA	FGIV	14	44
CA	FGIV	13	28.5
CA	FGIII	8	1
CA	FGIII	9	8.5
CA	FGII	2	2
SNE	SNE		17.5
TOTAL			499.5

#### Compensatory special leave / Grade

CONTRACT TYPE	CATEGORY	GRADE	No. OF DAYS
TA	AD	12	2
TA	AD	11	1
TA	AD	10	3
TA	AD	8	1
TA	AD	7	2
TA	AD	5	1
CA	FGIV	16	1.5
TOTAL			11.5



For information on the follow-up to HR-related Internal audits see section 2.7.

Moreover, the Agency has been following up on the implementation of the HR personnel database system of the European Commission (SYSPER), with the aim of simplifying and streamlining the management of data (staff repository, analytics) related to the Agency's workforce. The Sysper basic modules implemented in 2019 are Organigram (ORG), Career (CAR), Family composition and allowances (PER/FAM), Time (TIM) and Quotas (DOT). The Agency is currently still waiting the Commission's services to implement the three last modules form the basic package which are job descriptions (JIS), Vacancy (VAC) and Documents (DOC).

The Agency carried out a benchmarking exercise for 2019 in line with the provisions of Article 29(3) of the Framework Financial Regulation. The snapshot for the benchmarking exercise was taken on 31 December 2019. As prescribed by the methodology for agency job screening, it focused on the ratio of jobs in the area of administrative support and coordination, neutral and operational categories.

In line with the methodology, the following posts were included in the screening exercise:

- all establishment plan posts (irrespective of whether they were occupied, vacant or unused job quotas);
- other types of statutory links or contracts when occupied by a jobholder: contract agents, seconded national experts and trainees;
- jobs occupied by interim staff.

The following is a breakdown, based on the above-mentioned three job type categories, of the 125 total positions in the Agency (of which a CA posts and a trainee position were vacant), as of 31 December 2018:

1. administrative support and coordination - 25 positions, accounting for 20% of the total number of posts;
2. operational - 91 positions, accounting for 72.80% of the total number of posts;
3. neutral - 11 positions, accounting for 7.2% of the total number of posts.

The benchmarking exercise results are presented in Annex IV.

Task	Human Resources Management
Work programme objective for 2019	<p>The objectives for 2019 are as follows:</p> <ul style="list-style-type: none"> <li>• To recruit additional resources in line with the Agency's updated Establishment Plan and replace departing staff members in an efficient and timely manner.</li> <li>• To design, implement, and complete the annual performance appraisal exercise in 2019, in line with the new Implementing Rules.</li> <li>• To ensure that staff members are offered appropriate training opportunities aimed to improve their skills and competencies.</li> <li>• To develop the use of the Commission HR Tools (Sysper), to the benefit of the administration of staff.</li> <li>• To receive positive evaluation results from the ECA.</li> <li>• The implementation of the Competency Framework to be finalised.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>• Average length of recruitment procedure: 4 months (including the 1-month period of publication of the Vacancy Notice).</li> <li>• Minimum 95% occupancy rate of TA posts in the Establishment Plan by the end of 2019.</li> <li>• 100% of the eligible Agency's staff subject to performance appraisal to undergo evaluation in the 2019 exercise in line with the new Implementing Rules by end of June 2019.</li> <li>• Minimum of 75% attendance at in-house organised trainings.</li> <li>• Finalisation of the Competency Framework: 100% of competencies and job descriptions mapped and revised by the end of 2019.</li> <li>• New Vacancy Notices aligned with the competencies and skills required for the positions advertised.</li> </ul>
Achievement against target	<p>The average duration of selection procedures by the end of 2019 was 5.8 months (taking into consideration 7 selection procedures which were published at the end of 2018 and finalised in 2019). The delay is due to the necessity to keep on hold two selections procedure for horizontal services to give priority to fill in positions for the Clean Energy Package.</p> <p>The occupancy rate for TA posts in establishment plan was 100% (67 posts occupied out of 67).</p> <p>All staff members participated in the annual appraisal exercise.</p> <p>The attendance at in-house trainings by end of Q4 was 86.73%</p> <p>The Agency's competency framework was finalised in 2019, although the European Commission was not able to grant the Agency the access to the Sysper module related career management, which is being made available in the second quarter of 2020: for this reason, the Agency's revision of job descriptions is delayed.</p>

## 2.6 STRATEGY FOR EFFICIENCY GAINS

As a decentralised agency, ACER is regularly re-assessing, optimising and streamlining its support functions and administrative processes. This is done by various means: knowledge sharing and introduction of best practices from other agencies, review, documentation and digitalisation of certain processes, centralisation of certain functions related to support functions.

The Agency recognises the need to streamline its structure and internal organisation to become a more modern and agile organisation, and aims to achieve this in 2020. In 2019 the internal structure of the Agency was based on four technical departments – the Electricity, the Gas, the Market Integrity and Transparency and the Market Surveillance and Conduct Departments – the Administration Department and the Director's Office. In order to increase synergies in market monitoring activities, to the extent possible, greater cooperation has been promoted and will continue to be promoted between the Market Surveillance and Conduct Department and the Market Monitoring Teams in the Electricity and Gas Departments (responsible for monitoring various aspects of the Internal Energy Market).

With regard to the organisation of support functions, the Agency centralised its corporate services in 2020: the convergence of the Financial cell, the Budget and Procurement teams, under the leadership of the Budget Officer is aiming to concentrate specialised and related knowledge within one team. The new team is responsible for the entire process within the procurement and financial circuits from procuring a specific product/service to the initiation to authorisation of financial transaction as well the coordination of the budgeting process and the assistance with the compilation of the annual accounts. Overall, this will amount to a savings in 0.2 FTEs for the core operational departments (for example, only operational verifications amounts to ca 200 hours per year).

At the same time, the Agency is committed to continuous improvements and has been constantly working towards ensuring the most effective and efficient use of its resources, to the extent possible. The Agency identifies its key priorities and strives to increase its flexibility, in particular by aiming to shift 10 to 15% of its internal capacity in terms of financial and human resources as functional to fulfil the identified priorities.

The Agency established cross-department projects with staff members from different departments working on technical topics. Moreover, the Agency started re-assigning staff members (FTEs) from working on developing Network Codes and Guidelines to the monitoring of their implementation and effects in order to oversee the impact on the functioning of the Internal Energy Market. The Agency recognises the need to increase its efforts in terms of staff flexibility: to this extent, in 2019, the Agency has adopted its competency framework, which will support the identification of necessary competencies to fulfil its mandate in an agile manner. In particular, the agency aims to integrate its competency framework in designing learning and development paths for staff, to the benefit of an increased flexibility and faster adaptability to their changing roles: this is envisaged to save 0.2 FTEs in the operational activities.

The Agency has taken a number of steps in the area of digitalisation, in order to contribute to further efficiency gains. To that end, a number of IT tools have been developed to improve efficiency and use of resources, by shortening the processing time, minimising human error and improving transparency. In addition to automating the all budget and financial processes, the tools provide up-to-date, real-time information on the state of play of transactions, budget consumption, etc. ensuring business continuity of the operations and institutional memory (in cases of long-term absence or departure). To this extent, in 2019 and 2020, the Agency began deploying Sysper and ARES tools of the European Commission. Sysper is a system used as an integrated HRM management tool used in all Commission services: its deployment brings the management of staff data to a higher standard and facilitates the interface with rights and entitlements, personal files and career management for the Agency's staff. Sysper automates all HR-related requests (including parental

and part-time leave requests), streamlines the appraisal and reclassification audit trail and facilitates the presentation of statistical data at all levels. With the deployment of Sysper, the electronic archive will become obsolete since the Agency is in the process of obtaining the NDP (Numérisation Dossier Personnel) - a scanning module, which allows to scan paper documents constituting the personal file of a staff member. NDP is an independent module / application, working through Sysper. Its main functionalities are: scanning and managing personal files, managing accesses to the files, share (view) PDF files by authorized people/services.

ARES is the document management system in use in the Commission services: its deployment, in 2019, brings additional benefits to streamline data, document management and to integrate data and archives within the system of the European Institutions. ARES integrates and streamlines the full completion, including e-signature, of the paperless workflows, to the benefit of time savings for operational departments. Moreover, the FTEs effort dedicated for the ICT maintenance of these well-established EC systems decreases significantly, compared to the use of the previous tools: overall, the digitalisation projects in the Agency, by adopting Sysper and ARES Commission tools amounts to a saving of 1.0 FTE, which will be redirected to core operational activities.

## 2.7 ASSESSMENT OF AUDIT AND EX-POST EVALUATION RESULTS

### 2.7.1 INTERNAL AUDIT SERVICE (IAS)

The IAS conducted a full risk assessment and IT risk assessment in February 2016, which resulted in a new strategic audit plan for the Agency for the period 2017-2019 and formulated the audit topics for the next planning period.

In 2017, the Internal Audit Service (IAS) performed an audit on the HRM function of the Agency, in line with the Strategic Audit Plan for the period 2017-2019. The objective of the audit was to assess the adequacy of the design and the effectiveness of the internal control system related to human resources management in the Agency. After the receipt of the Agency's comments, the IAS prepared the Final Audit Report, which contained five recommendations: one critical, two very important and two important.

After the receipt of the IAS recommendations, the Agency prepared an Action Plan for their implementation, which has been implemented in various stages in 2018 and which was fully submitted in 2019. In January 2019, IAS' Critical recommendation on recruitment and management of conflicts of interest was downgraded by IAS to Very Important, based on the reported implemented actions in 2018.

In line with the IAS policy, a follow-up audit was performed from 8 to 10 April 2019, in order to determine whether the recommendations and agreed actions have been adequately implemented. The agency is currently awaiting for the final results of the follow-up audit, while the deliverables submitted to IAS in the different quarters (Q) of 2019, completing the action plan, were the following:

- Q1 – Revision of the HRM KPIs: The Agency revised the HR set of KPIs and PIs to establish a more consistent monitoring of the HRM activities, in light of the recommendation from the European Commission to reduce the numbers of KPIs for the Agency.
- Q2 – Manual of Procedure for ACER Confidential Counsellors and Call for Expression of Interest ACER Confidential Counsellors: The Agency finalised its Manual of Procedure for Confidential Counsellors and launched a new call for expression of interest with the aim to broaden the composition of the network of Confidential Counsellors. The inter-agency call was launched on 26 July 2019 with six participating agencies (ACER, ENISA, EASO, GSA, BEREC and CPVO), ACER taking the lead. The call was opened until 30 September 2019 and the selection panel met at GSA, Prague and interviewed all the pre-selected candidates and decided to recommend all the candidates to follow the mandatory 6 day training. Trainings were organised in two groups, one taking place in Ljubljana and one in Malta. Ljubljana group finished its 6 days training in February 2020, the second group had to be postponed due to the corona virus outbreak. Once all the candidates follow the training and are appointed by their respective Directors as Confidential Counsellors, the inter-agency network will be established.
- Q3 – Monitoring of the FTE allocation: in order better to streamline the use of resources, the Agency included an additional monitoring step on the allocation of FTEs during the mid-term review of the budget, to ensure that the planned allocation is in line with the implementation of the current work programme.
- Q4 – Establishment of the Agency's Competency Framework: during the course of 2019, the Agency worked with an external consultant to finalise its competency framework, which was adopted in December 2019 and will be used in different HR-related processes: selections, appraisal, career management.

In 2018, the IAS performed an audit on IT Security in the Agency and Information Security in the “REMIT” domain, in line with the Strategic Audit Plan for the period 2017-2019. The objective of the audit was to assess the adequacy of the design and the effectiveness of the implementation of the management and control systems put in place by the Agency for its IT security arrangements across the entire Agency and for the information security related to the ‘REMIT’ domain. The audit focused on the IT controls covered by the overall information security policy and the specific information security framework for the REMIT domain (REMIT information security policy including policies for specific domains, such as asset management, user access management, physical security, etc.). The Final Audit Report contains eight important recommendations, which have been accepted by the Agency. The Agency established the Action Plan to address all the recommendations, which has been agreed with the IAS. The implementation of the Action Plan began in 2019.

In 2019, the IAS performed an audit on the Implementation of REMIT, in line with the Strategic Audit Plan for the period 2017-2019. The objective of the audit was to assess the adequacy, effectiveness and efficiency of the management and control systems in ACER related to the implementation of REMIT. The performance audit has been carried out in November 2019, the Final Audit Report is expected in 2020.

## **2.7.2 INTERNAL AUDIT CAPABILITY (IAC) – not applicable.**

## **2.7.3 EUROPEAN COURT OF AUDITORS (ECA)**

### **AUDIT OF THE 2018 ANNUAL ACCOUNTS**

The European Court of Auditors (ECA) audited the 2018 annual accounts of the Agency in March 2019. The audit included analytical audit procedures, direct testing of transactions and an assessment of the key controls of the Agency’s supervisory and control systems, aiming to confirm the legality and regularity of the transactions underlying the Agency’s accounts.

**OPINION ON THE RELIABILITY OF THE ACCOUNTS**

According to ECA, the Agency's annual accounts accurately depicted, in all material respects, its financial position at 31 December 2018, the results of its operations and its cash flow for the year, in accordance with the provisions of its financial regulation and the accounting rules adopted by the Commission's accounting officer.

**OPINION ON THE LEGALITY AND REGULARITY OF TRANSACTIONS**

In the opinion of the ECA, the transactions underlying the annual accounts for the 2018 financial year were legal and standard in all material respects.

The ECA issued a clean report for the year 2018 with no comments.

The 2018 accounts were audited in March 2019 by an external audit firm engaged by the Agency in accordance with the provisions of Article 70 of the Financial Regulation<sup>7</sup>. The external auditors audited the annual accounts (balance sheet at 31 December 2018 and the financial performance statement, the cash flow statement, the statement of changes in net assets and the notes attached to the financial accounts) and the budget implementation report (budget outturn account and annexes to the budget outturn account). The final audit report did not contain any findings or recommendations reflected in the ECA's opinion of the final accounts.

**AUDIT OF THE 2019 ANNUAL ACCOUNTS**

The ECA, together with Baker Tilly, audited the Agency's 2019 annual accounts. The ECA issued six preliminary findings to which the Agency replied. The replies have been analysed by ECA but remain to be included in their annual report expected to be published towards the end of 2020. Before the contradictory procedure, two of the findings make part of the partially qualified opinion formally communicated by ECA (see details under 2.8.2). Baker and Tilly issued no comments.

