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**Annual Activity Report (AAR) of  
The Agency for the Cooperation of Energy Regulators  
(ACER)**

**2016**

**Pursuant to FR No 966/2012, FFR No 1271/2013<sup>1</sup>**

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<sup>1</sup>Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council.

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## Administrative board's analysis and assessment

The administrative board examined the 2016 annual activity report and considering that:

- policies and the operational achievements were strategically aligned;
- the report correctly identifies the challenges faced by the Agency in the completion of the internal energy market (IEM), including delivering the benefits to European Union (EU) energy consumers;
- the Agency largely met its main objectives despite continued struggles with resource constraints even after 15 new staff members were allocated to the Agency in 2016;
- completion of the IEM remained at the heart of the Agency's objectives as evidenced by the adoption of the remaining codes and the ongoing monitoring of those already adopted, the ongoing critical role played by the Agency in identifying the remaining barriers to competition at the wholesale and retail level and its active monitoring of trading in EU wholesale energy markets;
- the Agency's key achievements in 2016 were:
  - a.) the completion, in July, of the implementation of the regulation on wholesale energy market integrity and transparency (REMIT), meeting the deadline for the back-loading of the pre-existing contract; and
  - b.) in September, following the inability of NRAs to agree on the all-TSO proposal, the adoption of a decision on capacity calculation regions for the electricity wholesale market, setting the groundwork for further implementation of a number of guidelines, most notably on capacity calculation and congestion management and on forward capacity allocation.
  - c) in October, the issue of an important recommendation with three high-level principles that transmission system operators (TSOs) and national regulatory authorities (NRAs) should follow when developing and implementing methodologies to calculate cross-zonal capacities and to share the costs of remedial action in the internal electricity market.
- the Agency made efficient use of resources in line with the activities developed in the 2016 work programme;
- key performance indicator targets were largely met, with the exception of a few communication indicators, and payment appropriations were implemented;
- the director has provided a clear declaration of assurance;
- the risks threatening the achievement of key objectives were identified and mitigating measures taken, especially with respect to the resources necessary for the implementation of REMIT;
- the administrative board duly noted the exceptions inscribed in the register and included them in this report;
- the administrative board also duly noted the bona fide error made in exceeding authorised staff grades and the director's decision to exceptionally extend the annual reclassification decision for which no authorisation was forthcoming in the establishment plan;

- the administrative board called on the director to reinforce HR management within the Agency.

It concluded that:

The Agency successfully implemented the 2016 work programme and that the 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:

Dr Romana Jordan, Chair

## Introduction to the Agency- foreword by the director

I am pleased to present the 2016 annual activity report of the Agency for the Cooperation of Energy Regulators. It describes the activities performed by the Agency last year, how it undertook them and the extent to which it met the objectives set out in its annual work programme.

A number of developments are particularly noteworthy. In July, the implementation of the regulation on wholesale energy market integrity and transparency (REMIT) was completed, meeting the deadline for the back-loading of pre-existing contracts. Since then, the Agency has had a complete vision of trading in wholesale energy products across the Union. This information allows the Agency to monitor wholesale energy markets and to detect and deter market abusive behaviour.

In October, the Agency issued an important recommendation with three high-level principles that transmission system operators (TSOs) and national regulatory authorities (NRAs) should follow when developing and implementing methodologies to calculate cross-zonal capacities and to share the costs of remedial actions in the internal electricity market. If properly implemented under the capacity allocation and congestion management guideline, these high-level principles could significantly raise not only the level of transparency in the calculation of cross-zonal capacities, but also possibly the level of cross-zonal capacities made available to the market.

In November, following the inability of NRAs to agree on the all TSO proposal, the Agency adopted a decision on capacity calculation regions for the electricity wholesale market, setting the groundwork for further implementation of a number of guidelines, most notably on capacity allocation and congestion management and on forward capacity allocation. The decision was appealed to the Agency's board of appeal and to the General Court of the European Union. In March 2017 the board of appeal dismissed the appeal and the case is still pending in the General Court. The appeals focused on the requirement to introduce capacity allocation on the Austrian–German border. In this regard it should be noted that in May 2017, the Austrian and German NRAs agreed to implement such an allocation as of July 2018.