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<sup>7</sup> Regulation (EU, Euratom) 2018/1046 on the financial rules applicable to the general budget of the Union, repealing Regulation (EU, Euratom) No 966/2012.

## 2.8 FOLLOW-UP OF RECOMMENDATIONS AND ACTION PLANS FOR AUDITS AND EVALUATIONS

### A) INTERNAL AUDIT SERVICE (IAS) AND EUROPEAN COURT OF AUDITORS (ECA)

#### 2.8.1 RECOMMENDATIONS ISSUED BY THE IAS

Following the IAS audit 2018 on IT Security in the Agency and Information Security in the “REMIT” domain, in line with the Strategic Audit Plan for the period 2017-2019, the Final Audit Report contains eight important recommendations, which have been accepted by the Agency. The Agency established the Action Plan to address all the recommendations, which has been agreed with the IAS. The implementation of the Action Plan began in 2019.

After the audit fieldwork, the Agency took actions in line with the Action Plan agreed with the IAS. Further corrective measures were identified and included in an Action Plan, with adequate and reliable actions, target dates, and an assessment of their impact. In the next period, the IAS will periodically assess the level of implementation of these actions by the Agency, based on which it may be able to close the recommendations made.

The measures already undertaken and planned address the weaknesses indemnified as important through (1) implementation of ACER's overall information security policy, (2) IT security governance issues, (3) software development and change management, (4) ARIS ORACLE database security, (5) REMIT network infrastructure security, (6) user accounts management, (7) steering the contractor's operational management and (8) data encryption.

One recommendation (1) on the implementation of ACER's overall information security policy was implemented successfully by Q3 2019 and closed by the IAS in January 2020. The implementation of other recommendations is on-going in line with the Action Plan agreed with the IAS.

#### FOLLOW-UP THE IAS STRATEGIC INTERNAL AUDIT PLAN 2017-2019

The IAS risk assessment audit was carried out in February 2016 and covered all Agency processes. This audit visit was the basis for setting up the Agency's IAS Strategic Audit Plan 2017-2019, identifying the Agency's key risks and proposing topics for forthcoming IAS audits. The following high-risk processes were identified during the full risk assessment:

- document management;
- business continuity;
- monitoring of Network Code (NC) implementation;
- REMIT market surveillance and
- IT governance.

The Agency's follow-up to the recommendations in 2019 was as follows:

The document management (DM) policy of the Agency adopted in June 2016 (Director Decision 2016-13) was amended in April 2019 (Director Decision 2019-09). The DM Policy defines general provisions regarding the main operations that a document shall undergo: registration, filing and archiving.



The Agency migrated to Advanced Records System: HAN-ARES, the document management system developed by the European Commission in October 2019.

In the context of the Agency's imminent migration to HAN-ARES, an internal consultation with all the Agency's departments and the management was conducted in order to take into consideration the specific needs of the Agency and to reflect them in the Agency's Specific Retention List and Filing Plan. In light of this, the Document Management Officer of the Agency developed the Agency's Specific Retention List and Filing Plan adopted by the Director Decision 2019-33 in October 2019.

The Agency successfully set up a specific framework contract for business continuity, and is actively engaged with other EU and international institutions and bodies in a network to ensure business continuity. Following a procurement procedure for services, a training and awareness campaign was completed by Q1 2018. It included a multi-level training programme for management, team leaders and staff members. All training material is available: revised documentation was made available on the Agency intranet to all the staff members. A second cycle of training within the awareness campaign was completed in Q1 2019.

A business continuity exercise was performed in January 2018 and a new one took place in March 2019. The new exercise helped to address the gaps and opportunities for improvement in the area of business continuity. Observers from other EU Institutions participated in order to provide a critical review.

A revision of the Business Continuity (BC) Plan was drafted for the approval of the Director. According to the BC Plan, maintenance, together with extended testing, was planned to be performed again at the end of 2019. However, since the Director's term was due to expire at the end of the year, the exercise was moved to Q2-2020, and the plan, due to the on-going COVID-19 crisis, will be used as a review session to enhance the specific scenario for pandemic and to have a proper "Lessons learned" session, which aim should be to re-run the course of actions and to spot improvements that may be applicable in similar events.

In addition, in 2019 the Agency established a system of Duty Officers in order to strengthen the business continuity capabilities of the Agency and further to involve and engage all the staff in the business continuity processes. The system was put in place in November 2019 but began functioning in January 2020. Duty Officers were appointed, and more than 30 people were trained for the purpose.

The Agency founded a Business Continuity Management Network in 2019, which it is leading together with other two Agencies. The aim is to develop and share good practices.

In electricity, the Agency continued to monitor the effects of the implementation of the Network Codes and Guidelines through the same annual cycle in four phases:

- Methodology phase: on the basis of a well-reasoned and consulted methodology (including indicators), the relevant required data are identified;
- Data processing: collection and assessing of data and sharing the preliminary results with NRAs;
- Drafting phase: reporting the findings, debating the conclusions with NRAs and formulating recommendations; and
- Publication phase: preparing the design version of the figures and tables, and proof-reading the report and preparing the public presentation of the results.

A similar approach was used as regards the actions related to the monitoring of the implementation of Network Codes in gas. All actions envisaged by the legal deadlines for 2018 were successfully executed, without major issues.

In gas, the Agency put great emphasis on the monitoring of its newest network code on Harmonised transmission tariff structures. This work entailed the review of 26 national tariffication systems focusing on the reference price methodologies, to assess whether these methodologies were transparent, cost-reflective and non-discriminatory. The Agency continued its work to identify where implementation was lacking, issued a decision on the missing booking platform at the Polish-German border, and checked the status of the interim measures in gas balancing.

Through the gas Joint Functionality Platform, the Agency provided advice on tariff transparency, and on the possibility to further harmonise common data exchange solutions.

Regarding the REMIT Market Surveillance process, the most recent version of the REMIT data quality policy was adopted on 17 July 2017 and has been applied ever since. Data quality has improved, but will remain an ongoing task for the Agency. Two Open Letters on data quality were published on 16 February 2017 and on 19 July 2018 which contributed to the improvement of REMIT data quality. A 3rd Open Letter was published in Q3 2019. The focus on data quality assurance activities remains mainly on standard contracts and bilateral contracts, including non-standard contracts.

The Agency organised two training sessions for its staff regarding the use of SMARTS in 2017. In addition to the trainings, the Market Surveillance and Conduct (MSC) Department staff benefited in 2018 from an in-depth two-day training about how energy is traded in different trading places and designs with a constant focus on REMIT market abuse provisions. In 2019 the MSC Department followed a two days training on power market design and market manipulation. In addition, two colleague followed an expert ALICE (the operating language of SMARTS) programming course. The latter will make the Agency more autonomous in working with SMARTS, which is the main surveillance tool of the Agency.

After restructuring the Market Monitoring Department on 15 November 2016, the existing processes and documentations carried out by the two REMIT departments (i.e., the MSC Department and the Market Integrity and Transparency (MIT) Department) needed to be revised. The necessary revision of the MSC Department's Manual of Procedures started before summer 2017 and was completed and adopted in January 2018. The necessary revision of the MIT Department's Manual of Procedures started in the first half of 2017 and was completed and adopted in July 2017.

Moreover, two technical documents were further developed in 2018 for the MSC Department: the Alerts Manual and the Screening Methodology document. These documents were updated in 2019.

Regarding IT governance, the regular coordination meetings between the IT Experts continued to take place in 2019, as described in the Action Plan. The main objective was to identify potential IT efforts that can be consolidated or where outputs can be shared. The IT Experts especially focused on having a common toolset and as such, the ITSM (IT Service Management) project was extended to be a cross-departmental IT project between REMIT and ADMIN IT.

The IT service manager recruited in 2018 unfortunately resigned, which caused delays in the ITSM service implementation. The Agency attempted to fill the post as quickly as possible, however the vacancy had to be extended due to a lack of applications. The vacancy will be filled in 2020, ensuring a dedicated IT service manager for the cross-departmental ITSAM project. Additional need for staff was identified for 2020 but is subject to availability of budget and Establishment Plan posts.

### **FOLLOW-UP ON EARLIER RECOMMENDATIONS (2017 AUDIT)**

Following the IAS on the Human Resources Management in 2017, the IAS provided recommendations in the area of recruitment and management of conflicts of interests, as well as appraisal and reclassification exercises. All recommendations were fully implemented in 2018-2019, in line with the Action Plan.

## 2.8.2 RECOMMENDATIONS ISSUED BY THE ECA

The ECA issued a positive opinion on the reliability of the 2018 accounts and on the legality and regularity of the transactions underlying the accounts. Its report contained no comments (see section 2.7.3 above).

A partially qualified opinion from ECA was obtained on the reliability of the 2019 accounts, more precisely ECA is of the opinion that revenue and payments underlying the accounts for the year that ended on 31 December 2019 is legal and regular in all material respects except for 6.3% of all payments made during the year. These were considered irregular by the Court because of the type of the underlying contracts used by the Agency. In the first instance, the Court claims that the Agency should have used framework contracts with re-opening of competition instead of standard framework contracts when the ordered items were not included in the price lists attached to the contract. The Agency replied that in most of the cases the Agency depends on the technical solution offered by the contractor and cannot possibly know in advance what equipment is best suitable for a certain solution. In the second instance, the Court assessed that the contract signed by the Agency for the maintenance of its data centre awarded without the publication of a contract notice is not legally correct, even though the Agency replied that the contractor was used from the time the rental contract for the premises was signed and the data centre was built.

There were also four observations included in the opinion referring to:

- The use by the Agency of temporary agency workers on tasks of a permanent nature;
- Identified errors in the completion of one recruitment procedure;
- Deficiency in the applied internal controls to register exceptions;
- Concentration of commitments in the fourth quarter of the year led to increased balances being carried forward into the next year.

The Agency replied to the identified short-comings and is striving to improve its internal controls and apply immediate mitigating actions, in order to avoid future reoccurrences.

### FOLLOW-UP ON EARLIER RECOMMENDATIONS

To the ongoing ECA's observation from 2017 about the location of the Agency's disaster data recovery site being at the same place as the original data, the Agency replied that due to funding shortage this project could not have been pursued. Equipment acquisition, installation and the take into operation of the disaster recovery site began in 2020 and is expected to be finalised by the end of the year.

The ongoing observation related to the use of differentiated appropriation continues to be defended by the Agency given the uncertainty of its budget for the operational title.

Regarding the 2017, ongoing, ECA's observation about the use by the Agency of e-procurement, the Agency's reply mentions the fact that e-Invoicing was implemented in 2018, e-Tendering in 2019 and e-Submissions is under implementation in 2020.

## B) FOLLOW-UP OF RECOMMENDATIONS ISSUED FOLLOWING INVESTIGATIONS BY THE EUROPEAN ANTI-FRAUD OFFICE (OLAF)

Not applicable.

## 2.9 FOLLOW-UP ON OBSERVATIONS FROM THE DISCHARGE AUTHORITY

The Agency duly informed the discharge authority on progress achieved in the fields requested in the discharge report and acted upon the recommendations received. Most notably, in its discharge decision in respect of the Agency's budget implementation for the financial year 2018, the discharge authority noted with satisfaction that budget monitoring efforts during the financial year 2018 resulted in a higher implementation rate of 99.26%. It also noted that the payment appropriations execution rate was at 79.73%, representing an increase of 3.92% compared to the previous year.

For 2016, the discharge authority had noted that the high share of cancelled carry-overs (9.8 %) could be considered to be a sign of inaccurate budget planning. The Agency acted on this recommendation: in the discharge report for 2017, published in 2019, the discharge authority noted that from 2016 to 2017 carry-overs decreased by a notable 7.77%.

### FOLLOW-UP ON EARLIER RECOMMENDATIONS

In 2019 positive developments were registered concerning the 2014 recommendation on the establishment of a European School. The Accredited European School Ljubljana is operational as of September 2018. In the school year 2019/2020 the School offered a complete primary educational cycle (P1-P5). Secondary educational cycle (S1-S7) is foreseen to be first offered in the school year 2020/2021, a complete secondary cycle is planned for the school year 2023-2024. The Mandate Service Agreement (MFA) with the DG HR giving the European Commission mandate to conclude and implement Contribution Agreement with the ESL was signed.

In response to ECA's comment from 2016 on the introduction of differentiated budget appropriations, the Agency replied that given the persistent uncertainty of the annual budgetary allocation to the Agency, it is difficult to employ a differentiated appropriations method on its operational budget title.

## 2.10 ENVIRONEMENT MANAGEMENT

The Agency is aligning its internal processes to good practices, such as the Eco-Management and Audit Scheme (EMAS) standards, so as to reduce the impact of its administrative operations on the environment. The Agency undertook some significant steps in managing its environmental impact by improving waste management and sorting, introducing paperless financial circuits in the financial administration by further developing IT tools, reduced the use of paper across the Agency, promoted the use of public transport by staff, improved communication in order to change staff and suppliers' behaviour towards the use of paper. It also provided environmental on-the-job-training to newcomers by raising awareness on the use of energy in the offices, use of paper for printing and sorting of waste and promoted 'greener' procurement by introducing 'green' criteria in procurement documents. See Annex VII.

## 2.11 ASSESSMENT BY MANAGEMENT

In 2019, the Agency continued to implement effective policies, management tools, and monitoring and control procedures, aiming to ensure the achievement of its objectives by employing its human and financial resources efficiently.

The Agency continued to execute the long-standing ex-ante and ex-post control procedures, with a commitment to improve the efficiency and effectiveness of organisational processes.

The ex ante controls performed encompass the entire system of controls and checks regarding operational, procurement and financial activities.

An extensive ex-ante control system for every low-, medium- and high-value procurement procedure is in place. Ex-post control is performed annually by the Court of Auditors on a sample of at least four procurement procedures. Each year, the Agency carries out an additional ex-post control of at least one high-value procurement procedure not covered by the Court of Auditors.

The ex-ante controls on financial transactions involve the use of standard check-lists on financial transactions and the strict application of the 'four-eye' principle.