More generally, in 2016 the Agency continued to monitor developments in the electricity and gas sectors, the implementation of network codes and guidelines and their effect on the internal energy market. The results of such monitoring, presented in the annual market monitoring report and, for the gas sector, in a number of specific network code/guideline implementation monitoring reports, show that the integration of the internal energy market is moving forward – for example common capacity booking platforms are used at all but one interconnection point across the EU – and tangible benefits are being delivered to consumers.

Regarding administrative matters, in June the Agency realised that staff reclassification done in previous years was not aligned with the grading of posts stipulated in the establishment plans adopted over the years by the budgetary authorities. The Agency immediately alerted its partner Directorate-General at the Commission as the latter has a coordinating role in budgetary matters. The Agency's administrative board also amended the 2016 establishment

plan to bring it into line with the procedure set out in Article 38(1) of its financial regulation. As for previous years, after a careful legal and risk assessment, I concluded that it was not in the best interest of the service to annul the previous reclassification decisions and this conclusion was inscribed in the register of exceptions and is included in this report.

As in past years, the legality and consistency of the Agency's 2016 financial operations was confirmed by the European Court of Auditors that did not identify any critical issues in the way in which the Agency has been run. The Court again commented, as it has several times in the past, on the delay in the establishment of a European school in Ljubljana. In this regard I am pleased to report that finally, in 2016, the Slovenian Government initiated a process which is expected to lead to the establishment of the European school by the beginning of the 2018 – 2019 school year.

However, the main challenge facing the Agency in 2016 is still the severe shortage of human resources. In this respect, I gratefully acknowledge the 15 additional posts authorised by the budgetary authorities in 2016. However, such an addition only partially compensates for the deficit in posts and human resources faced by the Agency in effectively fulfilling its legal mandate. In 2016 that deficit was estimated at 29 full time equivalents, i.e. more than one third of the Agency's workforce at that time. It is unfortunate that the shortage of resources has continued to plague the Agency and undermine its ability to deliver on its mandate in the most effective way possible. The reputational risk this situation creates extends well beyond the Agency. While it is clear that the EU budget is under pressure from different priority areas, it is also evident that 'investing' in the integration and proper operation of the internal energy market, including sufficient Agency staffing, would deliver substantial returns. For example, it is estimated that the extension of electricity market coupling across most of the EU's internal borders, to which the Agency contributed significantly, is increasing the welfare of EU energy consumers at the rate of EUR 1 billion per year (with more potential benefits from extending market coupling to the remaining borders). Similarly, the risk of undetected market abuse may take a toll on EU energy bills. Based on relevant experience in the US, that figure could be hundreds of millions of euros. Lastly, while gas hub prices have become significantly more aligned in recent years, already leading to substantial welfare gains, estimated gross welfare losses in gas wholesale markets in 2016 due to lack of full hub price alignment across the EU still amounted to more than EUR 4 billion.

In November, the Commission presented the 'clean energy for all Europeans' package proposing, *inter alia*, a revision of the Agency's founding regulation as well as of the electricity directive and regulation. In these proposals, the Agency is assigned additional tasks and responsibilities including in some critical areas, such as the EU-wide resource adequacy assessment, the coordination of national risk preparedness actions and cross-border participation in capacity remuneration mechanisms. While I am very honoured by the trust that the Commission has placed in the Agency by formulating these proposals, it is essential that these additional tasks and responsibilities be matched by the authorisation of the required additional posts of sufficient grade and seniority and the necessary additional financial resources.

The significant amount of work which the Agency delivered in 2016 and which is presented in this report, would not have been possible without the relentless dedication and enthusiasm of my colleagues in the Agency, the staunch support from the NRAs through their contributions to the Agency's working groups, the backing of the administrative board and the constructive discussion, input and support from the board of regulators. My deepest gratitude goes out to all of them. The board of appeal reviewed its first appeal in 2016 and I would like to



congratulate its members on the celerity of their ruling and the quality of the reasoning underpinning it.