A paperless workflow in the Accrual-based Accounting System (ABAC) was adopted already in 2015. A paperless workflow of carry-overs, implemented since 2016 financial year, contributes to the improvement of the process and the traceability of documentation and helps keep financial transactions compliant with applicable rules, while supporting the digitalisation concerted efforts of the Agency.

Revised guidelines on financial circuits and segregation of duties at the Agency were adopted in 2019. The guidelines define specific roles and responsibilities for all those taking part in the financial circuit.

Ex-ante and ex-post controls were further executed by using check-lists, consistent implementation of operational guidelines, and regular and structured reporting to management in terms of financial, human and other resources. Strict management supervision is performed through regular reviews, at management meetings, of Work Programme implementation, the annual procurement plan and the degree of implementation of key performance indicators (KPIs) and of the risk management process.


Controls and supervisory checks performed in 2019 provided no evidence of significant or repetitive errors in reporting by Agency departments, budget execution, human resources management or KPI implementation. Monitoring reviews showed no instances of inadequate or ineffective controls that could expose the Agency to key risks.

Based on the results achieved in 2019 (both financial and operational) and the additional assurance provided by external and internal audits, it can be concluded that the control environment established by the Agency works as intended and provides reasonable assurance of achievement of objectives and the legality and regularity of activities and transactions.

# PART II (b): EXTERNAL EVALUATIONS (when relevant)

Not applicable.





PART III: ASSESSMENT OF  
EFFECTIVENESS OF INTERNAL  
CONTROL SYSTEMS

## 3.1 EFFECTIVENESS OF INTERNAL CONTROL

Until December 2018 the Agency applied the Internal Control Standards as defined by the European Commission, before the revision based on the framework of the Committee of Sponsoring Organizations of the Treadway Commission (COSO)<sup>8</sup>.

Following the Commission's revision of its Internal Control Framework<sup>9</sup> in 2017, and in view of aligning the Agency's internal control system to the international and EU standards and to develop the most effective internal control environment, the Agency revised and adopted its own Internal Control Framework in December 2018.

The new framework<sup>10</sup> replaced the internal control standards with internal control principles. There are seventeen internal control principles that are structured in five components, which form the Agency's internal control system as of January 2019, namely:

1. Control Environment
2. Risk Assessment
3. Control Activities
4. Information and Communication
5. Monitoring Activities

The implementation of the principles is monitored via indicators that help to assess the level of compliance and effectiveness of the internal control measures. The assessment has been done in 2019, and the result is the following:

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8 The full text of the Internal Control-Integrated Framework of the Committee of Sponsoring Organizations of the Treadway Commission (COSO), is available at [www.coso.org](http://www.coso.org).


9 Communication to the Commission: Revision of the Internal Control Framework, C (2017) 2373 of 17.04.2017.

10 Decision No. 17/2018 of the Administrative Board of the Agency for the Cooperation of Energy Regulators 13 December 2018 on the adoption of the Internal Control Framework of the Agency for the Cooperation of Energy Regulators.



## Overall Assessment of Internal Control System

Internal control Component	Present and functioning	Explanation/Conclusion
CONTROL ENVIRONMENT Principle 1-5	CATEGORY 2 - The component is present and functioning well but some improvements are needed.	<p>Ethics and integrity courses are delivered to all newcomers, as well as anti-fraud sessions. Overall two staff members (newcomers) were absent from the ethics and integrity course due to missions, placing the presence at 85%, below the target of 90%.</p> <p>The target related to staff survey will be assessed at the next survey in 2020; the Director holds an all staff meeting after each management meeting, thus keeping staff informed throughout the year on the developments in the Agency.</p> <p>The Agency has defined its process mapping and is currently defining and developing its Standard Operating Procedures. Quality management procedures and workflows for process definition and improvement were defined and an intranet page on Quality Management is being regularly updated.</p> <p>The Agency has an updated Guidelines on financial circuits and segregation of duties. The deputising arrangements have been implemented also in SYSPER 2.</p>
RISK ASSESSMENT Principle 6-9	CATEGORY 1 - The component is present and functioning well.	All targets achieved.
CONTROL ACTIVITIES Principle 10-12	CATEGORY 2 - The component is present and functioning well but some improvements are needed.	<p>A minor incident related to the confidentiality rights in the HR tool that was quickly resolved and a risk assessment of all tools was performed in February 2019.</p> <p>The ICT Strategy is older than three years with a few months but will be completed by the end of the year. The delay is caused by changes in the IT team and new developments that have to be taken into account at Agency level. The delay was mitigated by the fact that the Steering Committee met regularly in all this period of time and provided oversight and strategic direction in the ICT domain. Therefore, the effectiveness of the principle is not affected.</p>
INFORMATION AND COMMUNICATION	Principle 13-15	CATEGORY 1 - The component is present and functioning well.
MONITORING ACTIVITIES Principle 16-17	CATEGORY 1 - The component is present and functioning well.	All targets achieved.



The Agency managed its risks at various levels, ranging from standard risks to risks related to specific tasks, monitored at department level.

## OVERALL MANAGEMENT OF RISK

The Agency managed its risks at various levels, ranging from standard risks, addressed through the internal control principles mentioned above, to risks related to specific tasks, monitored at department level.

Critical risks, potentially affecting the Agency's main objectives, were assessed at Agency level, through the annual risk assessment exercise performed in parallel with the preparation of its Programming Document. This covers operational, legal and administrative areas of activity. Risks are assessed in relation to specific activities at department level (some activities being inter-departmental). A risk register of critical risks is compiled on the basis of the assessment of the likelihood and potential impact of individual risks, including the Agency's response to the risks. Critical risks were identified in relation to the implementation of the REMIT regulation,

As a result of the exercise, the management identified risks considered to be both likely and with a potentially significant impact on Agency activities. The identified risks concerned the implementation of REMIT due to the considerable divergence between the allocation of human resources which the Agency considered necessary to meet the objectives of REMIT and the staffing allocation voted in the EU Budget. The activities subject to critical risks concerned the operation of the Centralised European register of energy market participants (CEREMP) and the Agency's REMIT Information System (ARIS) and the market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation. Despite the mitigating measures adopted by the Agency, the above risks materialised (see section on "tasks deprioritised or not executed" in Part I.

As in previous years, the Agency's management monitored the achievement of the 2019 Work Programme objectives through the Agency's KPIs using the Agency's 'traffic light' system (see Annex

l). Most KPIs usually remain the same from year to year to ensure consistency in comparisons, but the targets to be achieved in the year in question are set on an annual basis. The KPIs were discussed on a quarterly basis at coordination and management meetings. Specific attention was paid to objectives for which related KPIs identified delays or underperformance, and measures were identified to address such issues.

Besides the standard monitoring of the implementation of the annual Work Programme, additional processes were used to monitor the human and financial resources situation, in particular concerning budget implementation (e.g. monthly implementation reports discussed at management meetings).

## **ANTI-FRAUD, CONFLICTS OF INTERESTS, TRANSPARENCY AND POST-EMPLOYMENT**

In March 2019 the Agency adopted a new Anti-Fraud Strategy, repealing Decision 13/2014 of the Administrative Board of the Agency. The new strategy, spanning over a three-year period, is based on the following elements: an annual risks assessment, the prevention and management of conflicts of interest (see below), internal rules on whistleblowing, the policy and procedure for the management of sensitive functions, as well as measures related to ethics and integrity.

The Anti-Fraud policy's objectives are the following:

Objective 1: To raise the level of fraud awareness in the Agency, including increased knowledge and capacity for performing preventive and detective controls

Objective 2: To support effective prevention and detection of fraud risk, in particular through development of procedures, guidelines or specific anti-fraud measures and controls, where necessary.

Objective 3: To establish appropriate internal procedures for reporting and handling potential fraud cases and their outcomes.

In 2019 the Agency also developed a Standard Operating Procedure (SOP) of cooperation with the European Anti-Fraud Office (OLAF). No cases of fraud were detected in 2019.

In 2019 the Agency continued to implement its comprehensive policy for the prevention and management of conflicts of interest, including provisions related to staff (with stricter requirements for management), its boards, working groups and task forces. The Agency thus collected the annual declarations of interest of its management staff (Director and Heads of Department), of AB members and alternates, of BoR members and alternates, and of members and alternates of the Board of Appeal (BoA), as well as of the chairs and vice-chairs of the Agency's working groups and of the convenors of the Agency's task forces. The declarations were reviewed in accordance with the policy and published on the Agency's website together with the CVs of the persons in question. A case of potential conflict of interest was identified at the Administrative Board level and is under investigation. It concerns the existence of potential interest not openly declared in the course of the decision-making process. The Board of Regulators (BoR) did not identify any conflicts of interest and concluded that no action by the Agency or the BoR was required. The same applies for HR cases within the Agency.

For **transparency** purposes the Agency continued to publish on its website a register of the meetings of the Director with external stakeholders, in line with recommendations from the European Ombudsman and similar practices in the European Commission.

In December 2018, the AB adopted a decision on the adoption by analogy of the Commission Decision on outside activities and assignments and **on occupational activities after leaving the Service**. Under Article 16 of the Staff Regulations, after leaving the service, staff members continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain ap-

pointments or benefits. Any former staff member who intends to engage in an occupational activity within two years of leaving the service must inform his/her former institution accordingly so that it can take an appropriate decision in this respect and, where necessary, forbid an activity or grant approval subject to appropriate restrictions. In 2019 no restrictions were imposed following the notifications received on occupational activities to be pursued by staff members leaving the Agency.

The third paragraph of Article 16 of the Staff Regulations stipulates that, in principle, the Appointing Authority will prohibit former senior staff, during the 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of their former institution for their business, clients or employers on matters for which they were responsible during their last three years in the service. The fourth paragraph of Article 16 of the Staff Regulations requires each institution, in compliance with Regulation (EC) No 45/20011 of the European Parliament and of the Council, to publish annually information on the implementation of the third paragraph, including a list of the cases assessed.

No senior staff members left the Agency in the course of 2019, hence no cases of senior staff were assessed. The outgoing Director left the Agency at the end of 2019 (updates will follow in the CAAR 2020).

### 3.2 CONCLUSIONS OF ASSESSMENT OF INTERNAL CONTROL SYSTEMS

OVERALL ASSESSMENT	
Are all components operating together in an integrated manner?	CATEGORY 2 - The internal control system is present and functioning but some improvements are needed.
<b>Is the overall internal control system effective?</b>	<b>Yes</b>
Category 1. Minor- Yes	
Category 2. Moderate- Yes	
Category 3. Major- Partially	
Category 4. Critical- No	

### **3.3 STATEMENT OF THE MANAGER IN CHARGE OF RISK MANAGEMENT AND INTERNAL CONTROL**

I, the undersigned,

Manager in charge of risk management and internal control within the Agency for the Cooperation of Energy Regulators (ACER),

In my capacity as Manager in charge of risk management and internal control, I declare that in accordance with ACER's Internal Control Framework, I have reported my advice and recommendations on the overall state of internal control in the Agency to the Executive Director.

I hereby certify that the information provided in the present Consolidated Annual Activity Report and in its annexes is, to the best of my knowledge, accurate, reliable and complete.

Ljubljana, June 2020

(Signed)

Olga BORISSOVA

Head of Corporate Services



# PART IV: MANAGEMENT ASSURANCE

The Agency developed and implemented a comprehensive set of procedures and tools to prepare, manage, control and monitor the implementation of its Work Programme and its human and financial resources.

## 4.1 REVIEW OF THE ELEMENTS SUPPORTING ASSURANCE

The building blocks of assurance, as described in Part III, underpin the reasonable assurance provided by authorising officers in their declaration of assurance in the CAAR. The reliability of the information contained in this report is supported by the following building blocks of assurance.

### **BUILDING BLOCK 1: ASSESSMENT BY MANAGEMENT**

As presented in the preceding sections, the Agency developed and implemented a comprehensive set of procedures and tools to prepare, manage, control and monitor the implementation of its Work Programme and its human and financial resources.

These procedures encompass ex ante and ex post controls, planning, monitoring and reporting tools, control procedures performed by staff, and assurance provided by internal and external audits, as well as evaluations of the Agency's activities.

The Agency also analyses major weaknesses, if any, in achieving its short-term objectives, the reputational risks, any significant weaknesses in the control system and recurrent errors. These weaknesses might involve the use of resources, sound financial management and the legality and regularity of transactions. The significance of a weakness is judged on the basis of:

- the nature and scope of the weakness;
- the duration of the weakness;
- the existence of mitigating controls which reduce the impact of the weakness; and
- the existence of effective corrective measures (action plans and financial corrections).

In 2019, no significant weaknesses requiring special attention, resources or actions were found. Based on the facts presented in the preceding sections, and in the light of the opinion expressed by the European Court of Auditors on the reliability of the accounts and the legality and regularity of the transactions underlying the accounts, it is safe to say that the Agency has established a working environment where risks are appropriately managed and where the internal control system works effectively and contributes to the achievement of the objectives.

This conclusion takes account of the Agency's concerted efforts to maintain a high level of effectiveness in its internal control environment, which entails constant assessment and strengthening of existing controls (considering cost-effectiveness and estimated added value against the additional cost incurred by the Agency) to maintain full compliance with the requirements of Internal Control Framework of the Agency and to ensure it will continue to achieve the objectives in its Work Programmes in years to come.

### **REGISTER OF EXCEPTIONS AND PROCEDURAL INCIDENTS**

Since 2011, the Agency has had a procedure in place to register exceptions, which guarantees that all instances of overriding controls or deviations from established processes and procedures are documented in exception reports and are justified, duly approved before action is taken and logged centrally.

In 2019, no exception or procedural incident was registered in the Register.

## **BUILDING BLOCK 2: RESULTS OF AUDITS AND EXTERNAL EVALUATIONS DURING THE REPORTING YEAR**

In 2019, the Agency received no critical recommendations from internal or external auditors. Furthermore, as provided in Part III above, all recommendations from previous years were implemented as planned, reported in a timely manner and most of them were approved by the relevant authority within 2019.

The Agency confirms that, on the basis of its thorough assessments of the observations made by the IAS in its Audit report, and following the Action Plan already put in place and being implemented, it can conclude that reasonable protection of the financial and reputational interests of the Agency is in place.

The Agency appreciates and acknowledges the efforts of the IAS to assess the quality of the control systems put in place and recognises the identified aspects in the area of information security where improvements are necessary. However, due to the classification of the recommendations and in view of the fact that no very important nor critical recommendations were issued, the Director does not see reasons to express a reservation on the regularity and legality of the security processes. The Director has reasonable assurance that, overall, suitable controls are in place and working as intended, and that risks are being properly monitored and mitigated, and necessary improvements detected by the auditors are being implemented in accordance with the Action Plan, as accepted by the IAS. Therefore, the Director, in his capacity as Authorising Officer, intends to sign the Declaration of Assurance without any reservation.

The Agency's management has reasonable assurance that the resources assigned to the activities described in the Consolidated Annual Activity Report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place provide the necessary guarantees concerning the legality and regularity of the underlying transactions. This reasonable assurance is based on:

- own judgment and the information available from the management supervision activities;
- the results of the self-assessment; and
- the observations of the IAS following the audits performed in the reporting period and the Action Plan adopted and currently implemented in cooperation with the IAS.

## **BUILDING BLOCK 3: FOLLOW-UP ON RESERVATIONS FROM PREVIOUS YEARS**

The authorising officer's declaration of assurance in the 2018 Annual Activity Report did not contain any reservations.

## **BUILDING BLOCK 4: ASSURANCE RECEIVED FROM OTHER AUTHORISING OFFICERS IN CASES OF CROSSED SUB-DELEGATIONS**

No budget implementation tasks were entrusted to other services or entities, thus minimising the risk requiring assurance.

## **SUMMARY OF WEAKNESSES IDENTIFIED AND THEIR EFFECT ON THE DECLARATION OF ASSURANCE**

No significant weaknesses were identified affecting the declaration of assurance. The control environment established by the Agency works as intended and provides reasonable assurance of achievement of objectives and the legality and regularity of activities and underlying transactions.



## 4.2 RESERVATIONS

By applying the commonly used practice, a materiality threshold is applied by the Authorising Office when deciding whether a reservation shall be made or not. The current threshold is set so as to include budgetary implications with an effect larger than 2.5% of the balance sheet value. This translates into EUR 100,000 for the financial year 2019.

No reservations have been made in the current Consolidated Annual Activity Report.

The image features a central photograph of two hands shaking in a firm grip, symbolizing agreement or partnership. This is set against a complex digital background. A semi-transparent globe is visible, with various data points and numbers scattered across it. The numbers include 35.84, 24.85, 12.76, 75.36, 16.52, 61.19, 40.71, 41.62, 44.52, 75.67, 61.19, 37.04, 94.23, 70.14, 82.24, 67.43, 55.86, 58.26, 15.00, 55.00, 36, 55.29, 22.82, 15.00, 37.04, 33.28, 29.87, 32.24, 29.87, 90.94, 48.12, 13.04, 37.04, 29.87, 44.52, 44.52, 54.29, 10.11, 16.52, 72.67, 42.49, and 172.11. The overall aesthetic is futuristic and data-driven, with a color palette of blues, purples, and pinks.

# PART V: DECLARATION OF ASSURANCE

I, the undersigned, Director of the European Union Agency for the Cooperation of Energy Regulators (ACER),

in my capacity as authorising officer,

Declare that the information contained in this report gives a true and fair view.

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

I Confirm that I am not aware of anything not reported here which could harm the interests of the agency.

Ljubljana, [DD] June 2020

(Signed)







Christian Pilgaard Zinglensen




# Annexes

# ANNEX I: CORE BUSINESS STATISTICS - REPORTING ON KPIS



## TRAFFIC LIGHTS (VISUAL STATE OF PLAY) — LEGEND



					
KPI is fulfilled and task completed	KPI is fulfilled and task completed with a small delay/issue	On track, no problems envisaged (used for Q1, Q2 and Q3)	Slight delay or issue that still needs to be addressed but the KPI is expected to be fulfilled, possibly with a slight delay	Problem or delay due to external factors (e.g. not received on time from ENTSOs or the Commission)	Actual or expected problem or delay, KPI not achieved or lagging behind

## STAFF SATISFACTION


Task	Staff engagement /satisfaction
Objectives and deadlines (indicative)	To assess, on a regular basis, staff's engagement and satisfaction with working at the Agency in order to address shortcomings. Review to be performed every 2 years.
<b>KPI 1</b>	<b>2/3 of participating staff satisfied or highly satisfied with the employment conditions at the Agency.</b>
2019 result	The Staff engagement survey was launched in March 2018. The overall satisfaction was 57%, with a 76% participation rate. An Action Plan was drawn up by management to address  In 2019 the reporting on the implementation of the Action Plan was presented every three months at a general staff meeting. As of 31 December 2019, 23 out of the 33 actions were fully implemented, 5 were partially implemented and for the remaining 5 implementation was on-going.  The next Staff engagement survey is scheduled in 2020. 

## BUDGET IMPLEMENTATION AND AUDIT


Task	Budget Implementation and Audit
Objectives	To achieve a high level of budget implementation for both commitment and payment appropriations.  To receive a positive opinion from the European Court of Auditors and implement its recommendations.
<b>KPI 2</b>	<b>At least 95% execution of commitment appropriations</b>
2019 result	The budget implementation rate for commitments was 99.50% 
<b>KPI 3</b>	<b>Minimum 75% execution of payment appropriations.</b>
2019 result	The budget implementation rate for payments was 81.35% 
<b>KPI 4</b>	<b>Cancellation of payment appropriations below 5%.</b>

Task	Budget Implementation and Audit	
2019 result	The budget implementation rate for carry-over payments was 95.70%	
<b>KPI 5</b>	<b>Non-qualified opinion received from the European Court of Auditors and 75% of its recommendations implemented in line with the Agency's Action Plan.</b>	
2019 result	Clean report received from ECA.	


## ELECTRICITY NETWORK CODES, OPINIONS, RECOMMENDATIONS, DECISIONS AND REPORTS

Tasks	Timely adoption of the Agency Acts in the Electricity sector foreseen in the Work Programme and in the regulations relevant for the Agency	
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation, as well as adoption of Electricity-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.  Various deadlines (depending on the act in question and the legal requirements).	
<b>KPI 6</b>	<b>90% of opinions, reviews, recommendations and reports delivered on time.</b>	
2019 results	All relevant deliverables were delivered on time.	





## GAS NETWORK CODES, OPINIONS, RECOMMENDATIONS, DECISIONS AND REPORTS

Tasks	Timely adoption of the Agency Acts in the Gas sector foreseen in the Work Programme and in the regulations relevant for the Agency	
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation, as well as adoption of Gas-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.  Various deadlines (depending on the act in question and the legal requirements).	
<b>KPI 7</b>	<b>90% of opinions, reviews, recommendations and reports delivered on time.</b>	
2019 results	All relevant deliverables were delivered on time.	

## CROSS-SECTOR ISSUES (ELECTRICITY AND GAS)

Task	Annual Market Monitoring Report	
Objectives and deadlines (indicative)	Objective: timely preparation of a high quality Annual Market Monitoring Report (and of its constituent volumes, published separately). More specifically: the report is to provide in-depth analysis of barriers to IEM integration and give recommendations to the European Parliament and Commission on how to remove them.  Expected completion date: November.	
<b>KPI 8</b>	<b>Positive feedback on the report based on an online survey (70% satisfied or very satisfied).</b>	
2019 results	The MMR report was delivered on time. The average level of satisfaction was around 85% on a total of 11 feedbacks provided (with an average of 4.2/5 points).	

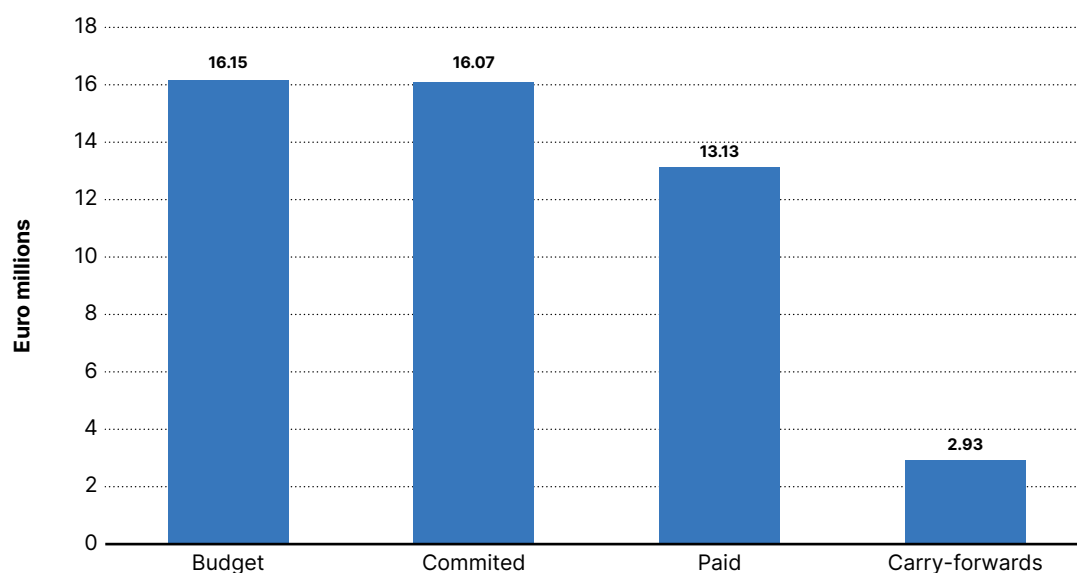
## WHOLESALE MARKET MONITORING – REMIT

REMIT Information Management and operation and further enhancements of the Agency's REMIT Information Systems whilst ensuring operational reliability	
Task	
Objectives and deadlines (indicative)	<p>To collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.</p> <p>To operate the Agency's REMIT Information Systems operationally reliable.</p>
<b>KPI 9</b>	<b>Continuous work on improving REMIT data quality measured by the number of yearly internal REMIT data quality reports.</b>
2019 result	<p>Work on REMIT fee modelling was given priority, therefore the REMIT data quality work had to be de-prioritised.</p> 
<b>KPI 10</b>	<p><b>99% system availability.</b></p> <p><b>AND</b></p> <p><b>Time from discovery of an incident until resolution</b></p> <p><b>0 breaches of the security system with a data leakage involved.</b></p> <p><b>AND</b></p> <p><b>Time from discovery until escalation to Director/stakeholders.</b></p>
2019 results	<p>99 % system availability and 0 breaches of the security system achieved, but the Agency had to suspend the registration of RRM applicants for resource reasons and ongoing performance issues with the IT provider.</p> 
Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation, in cooperation with NRAs, on the basis of data collected in connection with the REMIT implementing acts. Ensure that NRAs and other relevant authorities apply market manipulation provisions under REMIT in a coordinated and consistent way.	
Task	
Objectives and deadlines (indicative)	<p>Market Monitoring of the data collected according to Article 8 of REMIT. Increased integrity and transparency of wholesale energy markets. Detection of abusive practices under REMIT.</p> <p>Aim to ensure that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way and coordinate investigations of alleged cross-border market abuse instances as required.</p>
<b>KPI 11</b>	<b>100% of the cross-border triggered alerts preliminarily assessed and disseminated to NRAs in a secure way.</b>
2019 results	<p>The Agency lacks the required resources to perform appropriately this task pursuant to Article 7 of REMIT. Therefore, the Agency had to resort to prioritisation in the manual assessment of triggered alerts, with only a fraction of these being manually assessed. Moreover, the level of data quality requires further improvement.</p> <p>The sharing of manually assessed triggered alerts with NRAs on a monthly basis is ongoing and stable. The alerts triggering on cross-border trading is a priority for the Agency, although overall market monitoring activities go beyond it.</p> 
<b>KPI 12</b>	<b>0% chance of not notifying priority cases to the relevant authorities.</b>
2019 results	<p>KPI achieved.</p> 

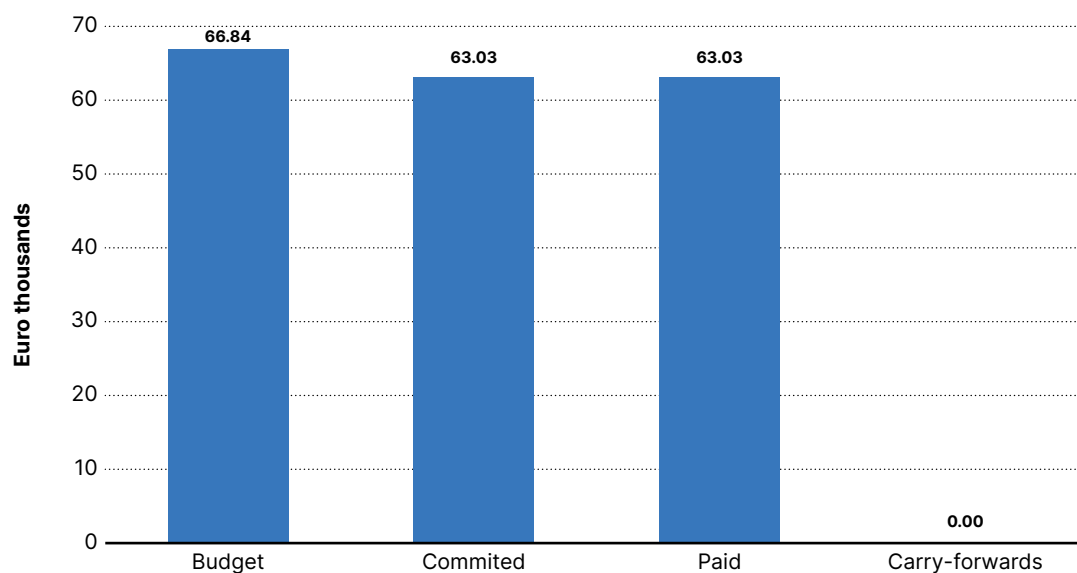
## ANNEX II: FINANCIAL MANAGEMENT STATISTICS

### Budget implementation by fund source

#### Implementation of 2019 budget - fund source C1 (in Euro)

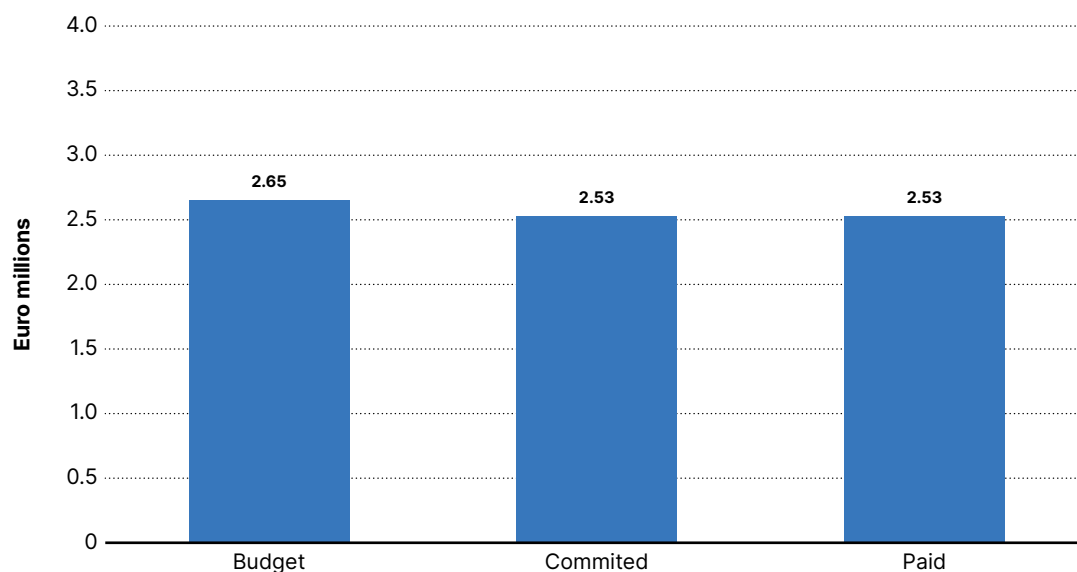


#### Implementation of 2019 budget - fund source C4 (in Euro)





## Implementation of 2019 budget - fund source C8 (in Euro)

**BUDGET TRANSFERS**

Six lots of budgetary transfers within and between headings were approved in the course of 2019, with an amount of EUR 777,377.79 being transferred between several budget lines.