As in previous years, we involved stakeholders in much of what we do through public consultations, workshops and other similar events and I would like to take this opportunity to commend them on their engagement, contribution and support.

I would also like to express my gratitude to the European Parliament, most notably its ITRE Committee, and the Directorate-General for Energy of the European Commission, and acknowledge the attention and support they have given the Agency. I am also honoured by the continuous attention that European Commission vice president for energy union, Maroš Šefčovič, and Commissioner for climate action and energy, Miguel Angel Arias Cañete, have given the Agency and I trust we can count on their continued support as the Agency takes on new challenges within the framework of the energy union.

Lastly, as alluded to in the foreword to the independent regulatory section of this report, Lord Mogg will conclude his term as chair of the board of regulators later this year. In leading the board since the establishment of the Agency in 2010, he has played a key role in supporting the Agency's success in delivering on its extensive mandate. For me, he has also been a trusted partner in tackling the many challenges that the Agency has faced over these years and an invaluable advisor. I must therefore seize this opportunity to sincerely thank him for all that he has done for the Agency.

Ljubljana, 15 June 2017

## Part I. This year's regulatory achievements

(the independent section on regulatory activities as per Article 15(4) of Regulation (EC) No 713/2009).

### Statement by Lord Mogg, chair of the board of regulators (BoR)

Completion of the internal energy market (IEM) remains at the heart of the Agency's objectives. With the adoption of the remaining codes and the ongoing monitoring of those already adopted, the Agency continues to play a critical role in identifying the remaining barriers to competition at a wholesale and retail level and in actively monitoring the trading in EU wholesale energy markets.

Despite regrettably tight resource constraints, the Agency's work programme has been largely delivered and all parties are to be congratulated on this fine achievement, which has significantly contributed to the promotion of a well-functioning IEM. The programme focused on a number of key areas. These include tackling the infrastructure challenge (the second consolidated annual report was published in July 2016 and assessed the progress of projects of common interest (PCIs) in electricity and gas). Other key areas included the monitoring of wholesale energy markets and tackling the longer-term regulatory challenges that face us as EU energy markets become more integrated.

Transparency remains crucial for stable and well-functioning wholesale markets. The EU regulation on wholesale energy market integrity and transparency (REMIT) imposes demanding requirements and prohibits insider trading and market manipulation. The Agency continues to collect transaction data points (averaging a million a day) from organised wholesale energy markets.

The 5th joint ACER-CEER market monitoring report (MMR) analysed market performances in 2015, significantly evidencing for the first time that the declining wholesale prices for gas and electricity have delivered lower energy costs for EU consumers thus clearly demonstrating a closer relationship between wholesale and retail prices.

The major contribution of the 28 national regulatory authorities (NRAs) is fundamental to the Agency success with the equivalent of some 200 full-time staff participating in the Agency's structure and working groups. However, this contribution puts a disproportionate strain on the resources, particularly those of the small and medium-sized NRAs. The Agency's BoR agreed major improvements and initiatives to reinforce and strengthen NRAs' cooperation after a 'summit' and a survey of resources in the year after, when the BoR made a recommendation to the EU institutions that measures to ensure the independence of the NRA and of the Agency itself should be taken. This recommendation also drew on the conclusions of a special report from the European Court of Auditors, which concluded that the NRAs needed sufficient resources to tackle both their national regulatory challenges while allowing them to participate fully in EU-level cooperation. It is regrettable that under-resourcing and other budgetary constraints on the Agency continue.

In 2016, the European Commission's new energy market design proposals were launched. The Agency and the NRAs broadly welcomed them; we are committed to develop this sensible, effective package that should deliver liberalised, integrated, sustainable and secure

energy markets to the benefit of all energy consumers. NRAs and the Agency will publish a number of short regulatory white papers to set out a brief explanation of the complex issues alongside regulators' views.

I should like to conclude with some personal remarks. Since 2010, when the Agency began its work, NRAs have faced many widely varying challenges. Their commitment to the European consumer has effectively resolved many such issues and show active and constructive engagement with the Agency's director and his staff.

I have been privileged to lead the Agency's BoR from its creation. Throughout that period, Alberto Pototschnig, the director has been remarkably effective and with the NRAs has created a constructive environment to discuss complex issues. Alberto led the Agency from its small office in a Commission building with himself as the only member of ACER staff to its present establishment of 89 staff and its Ljubljana office. Over the years the Agency's reputation for expertise has steadily grown. Despite the tensions that arise from time to time between NRAs and the Agency, efficient cooperation has marked most of the years, with humour and good will shining through difficult decisions. My colleagues from the NRAs leading the Agency's working groups along with all the NRAs staff participating in the work of the Agency have been instrumental to the delivery of the Agency's work programme and for ensuring this efficient cooperation.

I have been fortunate in having excellent relations with Commission staff and particularly with director general Dominique Ristori and the two Commission directors Heinz Hilbrecht and Klaus-Dieter Borchardt. The European Parliament, and its ITRE committee, has provided tremendous support to the Agency. My term of office (as president of CEER and as chair of the BoR) ends in late 2017 and I must pay tribute to all these colleagues and friends over the years, to the many stakeholders whose views have been influential. Amongst my closest personal advisors I must pay special tribute to Fay Geitona whose conscientious advice and support as secretary to the board has been remarkable and whose political acumen has all too often prevented me from making more mistakes than I might have. Although the UK is leaving the Union, I am strong in my belief that the EU's energy market integration will be achieved thanks to the success of NRA staff, the Agency staff and of course, the Commission. My sincerest thanks to you all.

Ljubljana, 24 April 2017

## Electricity framework guidelines & network codes

The majority of the electricity network codes have been adopted and are already implemented or on their way to implementation. Therefore, the work of the Agency has shifted from developing framework guidelines and verifying the compliance of network codes with such framework guidelines, to accompanying and monitoring the implementation of these network codes.

More specifically, during 2016, the Agency worked on the following deliverables:

### Framework guidelines

Task	Follow-up of the work on harmonisation of transmission tariff structures
Legal basis	Article 6(4) of Regulation (EC) No 713/2009; Articles 6(7), 6(9) and 8(6)(k) of Regulation (EC) No 714/2009
Work programme objective for 2016	In line with the conclusions of the scoping activity, the Agency will draw up a common set of transmission tariff principles to build a common understanding and facilitate sharing of best practices.
Performance indicators and targets (deadlines)	Timely delivery of a position paper/recommendation to NRAs for the purpose of adopting a common set of transmission tariff principles.
Achievement against target	The elaboration of a common set of transmission tariff principles was put on hold pending the Commission's pursuit of the 'clean energy package'. The Agency was able to enrich the conclusions of its scoping activity and provided its views on the proposed policy options in the Commission's study on transmission tariffs and congestion income policy options in the context of the preparation of the clean energy package.

## Network codes, implementation and monitoring

Task	Advice and support regarding network codes and guidelines during their adoption via the comitology process, where appropriate
Legal basis	Articles 6 and 8(6)(a),(b),(g) and (j) of Regulation (EC) No 714/2009
Work programme objective for 2016	The Agency recommended the adoption of several network codes in the area of electricity grid connection, electricity system operation, capacity allocation and congestion management and electricity balancing. The adoption of some of these network codes will continue throughout 2016. The Agency is invited to assist the Commission throughout the process and advice and support shall be provided according to the calendar determined by the Commission and the comitology committees.
Performance indicators and targets (deadlines)	Timely delivery of feedback and support on network codes in the course of the comitology process.
Achievement against target	In 2016, the Agency provided extensive support to the Commission during the comitology process for the adoption of the: <ul style="list-style-type: none"> <li>- guideline on electricity balancing;</li> <li>- network code on emergency and restoration; and</li> <li>- guideline on electricity transmission system operation.</li> </ul>