**Table Budget outturn and cancellation of appropriations**

Calculation budget outturn

Budget outturn	2017	2018	2019
Reserve from the previous years' surplus (+)			
Revenue actually received (+)	13 273 140	13 566 197	16 243 389
Payments made (-)	-10 062 113	-10 812 965	-13 197 948
Carryover of appropriations (-)	-3 039 915	-2 648 236	-2 965 258
Cancellation of appropriations carried over (+)	122 606	86 926	118 181
Adjustment for carryover of assigned revenue appropriations from previous year (+)			
Exchange rate differences (+/-)	-61	103	-16
Adjustment for negative balance from previous year (-)			
<b>TOTAL</b>	<b>293 657</b>	<b>192 025</b>	<b>198 348</b>

\*N – the year covered by the programming document drafted in N-1 (as per definition art. 32)

### **Budget outturn information and justification**

The approved subsidy for the financial year 2019 amounted to EUR 16 147 153. There was no agreement reached for any contribution towards the Agency from the EFTA countries. The implementation rates of the 2019 appropriations reached a level of 99.50% for commitments and 81.35% for payments well above the pre-set targets of 95% and 75% respectively. Commitment and payment appropriations amounting to EUR 83 994.75 were cancelled mainly due to lower than expected mission orders, use of medical services, consultancy costs, participation to meetings, workshops expenditure and information material. EUR 2 961 446.30 was carried over into 2020 to cover contractual obligations open at 31 December 2019.

During the financial year the Agency collected assigned revenues amounting to a total of EUR 96 236.16 stemming mainly from recovered damages, overpaid amounts and contribution to services provided to third parties. Only a small part of these were not consumed during the year (EUR 3 811.75) and will be returned to the general budget.

In addition to the current year appropriations, an amount of EUR 2 648 235.82 was carried forward from the financial year 2018 to honour the open commitments estimated by the Agency at that point in time. By the end of the financial year 2019, out of this amount EUR 2 534 251.37 was consumed, which brought the implementation rate of these funds to 95.70%. The difference of EUR 113 984.45 was cancelled and will be returned to the general budget during 2020. The cancelled amount was mainly due to lower than expected value of claims for reimbursement for missions and organised meetings, actual consumption level of utilities, IT consultancy services and cancelled contracts for underperformance of contractor. Unused commitment appropriations from 2018 that were automatically carried over and amounting to EUR 4 197.11 are also returned to the general budget.

The 2019 budget outturn amounts to EUR 198 348.47 and will be returned in the course of 2020.

### **Cancellation of commitment appropriations**

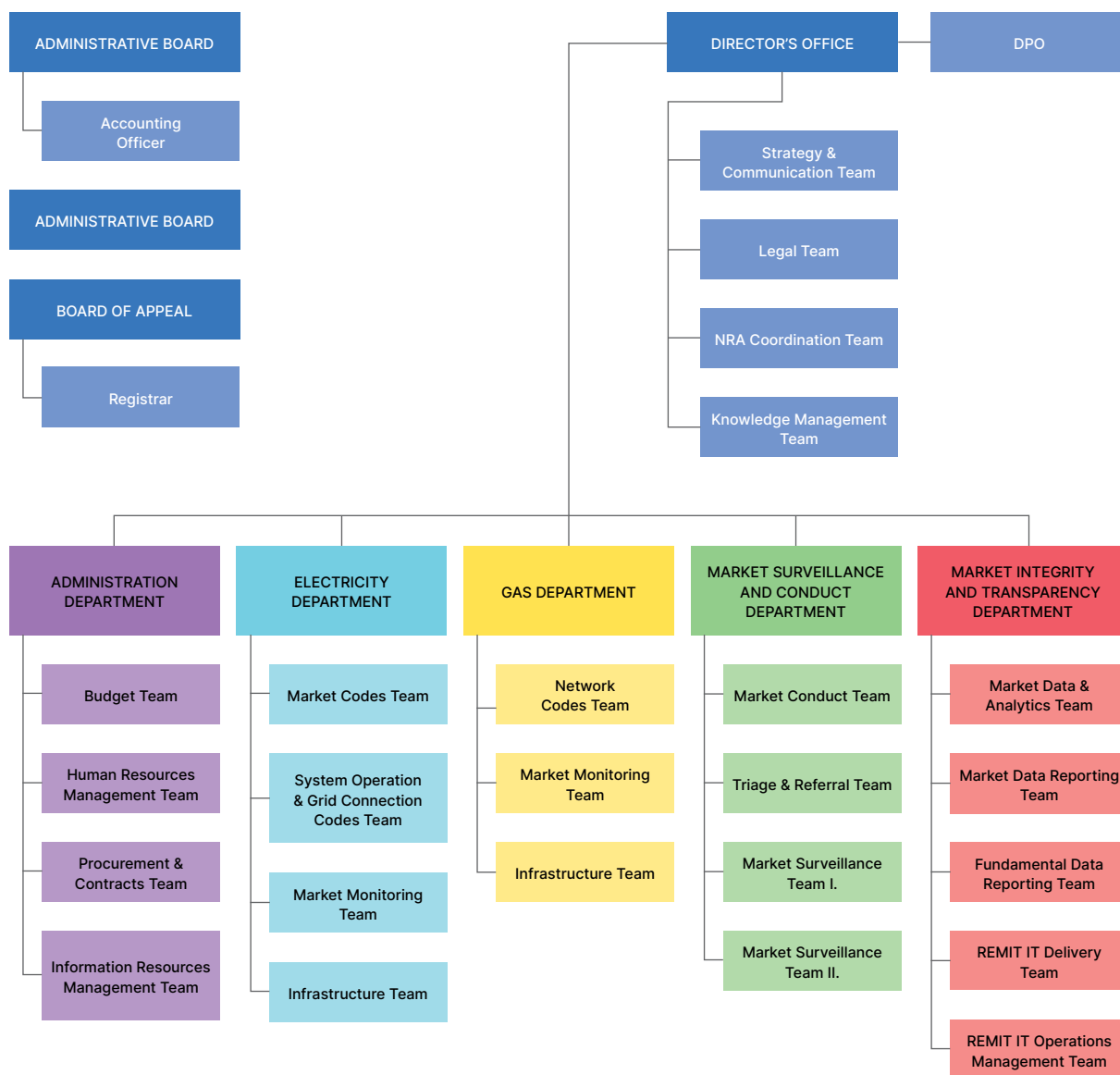
Commitment appropriations amounting to EUR 83 994.75 (0.5% of the annual budget) were cancelled mainly due to lower than expected mission orders, use of medical services, consultancy costs, participation to meetings, workshops expenditure and information material.

### **Cancellation of payment appropriations and payment appropriations carried over**

Appropriations amounting to EUR 113 984 were cancelled at the end of the 2019 financial year and will be returned to the general budget in the course of 2020. The cancelled amount was mainly due to lower than expected value of claims for reimbursement for missions and organised meetings, actual consumption level of utilities, IT consultancy services and cancelled contracts for underperformance of contractor.

# ANNEX III: ORGANISATIONAL CHART

The Agency's organisational charge at the end of 2019 was the following (as last modified in May 2019):



# ANNEX IV: ESTABLISHMENT PLAN AND ADDITIONAL INFORMATION ON HUMAN RESOURCES MANAGEMENT

## ESTABLISHMENT PLAN

Category and grade	Establishment plan in EU Budget 2019		Modific. in 2019 in application of flexibility rule		Posts filled as of 31 December 2019		Establishment plan in voted EU Budget 2020	
	officials	TA	officials	TA	officials	TA	officials	TA
AD 16								
AD 15		1				1		1
AD 14								
AD 13		1						3
AD 12		3				4		3
AD 11		5				3		5
AD 10		1				3		3
AD 9		6				4		8
AD 8		10				11		8
AD 7		7				8		8
AD 6		12				11		14
AD 5		9				10		6
<b>Total AD</b>	<b>0</b>	<b>55</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55</b>	<b>0</b>	<b>59</b>
AST 11								
AST 10								
AST 9								
AST 8								
AST 7								
AST 6		1						1
AST 5		2				2		2
AST 4		6				4		6
AST 3		3				6		3
AST 2								
AST 1								
<b>Total AST</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>12</b>

Category and grade	Establishment plan in EU Budget 2019		Modific. in 2019 in application of flexibility rule		Posts filled as of 31 December 2019		Establishment plan in voted EU Budget 2020	
	officials	TA	officials	TA	officials	TA	officials	TA
AST/SC6								
AST/SC5								
AST/SC4								
AST/SC3								
AST/SC2								
AST/SC1								
<b>Total AST/ASC</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>0</b>	<b>67</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>67</b>	<b>0</b>	<b>71</b>

Human Resources	Year 2019		
	Authorised Budget	Actually filled as of 31/12/2019	Occupancy Rate %
Administrators (AD)	55	55	100%
Assistants (AST)	12	12	100%
Assistants/Secretaries (AST/SC)	0	0	n/a
<b>ESTABLISHMENT PLAN POSTS</b>	<b>67</b>	<b>67</b>	<b>100%</b>
Contract Agents (CA)	27	26	96.30%
Seconded National Experts (SNE)	4	4	100%
<b>TOTAL STAFF</b>	<b>97</b>	<b>96</b>	<b>98.97%</b>

Function group and grade	Year 2018	
	Authorised Budget	
	Permanent posts	Temporary posts
AD 16		
AD 15		1
AD 14		
AD 13		
AD 12		4
AD 11		5
AD 10		
AD 9		5
AD 8		11
AD 7		8
AD 6		10
AD 5		11
<b>AD TOTAL</b>		<b>55</b>

Function group and grade	Year 2018	
	Authorised Budget	
	Permanent posts	Temporary posts
AST 11		
AST 10		
AST 9		
AST 8		
AST 7		
AST 6		1
AST 5		2
AST 4		4
AST 3		5
AST 2		
AST 1		
<b>AST TOTAL</b>		<b>12</b>
AST/SC 6		
AST/SC 5		
AST/SC 4		
AST/SC 3		
AST/SC 2		
AST/SC 1		
<b>AST/SC TOTAL</b>		
<b>TOTAL</b>		<b>67</b>
<b>GRAND TOTAL</b>	<b>67</b>	

## Indicative table - Information on recruitment grade/function group for each type of post

Key functions (examples – terminology should be adjusted to each agency's job titles)	Type of contract (official, TA or CA)	Function group, grade of recruitment*	Indication whether the function is dedicated to administrative support or operations [subject to definitions used in screening methodology]
Director	TA	AD14	Operational
Head of Department	TA	AD11	Operational
Team Leader	TA	AD7-AD8	Administrative/ Operational/Neutral
Administrator	TA	AD5-AD8	Administrative/ Operational/ Neutral
Assistant	TA	AST1-4	Administrative/ Operational/ Neutral
FG IV	CA	FG IV	Administrative/ Operational/Neutral Neutral
FG III	CA	FG III	Administrative/ Operational/Neutral Neutral

RESULTS OF THE 2019 JOB-SCREENING EXERCISE<sup>11</sup>

Job Type (sub) category	Year 2018	Year 2018 (%)	Year 2019	Year 2019 (%)
<b>Administrative support and coordination</b>	<b>22</b>	<b>18.49%</b>	<b>25</b>	<b>20.00%</b>
Administrative support	14	11.76%	17	13.60%
Coordination	8	6.72%	8	6.40%
<b>Operational</b>	<b>87</b>	<b>73.11%</b>	<b>91</b>	<b>72.80%</b>
Top level operational coordination	12	10.08%	11	8.80%
Programme management & implementation				
Evaluation & impact assessment				
General operation	75	63.03%	80	64.00%
<b>Neutral</b>	<b>10</b>	<b>8.40%</b>	<b>9</b>	<b>7.20%</b>
Finance/control	10	8.40%	9	7.20%
Linguistic				
<b>Total:</b>	<b>119</b>	<b>100%</b>	<b>125</b>	<b>100%</b>

11 Table as per Methodology for Agencies job screening (2014)

## **HR implementing rules adopted in 2019**

See section 2.5 on human resources management.