Task	Preparation for monitoring of implementation of the network codes and guidelines adopted
Legal basis	Article 9 of Regulation (EC) No 714/2009
Work programme objective for 2016	<p>The Agency recommended the adoption of several network codes in the area of electricity grid connection, electricity system operation, capacity allocation and congestion management and electricity balancing. Therefore, in 2016 a number of network codes and Commission guidelines will enter into the implementation phase and this will require preparatory activities needed to monitor and implement these network codes and guidelines. The Agency will ensure the establishment of (i) a suitable framework concept with the NRAs and ENTSO-E, (ii) working processes and (iii) IT support.</p> <p>The Agency will coordinate with ENTSO-E on a plan designed to monitor and implement the network codes and guidelines adopted and on the associated list of relevant information to be communicated by ENTSO-E to the Agency. The Agency will issue</p>

	an opinion on ENTSO-E's plan to monitor the implementation of the network codes and guidelines adopted.
Performance indicators and targets (deadlines)	The timely delivery of the opinion on ENTSO-E's plan to monitor and implement the network codes and guidelines adopted and of the list of relevant information to be communicated by ENTSO-E to the Agency.
Achievement against target	<p>Preparation activities related to monitoring the implementation of network codes and guidelines required extensive discussions with ENTSO-E and with stakeholders in the European stakeholder committees. Specifically, in 2016, the Agency's activities involved:</p> <ul style="list-style-type: none"> <li>- requesting relevant information to monitor the implementation of the capacity allocation and congestion management guideline (CACM regulation) pursuant to its Article 82(4). Subsequently, significant coordination effort was devoted to reaching an agreement with ENTSO-E on the delivery of this information;</li> <li>- reaching an agreement with ENTSO-E on converting the active library platform to a single platform to publish the implementation of non-exhaustively defined requirements pursuant to grid connection codes;</li> <li>- devising an arrangement with the NRAs on the information collection method regarding network code implementation at distribution level; and</li> <li>- defining an implementation monitoring indicator for the network code on requirements for grid connection applicable to all generators (RfG), on the basis of which the Agency will produce a list of relevant information to be communicated by ENTSO-E in accordance with Articles 8(9) and 9(1) of Regulation (EC) No 714/2009.</li> </ul>

<b>Task</b>	<b>Investigation of the reasons why transmission system operators (TSOs), nominated electricity market operators (NEMOs) or third parties fail to submit terms and conditions or methodologies for NRA approval pursuant to the adopted network codes and guidelines</b>
Legal basis	To be established pursuant to the network codes and guidelines.
Work programme objective for 2016	The network codes and guidelines will establish numerous obligations for TSOs, NEMOs or third parties to develop proposals for terms and conditions or methodologies which need to be approved by all or some NRAs. In the event that TSOs, NEMOs or third parties fail to submit such terms and conditions or methodologies for NRA approval, the Agency should investigate the reasons for the failure and inform the Commission. The Agency will collect the relevant draft terms and conditions or methodologies and other relevant information from TSOs, NEMOs or third parties and draft a report for the Commission.

Performance indicators and targets (deadlines)	Report, submitted to the Commission, on the reasons for failure to submit terms and conditions or methodologies by TSOs, NEMOs or third parties.
Achievement against target	In one specific case, the TSOs in capacity calculation regions failed to meet the deadline (14 December 2016) for the submission of the fall-back procedures to the relevant NRAs in accordance with Article 44 of the CACM Regulation. The TSOs cited the late decision on the definition of the capacity calculation regions as the reason for the delay.