# ANNEX V: HUMAN AND FINANCIAL RESOURCES BY ACTIVITY

## 2019 Full Time Equivalentents and budget - Breakdown per Activity

Activities	PD 2019 REVISED	BUDGET 2019
1. Electricity Network Codes (Operational)	10.5	1,405,784
2. Electricity - new tasks under the CEP	1.5	200,826
3. Gas Network Codes (Operational)	9.3	1,245,123
3.1. Network Codes, implementation and monitoring	8.2	1,097,850
3.2. Gas Regional Initiatives	1.1	147,273
4. Electricity and Gas Internal Market Monitoring(Operational)	7.2	963,966
5. Electricity TSO Cooperation (Operational)	2.6	348,099
6. Gas TSO Cooperation (Operational)	2.2	294,545
7. Tasks to safeguard the security of gas supply (Operational)	0.3	40,165
8. Guidelines for Trans-European Energy Infrastructure (Operational)	4.5	602,479
9. Tasks which are Subject to Specific Conditions (Operational)	1.9	254,380
9.1. Tasks initiated by others	1.7	227,603
9.2. Opinions and Recommendations on the Agency's own Initiative	0.2	26,777
10. Wholesale Market Monitoring – REMIT (Operational)	31.2	7,859,872
10.1. Operation and further development	8.2	1,097,850
10.2. Market monitoring of trading activity in wholesale energy markets	7.9	1,057,685
10.3. Review of the REMIT operations and rulebook	3.6	481,983
10.4. Market conduct coordination of NRAs and other relevant authorities	4.9	656,032
10.5. Cooperation with NRAs, ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries	3.1	415,041
10.6. Annual Report on the Agency activities under REMIT	1.0	133,884
10.7. Registration of market participants and third parties acting on their behalf ('reporting parties') according to Article 8 of REMIT	2.5	334,710
11. ADMINISTRATIVE SUPPORT AND COORDINATION CATEGORIES	15.3	2,048,428
12. NEUTRAL CATEGORIES	6.0	803,305
<b>TOTAL FTEs</b>	<b>92.5</b>	<b>16,066,971</b>

## ANNEX VI: CONTRIBUTION, GRANT AND SERVICE LEVEL AGREEMENTS & FINANCIAL FRAMEWORK PARTNERSHIP AGREEMENTS

Apart from the EU subsidy, no grants or other financial contributions were received by the Agency during the financial year 2019.

The number, type and value of all procurement procedures concluded in 2019 are presented below.

### 1) Operational

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	3	2.22%	2,124.75	2,124.75
Negotiated – very low value	10	7.41%	60,476.52	60,476.52
Negotiated – low value – Direct service contract	1	0.74%	56,640.00	14,160.00
Negotiated – low value – FWC	0	0.00%	0.00	0.00
Negotiated – middle value – Direct service contract	0	0.00%	0.00	0.00
Negotiated – middle value – FWC	1	0.74%	140,000.00	Not applicable.
Negotiated – point 11(1)(b)(ii) of Annex 1 FR	0	0.00%	0.00	0.00
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex 1 FR	3	2.22%	122,548.00	122,548.00
Open – FWC (concluded in 2019)	3	2.22%	500,000.00	Not applicable.
Specific contracts, following FWC	21	15.56%	3,572,033.78	3,579,033.78
Order forms following FWC	93	68.89%	172,474.19	172,474.19
<b>TOTAL</b>	<b>135</b>		<b>4,626,297.24</b>	<b>3,950,817.24</b>

## 2) Administrative

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	26	18.18%	13,527.58	13,527.58
Negotiated – very low value	26	18.18%	139,074.00	139,074.00
Negotiated – low value – Direct service contract	0	0.00%	0.00	0.00
Negotiated – low value – FWC	1	0.70%	60,000.00	Not applicable.
Negotiated – middle value – Direct service contract	2	1.40%	78,000.00	14,000.00
Negotiated – middle value – FWC	0	0.00%	0.00	0.00
Negotiated – point 11(1)(b)(ii) of Annex 1 FR	2	1.40%	144,000.00	22,416.50
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex 1 FR	0	0.00%	0.00	0.00
Open – FWC (concluded in 2019)	0	0.00%	0.00	0.00
Specific contracts, following FWC	13	9.09%	625,050.38	622,492.12
Order forms following FWC	73	51.05%	286,249.17	286,249.17
<b>TOTAL</b>	<b>143</b>		<b>1,345,901.13</b>	<b>1,097,759.37</b>

## 3) Total (operational and administrative)

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	29	10.43%	15,652.33	15,652.33
Negotiated – very low value	36	12.95%	199,550.52	199,550.52
Negotiated – low value – Direct service contract	1	0.36%	56,640.00	14,160.00
Negotiated – low value – FWC	1	0.36%	60,000.00	Not applicable.
Negotiated – middle value – Direct service contract	2	0.72%	78,000.00	14,000.00
Negotiated – middle value – FWC	1	0.36%	140,000.00	Not applicable.
Negotiated – point 11(1)(b)(ii) of Annex 1 FR	2	0.72%	144,000.00	22,416.50
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex 1 FR	3	1.08%	122,548.00	122,548.00
Open – FWC (concluded in 2019)	3	1.08%	500,000.00	Not applicable.
Specific contracts, following FWC	34	12.23%	4,197,084.16	4,201,525.90
Order forms following FWC	166	59.71%	458,723.36	458,723.36
<b>TOTAL</b>	<b>278</b>		<b>5,972,198.37</b>	<b>5,048,576.61</b>

### Negotiated procedures

In 2019 there were two (2) negotiated procedures under point 11(1)(b)(ii) of Annex 1 FR carried out, as laid down in Article 74(10) FR:

2019 negotiated procedures under point 11(1)(b)(ii) of Annex 1 FR		
Contractor's name	Subject of contract	Contract amount in EUR
K-HAUS d.o.o	Maintenance of the Agency's burglar-proof and bullet-proof doors	34,000.00
Energomont d.o.o.	Maintenance of the Agency's Data Centre	110,000.00

## ANNEX VII: ENVIRONMENT MANAGEMENT

The Agency is aligning its internal processes to good practices, such as the Eco-Management and Audit Scheme (EMAS) standards, with a view to reduce the environmental impact of its operations. In this respect the Agency undertook or is undertaking already significant steps in managing its environmental impact:

- Improving waste management and sorting. The Agency's green-ambassadors group implemented a better waste management within the Agency ensuring that sorting of waste occurs already at the work station and raising awareness of staff on proper sorting of waste;
- Introducing paperless financial circuits in the financial administration by migrating to the document management system in use in the Commission services (ARES) and further developing IT tools reduced the use of paper across the Agency;
- Introducing e-recruitment reduced use of paper for recruitment procedures;
- The introduction of e-tendering in 2020 should further reduce the use of paper for tender procedures;
- Using the services of on-site catering for events reduced the overall energy, water and waste figures;
- Promoting the use of public transport by staff whereby staff receive subsidised public transport cards reducing the carbon footprint of staff commuting to work;
- Improving communication in order to change staff behaviour towards the use of paper;
- Providing environmental on-the-job-training to newcomers by raising awareness on the use of energy in the offices (switch on/off when not needed), use of paper for printing and sorting of waste in order to maintain staff's awareness and understanding of environmental issues at a high level and encourage the sharing of ideas for environmental improvements;
- Promoting 'greener' procurement, by introducing 'green' criteria in procurement documents to drive lower impact choices e.g. low-grammage office paper, longer lasting, refillable products, etc.
- Installing and improving equipment and services for web conferences/webinars to encourage virtual conferences to reduce travels;
- Modernisation of IT equipment by replacing multifunctional and small office printers, external displays and laptops with Blue Angel or Energy Star certified equipment reducing the average energy consumption and associated toner waste;
- Complying with all environmentally relevant legislation and regulations of our host country.

There are several variables or limitations that have an influence on why the Agency has not yet fully committed to EMAS or ISO1400. For example, the Agency does not have a direct contractual relationship with the providers for electricity, heating, water and waste management, but it is looking into the possibility to take further steps to better meet EMAS standards together with the landlord.

Further limitations are imposed by the fact that the Agency's premises, the TR3 building, is under the protection of Cultural Heritage of Slovenia. Regardless of the contractual dependencies implied by the current building contract, the premises provide added benefits to the Agency in its pursuit of reducing its environmental impact by:

- being built with high quality, sustainable building materials;
- providing a high amount of natural sunlight due to the building's unique triangular prism shape and large windows, thus reducing the energy consumption for lighting;

- being located in the city centre where modified traffic flows give priority to pedestrians, cyclists and public transport, as well as being near the most important traffic junctions and connections making it easily reachable with eco-friendly alternatives by its staff members and guests;
- having a space for private bicycle-parking which was further extended upon the Agency's initiative following increased interest, thus further promoting eco-friendly commuting to work.

Further limitations are linked to the costs of implementing EMAS in terms of human resources and technical resources needed to conduct its initial environmental review and in budgetary terms (scarce budget for consultancy expertise to support implementation and reporting).

Nevertheless the Agency looks forward to obtaining those certifications in the future.

The Agency is planning to further improve its green environment strategy and is regularly collecting ideas that support this movement from its staff. Proposals such as the elimination of rubbish bins and plastic cups are assessed and promoted among staff.

Due to its proactive approach to environmental challenges, the Agency is also participating in the Greening Network initiative of the European agencies where environmental issues are discussed and experiences shared, including how to increase environmental awareness and responsibility, as well present issues related to the implementation of EMAS.

# ANNEX VIII: FINAL FINANCIAL ACCOUNTS

## BALANCE SHEET

		EUR '000	
	Note	31.12.2019	31.12.2018
<b>NON-CURRENT ASSETS</b>			
Intangible assets	2.1	–	1 272
Property, plant and equipment	2.2	941	278
		941	1 550
<b>CURRENT ASSETS</b>			
Exchange receivables and non-exchange recoverables	2.3	3 397	3 060
Cash and cash equivalents	2.4	2	0
		3 399	3 060
<b>TOTAL ASSETS</b>		<b>4 340</b>	<b>4 610</b>
<b>CURRENT LIABILITIES</b>			
Payables and other liabilities	2.5	(198)	(201)
Accrued charges and deferred income	2.6	(986)	(1 097)
		(1 184)	(1 298)
<b>TOTAL LIABILITIES</b>		<b>(1 184)</b>	<b>(1 298)</b>
<b>NET ASSETS</b>		<b>3 156</b>	<b>3 312</b>
Accumulated surplus		3 312	5 774
Economic result of the year		(155)	(2 462)
<b>NET ASSETS</b>		<b>3 156</b>	<b>3 312</b>

**STATEMENT OF FINANCIAL PERFORMANCE**

EUR '000

	Note	2019	2018
<b>REVENUE</b>			
<b>Revenue from non-exchange transactions</b>			
Funds from the Commission	3.1	15 949	13 370
		15 949	13 370
<b>Revenue from exchange transactions</b>			
Other	3.2	30	100
		30	100
Total revenue		15 979	13 470
<b>EXPENSES</b>			
Operating costs	3.3	(2 555)	(3 111)
Staff costs	3.4	(8 331)	(7 500)
Finance costs		(0)	11
Other expenses	3.5	(5 248)	(5 333)
Total expenses		(16 134)	(15 932)
<b>ECONOMIC RESULT OF THE YEAR</b>		<b>(155)</b>	<b>(2 462)</b>



**CASHFLOW STATEMENT<sup>12</sup>**

EUR '000

	2019	2018
Economic result of the year	(155)	(2 462)
<b>Operating activities</b>		
Depreciation and amortization	1 455	1 413
(Increase)/decrease in pre-financing	–	160
(Increase)/decrease in exchange receivables and non-exchange recoverables	(337)	495
Increase/(decrease) in payables	(3)	(105)
Increase/(decrease) in accrued charges & deferred income	(111)	526
<b>Investing activities</b>		
(Increase)/decrease in intangible assets and property, plant and equipment	(846)	(28)
<b>NET CASHFLOW</b>	<b>2</b>	<b>(2)</b>
Net increase/(decrease) in cash and cash equivalents	2	(2)
Cash and cash equivalents at the beginning of the year	0	2
Cash and cash equivalents at year-end	2	0

**STATEMENT OF CHANGES IN NET ASSETS**

EUR '000

	Contribution from Members	Accumulated Surplus/ (Deficit)	Economic result of the year	Net Assets
<b>BALANCE AS AT 31.12.2017</b>	–	<b>10 568</b>	<b>(4 795)</b>	<b>5 774</b>
Allocation 2017 economic result	–	(4 795)	4 795	–
Economic result of the year	–	–	(2 462)	(2 462)
<b>BALANCE AS AT 31.12.2018</b>	–	<b>5 774</b>	<b>(2 462)</b>	<b>3 312</b>
Allocation 2018 economic result	–	(2 462)	2 462	–
Economic result of the year	–	–	(155)	(155)
<b>BALANCE AS AT 31.12.2019</b>	–	<b>3 312</b>	<b>(155)</b>	<b>3 156</b>

<sup>12</sup> Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the treasury of ACER was integrated into the Commission's treasury system. Because of this, ACER does not have any bank accounts of its own except for an imprest account. All payments and receipts are processed via the Commission's treasury system and registered on intercompany accounts which are presented under the heading exchange receivables.

# NOTES TO THE FINANCIAL STATEMENTS

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# 1. SIGNIFICANT ACCOUNTING POLICIES

## 1.1. ACCOUNTING PRINCIPLES

The objective of financial statements is to provide information about the financial position, performance and cashflows of an entity that is useful to a wide range of users.

The overall considerations (or accounting principles) to be followed when preparing the financial statements are laid down in EU Accounting Rule 1 'Financial Statements' and are the same as those described in IPSAS 1: fair presentation, accrual basis, going concern, consistency of presentation, materiality, aggregation, offsetting and comparative information. The qualitative characteristics of financial reporting are relevance, faithful representation (reliability), understandability, timeliness, comparability and verifiability.

## 1.2. BASIS OF PREPARATION

### 1.2.1. Reporting period

Financial statements are presented annually. The accounting year begins on 1 January and ends on 31 December.

### 1.2.2. Currency and basis for conversion

The annual accounts are presented in thousands of euros, the euro being the EU's functional currency. Foreign currency transactions are translated into euros using the exchange rates prevailing at the dates of the transactions. Foreign exchange gains and losses resulting from the settlement of foreign currency transactions and from the re-translation at year-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in the statement of financial performance. Different conversion methods apply to property, plant and equipment and intangible assets, which retain their value in euros at the date when they were purchased.