<b>Task</b>	<b>NRA coordination for the approval of the terms and conditions or methodologies developed by TSOs, NEMOs or third parties pursuant to the network codes and guidelines adopted</b>
Legal basis	To be established pursuant to the network codes and guidelines.
Work programme objective for 2016	<p>The network codes and guidelines will establish numerous obligations for TSOs, NEMOs or third parties to develop proposals for terms and conditions or methodologies which need to be approved by all or some NRAs. These approval procedures need to be coordinated.</p> <p>The Agency may also be called upon to provide an opinion on the terms and conditions pursuant to Article 9(9) of the CACM guideline (GL).</p> <p>The Agency will provide a framework for the coordination of NRAs and strive to facilitate an agreement among the NRAs concerned on the approval, rejection or amendment of the proposed terms and conditions or methodologies.</p>
Performance indicators and targets (deadlines)	<p>NRA agreement reached within the deadlines provided in the network codes and guidelines.</p> <p>Timely delivery of the Agency's opinion (if requested by the Commission).</p>
Achievement against target	<p>In 2016, the Agency was not asked to provide an opinion on any terms and conditions or methodologies subject to NRA approval.</p> <p>The Agency did, however, facilitate NRA agreement on the proposed terms and conditions or methodologies. In 2016, the agreement among NRAs was reached in the following cases:</p> <ul style="list-style-type: none"> <li>- Market coupling operator (MCO) plan (pursuant to Article 7(3) of the CACM Regulation) <ul style="list-style-type: none"> <li>o All NRAs agreed to request an amendment;</li> </ul> </li> <li>- Generation and load data provision methodology (pursuant to Article 16(1) of the CACM Regulation) <ul style="list-style-type: none"> <li>o All NRAs agreed to approve the proposal; and</li> </ul> </li> <li>- Common grid model (pursuant to Article 17(1) of the CACM Regulation) <ul style="list-style-type: none"> <li>o All NRAs agreed to request an amendment.</li> </ul> </li> </ul>

<b>Task</b>	<b>Take a decision, to be approved pursuant to the network codes and guidelines adopted, in the event that NRAs are unable to reach an agreement on terms and conditions or methodologies</b>
Legal basis	To be established pursuant to the network codes and guidelines.
Work programme objective for 2016	The network codes and guidelines will establish numerous obligations for TSOs, NEMOs or third parties to develop proposals for terms and conditions or methodologies, which need to be approved either by all or some NRAs. When NRAs failed to reach an agreement and are therefore unable to issue decisions within six months, the Agency shall decide on those terms and conditions or methodologies.
Performance indicators and targets (deadlines)	Timely delivery of the Agency's decision (i.e. within six months after the deadline by which the NRAs should have reached an agreement and issued their decision).
Achievement against target	In one specific case, all the NRAs were unable to reach an agreement (on the all-TSO proposal for capacity calculation regions pursuant to Article 15 of the CACM Regulation) within 6 months after the last NRA received the proposal. The case was therefore referred to the Agency which adopted a decision on 17 November 2016. The Agency's decision was informed by stakeholders and all TSOs and NRAs involved.  <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2006-2016%20on%20CCR.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2006-2016%20on%20CCR.pdf</a>

<b>Task</b>	<b>Coordination of implementation projects established pursuant to network codes and guidelines and, where relevant, pursuant to the early implementation process</b>
Legal basis	To be established pursuant to the network codes and guidelines.
Work programme objective for 2016	The network codes and guidelines will introduce numerous requirements and obligations for TSOs, NEMOs or third parties to implement new elements related to the integration of the electricity market. These elements will be implemented through concrete implementation projects requiring coordination, monitoring and supervision from the NRAs and the Agency.  Where the relevant network codes or guidelines have not yet been adopted, the Agency will have to continue coordinating and monitoring the early implementation process, facilitating implementation projects and ensuring timely involvement of regulators and stakeholders within the process.
Performance indicators and targets (deadlines)	Timely implementation of these projects.