Year-end balances of monetary assets and liabilities denominated in foreign currencies are translated into euros on the basis of the European Central Bank (ECB) exchange rates applying on 31 December.

## Euro exchange rates

Currency	31.12.2019	31.12.2018	Currency	31.12.2019	31.12.2018
BGN	1.9558	1.9558	PLN	4.2568	4.3014
CZK	25.4080	25.7240	RON	4.783	4.6635
DKK	7.4715	7.4673	SEK	10.4468	10.2548
GBP	0.8508	0.8945	CHF	1.0854	1.1269
HRK	7.4395	7.4125	JPY	121.9400	125.8500
HUF	330.5300	320.9800	USD	1.1234	1.145

### 1.2.3. Use of estimates

In accordance with IPSAS and generally accepted accounting principles, the financial statements necessarily include amounts based on estimates and assumptions by management based on the most reliable information available. Significant estimates include, but are not limited to: amounts for employee benefit liabilities, accrued and deferred revenue and charges, provisions, financial risk on accounts receivable, contingent assets and liabilities, and degree of impairment of assets. Actual results could differ from those estimates.

Reasonable estimates are an essential part of the preparation of financial statements and do not undermine their reliability. An estimate may need revision if changes occur in the circumstances on which the estimate was based or as a result of new information or more experience. By its nature, the revision of an estimate does not relate to prior periods and is not the correction of an error. The effect of a change in accounting estimate shall be recognised in the surplus or deficit in the periods in which it becomes known.

## 1.3. BALANCE SHEET

### 1.3.1. Intangible assets

An intangible asset is an identifiable non-monetary asset without physical substance. An asset is identifiable if it is either separable (i.e. it is capable of being separated or divided from the entity, e.g. by being sold, transferred, licensed, rented, or exchanged, either individually or together with a related contract, identifiable asset or liability, regardless of whether the entity intends to do so), or arises from binding arrangements (including rights from contracts or other legal rights), regardless of whether those rights are transferable or separable from the entity or from other rights and obligations).

Acquired intangible assets are stated at historical cost less accumulated amortisation and impairment losses. Internally developed intangible assets are capitalised when the relevant criteria of the EU accounting rules are met and the expenses relate solely to the development phase of the asset. The capitalisable costs include all directly attributable costs necessary to create, produce, and prepare the asset to be capable of operating in the manner intended by management. Costs associated with research activities, non-capitalisable development costs and maintenance costs are recognised as expenses when incurred.

Intangible assets are amortised on a straight-line basis over their estimated useful lives. The estimated useful lives of intangible assets depend on their specific economic lifetime or legal lifetime determined by an agreement.

Intangible assets residual values and useful lives are reviewed, and adjusted if appropriate, at least once per year.

### 1.3.2. Property, plant and equipment

All property, plant and equipment are stated at historical cost less accumulated depreciation and impairment losses. Historical cost includes expenditure that is directly attributable to the acquisition or construction of the asset. Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits or service potential associated with the item will flow to the entity and its cost can be measured reliably. Repairs and maintenance costs are charged to the statement of financial performance during the financial period in which they are incurred. Land is not depreciated as it is deemed to have an indefinite useful life. Assets under construction are not depreciated as these assets are not yet available for use. Depreciation on other assets is calculated using the straight-line method to allocate their cost less their residual values over their estimated useful lives, as follows:

Type of asset	Straight line depreciation rate
Buildings	4 % to 10 %
Space assets	8 % to 25 %
Plant and equipment	10 % to 25 %
Furniture and vehicles	0 % to 25 %
Computer hardware	25 % to 33 %
Other	10 % to 33 %

Property, plant and equipment residual values and useful lives are reviewed, and adjusted if appropriate, at least once per year.

Gains or losses on disposals are determined by comparing proceeds less selling expenses with the carrying amount of the disposed asset and are included in the statement of financial performance.

#### Leases

A lease is an agreement whereby the lessor conveys to the lessee in return for a payment or series of payments the right to use an asset for an agreed period of time. Leases are classified as either finance leases or operating leases.

Finance leases are leases where substantially all the risks and rewards incidental to ownership are transferred to the lessee. When entering a finance lease as a lessee, the assets acquired under the finance lease are recognised as assets and the associated lease obligations as liabilities as from the commencement of the lease term. The assets and liabilities are recognised at amounts equal to the fair value of the leased property or, if lower, the present value of the minimum lease payments, each determined at the inception of the lease. Over the period of the lease term, the assets held under finance leases are depreciated over the shorter of the asset's useful life and the lease term. The minimum lease payments are apportioned between the finance charge (the interest element) and the reduction of the outstanding liability (the capital element). The finance charge is allocated to each period during the lease term so as to produce a constant periodic rate of interest on the

remaining balance of the liability, which is presented as current/non-current, as applicable. Contingent rents shall be charged as expenses in the period in which they are incurred.

An operating lease is a lease other than a finance lease, i.e. a lease where the lessor retains substantially all the risks and rewards incidental to ownership of an asset. When entering an operating lease as a lessee, the operating lease payments are recognised as an expense in the statement of financial performance on a straight-line basis over the lease term with neither a leased asset nor a leasing liability presented in the statement of financial position.

### **1.3.3. Impairment of non-financial assets**

Assets that have an indefinite useful life are not subject to amortisation/depreciation and are tested annually for impairment. Assets that are subject to amortisation/depreciation are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable (service) amount. The recoverable (service) amount is the higher of an asset's fair value less costs to sell and its value in use. If the reasons for impairments recognised in previous years no longer apply, the impairment losses are reversed accordingly.

### **1.3.4. Financial assets**

Financial assets are classified in the following categories: 'financial assets at fair value through surplus or deficit', 'loans and receivables', 'held-to-maturity investments' and 'available for sale financial assets'. The classification of the financial instruments is determined at initial recognition and re-evaluated at each balance sheet date.

#### **(i) Financial assets at fair value through surplus or deficit**

A financial asset is classified in this category if acquired principally for the purpose of selling in the short term or if so designated by the entity. Derivatives are also presented in this category. Assets in this category are classified as current assets if they are expected to be realised within 12 months of the balance sheet date. During this financial year, the entity did not hold any investments in this category.

#### **(ii) Loans and receivables**

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They arise when the entity provides money, goods or services directly to a debtor with no intention of trading the receivable. They are included in non-current assets, except for maturities within 12 months of the balance sheet date. Loans and receivables include term deposits with the original maturity above three months.

#### **(iii) Held-to-maturity investments**

Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the entity has the positive intention and ability to hold to maturity. During this financial year, the entity did not hold any investments in this category.

#### **(iv) Available for sale financial assets**

Available for sale financial assets are non-derivatives that are either designated in this category or not classified in any of the other categories. They are classified as either current or non-current assets, depending on the period of time the entity expects to hold them, which is usually the maturity date. During this financial year, the entity did not hold any investments in this category.

### **Initial recognition and measurement**

Purchases and sales of financial assets at fair value through surplus or deficit, held-to-maturity and available for sale are recognised on their trade date, i.e. the date on which the entity commits to purchase or sell the asset. Cash equivalents and loans are recognised when cash is deposited in a financial institution or advanced to borrowers. Financial instruments are initially recognised at fair value. For all financial assets not carried at fair value through surplus or deficit, transaction costs are added to the fair value at initial recognition.

Financial instruments are derecognised when the rights to receive cashflows from the investments have expired or the entity has transferred substantially all risks and rewards of ownership to another party.

### **Subsequent measurement**

Financial assets at fair value through surplus or deficit are subsequently carried at fair value, with gains and losses arising from changes in the fair value being included in the statement of financial performance in the period in which they arise.

Loans and receivables and held-to maturity investments are carried at amortised cost using the effective interest method.

Available for sale financial assets are subsequently carried at fair value. Gains and losses arising from changes in the fair value are recognised in the fair value reserve. Interest on available for sale financial assets, calculated using the effective interest method, is recognised in the statement of financial performance.

The entity assesses at each balance sheet date whether there is objective evidence that a financial asset is impaired and whether an impairment loss should be recorded in the statement of financial performance.

### **1.3.5. Pre-financing amounts**

Pre-financing is a payment intended to provide the beneficiary with a cash advance, i.e. a float. It may be split into a number of payments over a period defined in the particular contract, decision, agreement or basic legal act. The float or advance is either used for the purpose for which it was provided during the period defined in the agreement or it is repaid. If the beneficiary does not incur eligible expenditure, he has the obligation to return the pre-financing advance to the entity. Thus, as the entity retains control over the pre-financing and is entitled to a refund for the ineligible part, the amount is presented as an asset.

Pre-financing is initially recognised on the balance sheet when cash is transferred to the recipient. It is measured at the amount of the consideration given. In subsequent periods pre-financing is measured at the amount initially recognised on the balance sheet less eligible expenses (including estimated amounts where necessary) incurred during the period.

### **1.3.6. Receivables and recoverables**

The EU accounting rules require a separate presentation of exchange and non-exchange transactions. To distinguish between the two categories, the term 'receivable' is reserved for exchange transactions, whereas for non-exchange transactions, i.e. when the EU receives value from another entity without directly giving approximately equal value in exchange, the term 'recoverables' is used (e.g. recoverables from Member States related to own resources).

Receivables from exchange transactions meet the definition of financial instruments and are thus classified as loans and receivables and measured accordingly (see 0 above).

Recoverables from non-exchange transactions are carried at original amount (adjusted for interests and penalties) less write-down for impairment. A write-down for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due according to the original terms of the recoverables. The amount of the write-down is the difference between the asset's carrying amount and the recoverable amount. The amount of the write-down is recognised in the statement of financial performance.

### **1.3.7. Cash and cash equivalents**

Cash and cash equivalents are financial instruments and include cash at hand, deposits held at call or at short notice with banks, and other short-term highly liquid investments with original maturities of three months or less.

### **1.3.8. Provisions**

Provisions are recognised when the entity has a present legal or constructive obligation towards third parties as a result of past events, it is more likely than not that an outflow of resources will be required to settle the obligation, and the amount can be reliably estimated. Provisions are not recognised for future operating losses. The amount of the provision is the best estimate of the expenditure expected to be required to settle the present obligation at the reporting date. Where the provision involves a large number of items, the obligation is estimated by weighting all possible outcomes by their associated probabilities ('expected value' method).

Provisions for onerous contracts are measured at the present value of the lower of the expected cost of terminating the contract and the expected net cost of continuing with the contract.

### **1.3.9. Payables**

Included under accounts payable are both amounts related to exchange transactions such as the purchase of goods and services and to non-exchange transactions e.g. to cost claims from beneficiaries, grants or other EU funding.

Where grants or other funding are provided to the beneficiaries, the cost claims are recorded as payables for the requested amount when the cost claim is received. Upon verification and acceptance of the eligible costs, the payables are valued at the accepted and eligible amount.

Payables arising from the purchase of goods and services are recognised at invoice reception for the original amount and corresponding expenses are entered in the accounts when the supplies or services are delivered and accepted by the entity.

### **1.3.10. Accrued and deferred revenue and charges**

Transactions and events are recognised in the financial statements in the period to which they relate. At year-end, if an invoice is not yet issued but the service has been rendered, the supplies have been delivered by the entity or a contractual agreement exists (e.g. by reference to a contract), an accrued revenue will be recognised in the financial statements. In addition, at year-end, if an invoice is issued but the services have not yet been rendered or the goods supplied have not yet been delivered, the revenue will be deferred and recognised in the subsequent accounting period.



Expenses are also accounted for in the period to which they relate. At the end of the accounting period, accrued expenses are recognised based on an estimated amount of the transfer obligation of the period. The calculation of accrued expenses is done in accordance with detailed operational and practical guidelines issued by the Accounting Officer which aim at ensuring that the financial statements provide a faithful representation of the economic and other phenomena they purport to represent. By analogy, if a payment has been made in advance for services or goods that have not yet been received, the expense will be deferred and recognised in the subsequent accounting period.

## 1.4. STATEMENT OF FINANCIAL PERFORMANCE

### 1.4.1. Revenue

Revenue comprises gross inflows of economic benefits or service potential received and receivable by the entity, which represents an increase in net assets, other than increases relating to contributions from owners.

Depending on the nature of the underlying transactions in the statement of financial performance it is distinguished between:

#### *(i) Revenue from non-exchange transactions*

Revenue from non-exchange transactions are taxes and transfers because the transferor provides resources to the recipient entity without the recipient entity providing approximately equal value directly in exchange.

Transfers are inflows of future economic benefits or service potential from non-exchange transactions, other than taxes. The entity shall recognise an asset in respect of transfers when the entity controls the resources as a result of a past event (the transfer) and expects to receive future economic benefits or service potential from those resources, and when the fair value can be reliably measured. An inflow of resources from a non-exchange transaction recognised as an asset (i.e. cash) is also recognised as revenue, except to the extent that the entity has a present obligation in respect of that transfer (condition), which needs to be satisfied before the revenue can be recognised. Until the condition is met the revenue is deferred and recognised as a liability (pre-financing received).

#### *(ii) Revenue from exchange transactions*

Revenue from the sale of goods and services is recognised when the significant risk and rewards of ownership of the goods are transferred to the purchaser. Revenue associated with a transaction involving the provision of services is recognised by reference to the stage of completion of the transaction at the reporting date.

### 1.4.2. Expenses

Expenses are decreases in economic benefits or service potential during the reporting period in the form of outflows or consumption of assets or incurrence of liabilities that result in decreases in net assets/equity. They include both the expenses from exchange transactions and expenses from non exchange transactions.

Expenses from exchange transactions arising from the purchase of goods and services are recognised when the supplies are delivered and accepted by the entity. They are valued at the original invoice amount. Furthermore, at the balance sheet date expenses related to the service delivered during the period for which an invoice has not yet been received or accepted are recognised in the statement of financial performance.

Expenses from non exchange transactions relate to transfers to beneficiaries and can be of three types: entitlements, transfers under agreement and discretionary grants, contributions and donations. Transfers are recognised as expenses in the period during which the events giving rise to the transfer occurred, as long as the nature of the transfer is allowed by regulation or an agreement has been signed authorising the transfer; any eligibility criteria have been met by the beneficiary; and a reasonable estimate of the amount can be made.

When a request for payment or cost claim is received and meets the recognition criteria, it is recognised as an expense for the eligible amount. At year-end, incurred eligible expenses due to the beneficiaries but not yet reported are estimated and recorded as accrued expense.

## **1.5. CONTINGENT ASSETS AND LIABILITIES**

### **1.5.1. Contingent assets**

A contingent asset is a possible asset that arises from past events and of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity. A contingent asset is disclosed when an inflow of economic benefits or service potential is probable.

### **1.5.2. Contingent liabilities**

A contingent liability is a possible obligation that arises from past events and of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation that arises from past events but is not recognised because it is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation or, in the rare circumstances where the amount of the obligation cannot be measured with sufficient reliability. A contingent liability is disclosed unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

## **1.6. CONSOLIDATION**

The accounts of this entity are fully consolidated in the EU consolidated annual accounts.

## 2. NOTES TO THE BALANCE SHEET

### ASSETS

#### 2.1. INTANGIBLE ASSETS

	'000 EUR
	<b>TOTAL</b>
Gross carrying amount at 31.12.2018	5 127
<b>Gross carrying amount at 31.12.2019</b>	<b>5 127</b>
Accumulated amortisation at 31.12.2018	(3 856)
Amortisation charge for the year	(1 272)
<b>Accumulated amortisation at 31.12.2019</b>	<b>(5 127)</b>
<b>NET CARRYING AMOUNT AT 31.12.2019</b>	<b>-</b>
NET CARRYING AMOUNT AT 31.12.2018	1 272

The above amounts relate to the REMIT Portal, an IT platform built to assist the agency with the monitoring of the wholesale energy markets, and other computer software that is amortized at 25% amortisation rate per year.

#### 2.2. PROPERTY, PLANT AND EQUIPMENT

	EUR '000				
	Plant and equipment	Furniture and vehicles	Computer hardware	Other	<b>TOTAL</b>
Gross carrying amount at 31.12.2018	2	126	1 335	261	1 724
Additions	-	26	818	3	846
Disposals	-	-	(39)	-	(39)
<b>Gross carrying amount at 31.12.2019</b>	<b>2</b>	<b>152</b>	<b>2 114</b>	<b>264</b>	<b>2 531</b>
Accumulated depreciation at 31.12.2018	(2)	(69)	(1 118)	(257)	(1 446)
Depreciation charge for the year	-	(16)	(164)	(3)	(183)
Disposals	-	-	39	-	39
<b>Accumulated depreciation at 31.12.2019</b>	<b>(2)</b>	<b>(85)</b>	<b>(1 244)</b>	<b>(260)</b>	<b>(1 590)</b>
<b>NET CARRYING AMOUNT AT 31.12.2019</b>	<b>-</b>	<b>67</b>	<b>870</b>	<b>4</b>	<b>941</b>
NET CARRYING AMOUNT AT 31.12.2018	-	57	217	4	278

During 2019 the Agency started preparing the infrastructure for its disaster recovery site by buying the necessary IT equipment (computer hardware for an amount of kEUR 818). The installation and start of operation will extend into 2020.

## 2.3. EXCHANGE RECEIVABLES & NON-EXCHANGE RECOVERABLES

At 31 December 2019 ACER did not have any non-current receivables and recoverables. The amounts included under this heading are of a current nature and can be broken down as follows:

	EUR '000	
	31.12.2019	31.12.2018
<b>Recoverables from non-exchange transactions</b>		
Member States	34	68
	34	68
<b>Receivables from exchange transactions</b>		
Customers	–	3
Central treasury liaison accounts	3 117	2 778
Deferred charges relating to exchange transactions	233	197
Other	14	13
	3 364	2 992
<b>Total</b>	<b>3 397</b>	<b>3 060</b>

The heading recoverables from Member States contain VAT amounts to be recovered from the Republic of Slovenia. The Agency benefits from a direct exemption for VAT from the Republic of Slovenia for purchases above the threshold amount of EUR 60. For purchases where the direct exemption is impracticable to obtain, the VAT is refunded by the Republic of Slovenia on a quarterly basis.

Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the treasury of ACER was integrated into the Commission's treasury system. Except for imprest accounts (see note 0 below), ACER does not have any bank accounts of its own since 1 October 2017. All payments and receipts are processed via the Commission's treasury system and registered on inter company accounts, which are presented under the heading Central treasury liaison accounts.

The deferred charges consist of pre-payments made during the year for services that will be delivered in 2020. They mainly relate to subscriptions, insurance premiums and school fees.

## 2.4. CASH AND CASH EQUIVALENTS

	EUR '000	
	31.12.2019	31.12.2018
Imprest accounts	2	0

Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the treasury of ACER was integrated into the Commission's treasury system. The majority of payments and receipts are processed via the Commission's treasury system and registered on liaison accounts, which are presented under heading receivables from exchange transactions (see note 2.3 above).

The amounts remaining under this heading relate to imprest account that are managed by ACER and reserved for small local payments where it would be impractical to process them through the central treasury system.

## LIABILITIES

### 2.5. PAYABLES

	EUR '000	
	31.12.2019	31.12.2018
Commission subsidy	198	192
Sundry payables	–	9
Total	198	201

The heading Commission subsidy comprises the unused pre-financing amounts received from the Commission in 2019, known as the balancing subsidy. The outstanding amount will be returned to the Commission upon request in the course of 2020.

The decrease of the sundry payables relates mainly to settlement of amounts due to staff which was done in 2019.

### 2.6. ACCRUED CHARGES

	EUR '000	
	31.12.2019	31.12.2018
Accrued charges	986	1 097

Accrued charges are the amounts estimated by the authorising officer of costs incurred for services and goods delivered in year 2019 but not yet invoiced or processed by the end of the year. The basis of the accruals calculation is the open amount of budgetary commitments at year end. The amount includes estimated operating expenses of kEUR 396, staff expenses of kEUR 331 and administrative expenses of kEUR 258.

The accrued staff expenses include accrued charges for untaken leave of kEUR 171.

The accrued administrative expenses are mainly composed of non-IT services (kEUR 137), office supplies and maintenance (kEUR 94), communications and publications (kEUR 16) and maintenance and security of buildings (kEUR 11).

# 3. NOTES TO THE STATEMENT OF FINANCIAL PERFORMANCE

## REVENUE

### NON-EXCHANGE REVENUE

#### 3.1. FUNDS FROM THE COMMISSION

EUR '000

	2019	2018
Funds from the Commission	15 949	13 370

In 2019 ACER received the Commission subsidy of kEUR 16 147 in two financial transfers (kEUR 8 094 in February and kEUR 8 053 in July).

The amounts included under this heading correspond to the amounts of the Commission subsidy used during 2019. Unused amounts are recorded under accounts payable (see note 2.5) and will be reimbursed to the Commission in 2020. The corresponding accrued expenses will be recorded in the financial statements of the Commission.

## EXCHANGE REVENUE

#### 3.2. OTHER EXCHANGE REVENUE

EUR '000

	2019	2018
Property, plant and equipment related revenue	–	100
Other	30	–
Total	30	100

Included under the heading there is a recovery order with E-Control Austria for the implementation of CEREMP IT solution as national register for market participants to E-Control.

In 2018 the amounts under Property, plant and equipment related revenue stemmed from corrections of fixed assets purchased in 2017. No such corrections were needed in 2019.

## EXPENSES

### 3.3. OPERATING COSTS

EUR '000

	2019	2018
Operating costs	2 555	3 111

Included under this heading are operating expenses incurred in relation to operational missions, workshops, public hearings, REMIT project related costs and other operational expenditure incurred for the functioning of the Agency.

The reduction in operation costs by kEUR 556 as compared to 2018 is due to the fact that less budget has been approved in 2019 for the REMIT project than in 2018.

### 3.4. STAFF COSTS

EUR '000

	2019	2018
Staff costs	8 331	7 500

Included under this heading are salary expenses and other employment-related allowances and benefits. Calculations related to staff costs are, based on the service level agreement, entrusted to the European Commission's Office for administration and payment of individual entitlements (also known as the Paymaster's Office-PMO).

The pensions of ACER staff members are covered by the Pensions Scheme of European Officials. This pension scheme is a defined benefit plan, i.e. the amount of benefit, an employee will receive on retirement, depends on factors such as age and years of service. Both ACER staff and the Commission contribute to the pension scheme and the contribution percentage is revised yearly to reflect the changes in the Staff Regulation. The cost to the Commission is not reflected in the ACER's accounts. Similarly, the future benefits, payable to the ACER staff, are accounted for in the liabilities of the Commission, as it is the Commission who will pay out these benefits. No provisions related to the future pensions are made in these accounts.

### 3.5. OTHER EXPENSES

EUR '000

	2019	2018
Property, plant and equipment related expenses	1 558	1 588
External non IT services	1 463	1 643
Operating leasing expenses	976	850
Office Supplies & maintenance	428	496
Administrative expenses with EU entities	374	328
Training costs	157	124
Missions	97	103
Recruitment costs	38	60
Communications & publications	68	58
Experts and related expenditure	22	24
Other	67	57
<b>Total</b>	<b>5 248</b>	<b>5 333</b>

Property, plant and equipment-related expenses are the maintenance and related service costs of the headquarters' premises in Ljubljana.

The heading operating leasing expenses includes the rental contract of the ACER offices. The future payments for this contract are as follows:

EUR '000

	Future amounts to be paid			Total
	< 1 year	1- 5 years	> 5 years	
Buildings	964	3 095		4 059



## 4. OTHER SIGNIFICANT DISCLOSURES

### 4.1. OUTSTANDING COMMITMENTS NOT YET EXPENSED

EUR '000

	31.12.2019	31.12.2018
Outstanding commitments not yet expensed	2 118	1 710

The outstanding commitments not yet expensed comprises the budgetary RAL ('Reste à Liquid-er') less related amounts that have been included as expenses in the 2019 statement of financial performance. The budgetary RAL is an amount representing the open commitments for which pay-ments and/or de commitments have not yet been made. This is the normal consequence of the existence of multi annual programmes.

### 4.2. SERVICES IN KIND

During 2019 ACER received from the Council of the European Energy Regulators offices space and logistical and secretarial support for the agency's liaison office in Brussels free of charge. The offered office space and share of common areas totalling to 32 m2 cost approximately EUR 5 150 per year.

### 4.3. RELATED PARTIES

The related parties of ACER are the other EU consolidated entities and ACER key management personnel. Transactions between these parties take place as part of the normal ACER operations and as this is the case, no specific disclosure requirements are necessary for these transactions in accordance with the EU accounting rules.

### 4.4. KEY MANAGEMENT ENTITLEMENTS

The highest ranked civil servant of ACER is the Director, who executes the role of the Authorising Officer.

	31.12.2019	31.12.2018
Director	AD 15	AD 15

The Director is remunerated in accordance with the Staff Regulation of the European Union that is published on the Europa website. The Staff Regulation is an official document describing the re-muneration and other conditions of employment of all EU staff. The Director has not received any loans from ACER.

## 4.5. OTHER EVENTS

At the end of the financial year 2019 the Agency had six legal cases (T-735/18 – Aquind v ACER; T-283/19 – Germany v ACER; T-631/19 BNetzA v ACER; T-684/19 - Magyar Energetikai és Közmű-szabályozási Hivatal v ACER; T-704/19 FGSZ v ACER) ongoing before the General Court requesting annulment of decisions taken by the Agency and one case (T-513/19 Lux v Commission) where an application of intervention by ACER is requested. All cases are still ongoing. At this stage, any claim for damages against ACER is assessed as unlikely.

## 4.6. EVENTS AFTER REPORTING DATE

During the first half of 2020, the coronavirus outbreak has had huge impacts on the EU economy. As a non-adjusting event, the outbreak of the coronavirus does not require any adjustments to the figures reported in these annual accounts. For subsequent reporting periods, COVID-19 may affect the recognition and measurement of some assets and liabilities on the balance sheet and also of some revenue and expenses recognised in the statement of financial performance. Based on the information available at the date of signature of these annual accounts, the financial effects of the coronavirus outbreak cannot be reliably estimated.

# 5. FINANCIAL RISK MANAGEMENT

## 5.1. TYPES OF RISK

**Market risk** is the risk that the fair value or future cashflows of a financial instrument will fluctuate, because of variations in market prices. Market risk embodies not only the potential for loss, but also the potential for gain. It comprises currency risk, interest rate risk and other price risk (the ACER has no significant other price risk).

1. *Currency risk* is the risk that the ACER operations or its investments' value will be affected by changes in exchange rates. This risk arises from the change in price of one currency against another.
2. *Interest rate risk* is the possibility of a reduction in the value of a security, especially a bond, resulting from an increase in interest rates. In general, higher interest rates will lead to lower prices of fixed rate bonds, and vice versa. ACER does not have any securities thus it is not exposed to the interest rate risk.

**Credit risk** is the risk of loss due to a debtor's/borrower's non-payment of a loan or other line of credit (either the principal or interest or both) or other failure to meet a contractual obligation. The default events include a delay in repayments, restructuring of borrower repayments and bankruptcy.

**Liquidity risk** is the risk that arises from the difficulty in selling an asset; for example, the risk that a given security or asset cannot be traded quickly enough in the market to prevent a loss or meet an obligation.

## 5.2. CURRENCY RISKS

### Exposure to currency risk at year-end

At 31 December 2019 the financial assets are composed of current bank account (imprest account), exchange receivables and non-exchange recoverables. The financial liabilities comprise current payables and accrued charges. The ending balances of both financial liabilities and financial assets are mainly quoted in EUR. The impact of other currencies is individually immaterial. At the year end ACER thus does not have any significant exposure to currency risks.

## 5.3. CREDIT RISK

### Financial assets that are neither past due nor impaired

At 31 December 2019 financial assets are neither past due nor impaired comprise of current bank account and current exchange receivables and non-exchange recoverables.

**Financial assets by risk category**

The financial assets comprise exchange receivables with debtors without external credit rating that have never defaulted in the past (kEUR 3 364), non-exchange VAT receivable (kEUR 34) from the Republic of Slovenia (lower medium investment grade) and imprest account in UniCredit bank AG of kEUR 2 (prime and high investment grade).

**5.4. LIQUIDITY RISK****Maturity analysis of financial liabilities by remaining contractual maturity**

The financial liabilities are composed of accounts payable with contractual maturity of less than 1 year and accrued charges that are also classified under current liabilities.



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