Achievement against target	<p>In 2016, the Agency helped coordinate NRAs in the following EU-wide implementation projects:</p> <ul style="list-style-type: none"> <li>- XBID implementation project designed to establish single intraday coupling at EU level pursuant to the MCO plan proposed by all NEMOs;</li> <li>- multi-regional coupling (MRC)/price coupling of regions (PCR) implementation project designed to establish single day-ahead coupling at EU level pursuant to the MCO plan proposed by all NEMOs;</li> <li>- development of harmonised auction rules to serve as the basis for EU-wide harmonised auction rules pursuant to the forward capacity allocation for electricity (FCA) Regulation; and</li> <li>- international grid control cooperation intended to become an EU-wide project to implement the European platform for imbalance netting pursuant to the draft guideline on electricity balancing.</li> </ul>
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<b>Task</b>	<b>Facilitate stakeholder involvement as required pursuant to the network codes and guidelines adopted</b>
Legal basis	To be established pursuant to the network codes and guidelines.
Work programme objective for 2016	The Agency will establish dedicated stakeholder committees for several groups of network codes and guidelines. The stakeholder committees will be chaired by the Agency and will involve EU stakeholder organisations with a direct interest in these network codes and guidelines.
Performance indicators and targets (deadlines)	The Agency will seek regular feedback from stakeholders regarding their involvement in this network code implementation process.
Achievement against target	In 2016 the Agency established two European stakeholder committees (ESCs), the market ESC and the grid connection ESC. The Agency also took the necessary steps for the creation of the system operation ESC in Q1 of 2017.

<b>Task</b>	<b>Review of stakeholder requests for amendment of the network codes and guidelines adopted and, where appropriate, based on these requests or at the initiative of the Agency itself, preparation of draft amendments for submission to the European Commission</b>
Legal basis	Article 7 of Regulation (EC) No 714/2009

Work programme objective for 2016	A few network codes and guidelines will enter into force by 2016 while the adoption of network codes will continue throughout 2016.
Objectives and outputs	The Agency will adhere to the Agency guidance on the evaluation procedure for network code amendment proposals under Article 7 of the electricity and gas regulation.  Number of amendment requests received and time needed to address them.
Achievement against target	In 2016 the Agency did not receive any amendment requests.

<b>Task</b>	<b>Performance of the Agency's specific duties pursuant to the network codes and guidelines adopted</b>
Legal basis	To be established pursuant to the network codes and guidelines.
Work programme objective for 2016	<p>The network codes and guidelines will establish numerous new obligations for the Agency. In general terms, these obligations cover:</p> <ul style="list-style-type: none"> <li>- reporting on different aspects of the network codes and guidelines beyond implementation monitoring;</li> <li>- monitoring the development of certain aspects of the network codes and guidelines and entities acquiring obligations under such network codes and guidelines;</li> <li>- overseeing processes and entities' obligations pursuant to network codes and guidelines;</li> <li>- publishing reports and drafting other documents pursuant to network codes and guidelines;</li> <li>- requesting specific actions from different entities pursuant to network codes and guidelines;</li> <li>- participating in different groups or committees established pursuant to network codes and guidelines;</li> <li>- maintaining different registers pursuant to network codes and guidelines; and</li> <li>- issuing opinions as required or envisaged by network codes and guidelines.</li> </ul> <p>The specific obligations arising under network codes and guidelines must be met in a timely manner.</p>
Performance indicators and targets (deadlines)	Timely satisfaction of these obligations.
Achievement against target	In 2016, the Agency:

	<ul style="list-style-type: none"><li>- issued a recommendation, at the request of the Commission, on the capacity calculation and redispatching cost of methodology sharing;</li><li>- monitored progress made by NEMOs in establishing and performing MCO functions and reported to the Commission on progress made in establishing and performing single day-ahead or intraday coupling pursuant to Article 7(5) of the CACM Regulation;</li><li>- launched the review of the bidding zone configuration pursuant to Article 34(7) of the CACM Regulation;</li><li>- drafted an internal position paper on NRA coordination of emerging technology classification decisions;</li><li>- drafted a submission process describing registration derogation and revocation decisions in grid connection codes;</li><li>- collected information on transparency in the implementation of grid connection codes from the NRAs;</li><li>- maintained the register of all designated and operating NEMOs pursuant to Article 4(10) of the CACM Regulation;</li><li>- issued an informal opinion to ENTSO-E on the proposed statistical and quality indicators for the biennial report on capacity calculation pursuant to Article 31(4) of the CACM Regulation; and</li><li>- issued an opinion on the ENTSO-E monitoring plan pursuant to Article 82(3) of the CACM Regulation.</li></ul>
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## Gas framework guidelines & network codes

By 2016 all gas network codes were either adopted, already implemented or on their way to implementation. Therefore, the Agency's work shifted from developing framework guidelines and verifying compliance of network codes with such framework guidelines, to accompanying and monitoring the implementation and, in one instance, the amendment of an existing network code. A set of indicators was developed to measure the effectiveness of the various network codes. The Agency focused its reports on contentious issues.

Beyond implementation monitoring, the Agency supported the consistent and coordinated implementation of network codes and guidelines across the EU, using the gas target model, focusing on the South South-East (SSE) region.

Task	Implementation of the gas target model
Legal basis	None
Work programme objective for 2016	Implementation of the various provisions of the gas target model, with a focus on hub development indicators, NRA self-assessment, and regional market integration.  Objectives: promote voluntary implementation of the gas target model.  Outputs: updated indicators (depending on data availability), overview of NRA self-assessment.
Performance indicators and targets (deadlines)	The process is voluntary and thus depends on feasibility and the willingness of individual NRAs to move the work forward.
Achievement against target	A selection of gas target model indicators, calculated for the first time based on REMIT data, was included in the wholesale gas chapter of the market monitoring report.

## Framework guidelines

<b>Task</b>	<b>Preparation for the review (transparency) or scoping of new framework guidelines at the request of the EC. Potential amendment of the network code on capacity allocation mechanisms if there is room for improvement based on ACER's conditional capacity use analysis</b>
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Legal basis	Article 6 (for scoping) and 7 (for amending codes) of Regulation (EC) No 715/2009
Work programme objective for 2016	Revision of the current content and compatibility checks of the network codes adopted. Objectives: consistency across the codes adopted thus far, improved functionality of the codes based on market experience and possible amendments in the light of such experience.  Outputs: mainly amendments, potential codes requested by stakeholders (input from regular Commission consultations).
Performance indicators and targets (deadlines)	This is an <i>ad hoc</i> process. Targets to be agreed with the planning group and new requests from the market.
Achievement against target	No scoping requests for new framework guidelines were received from the Commission in 2016. No amendment proposals were put forward.

## Network codes: implementation and monitoring

<b>Task</b>	<b>Early implementation of the network code on harmonised transmission tariff structures and amendment of the network code on capacity allocation mechanisms as concerns incremental capacity</b>
Legal basis	Part of a voluntary process.
Work programme objective for 2016	Reporting on the status of early implementation of the network code on tariffs once a network code text is available, and of the incremental capacity amendment.  Engage NRAs in the process and report on progress made towards full application of the provisions of this code and the provisions on incremental capacity.
Performance indicators and targets (deadlines)	Monitor implementation progress.  Q4/2016-Q1/2017
Achievement against target	In 2016 the Agency worked on documents supporting network code implementation, clarifying terminology and preparing data collection templates.

<b>Task</b>	<b>Implementation monitoring report on the network code on capacity allocation mechanisms</b>
Legal basis	Article 9 of Regulation(EC) No 715/2009
Work programme objective for 2016	Report on the status of implementation of the network code on capacity allocation mechanisms. This implementation monitoring will replace the CAM roadmap once the network code has become binding.  Engage TSOs and NRAs in this process, in particular as concerns their contribution to data collection. Provide practical recommendations in the implementation report.
Performance indicators and targets (deadlines)	Implementation monitoring report.  Q4/2016
Achievement against target	The report was published on 27 October 2016.  <a href="http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/implementation_monitoring_report_on_the_capacity_allocation_mechanisms_network_code.pdf">http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/implementation_monitoring_report_on_the_capacity_allocation_mechanisms_network_code.pdf</a>

<b>Task</b>	<b>2<sup>nd</sup> ACER report on progress made in capacity bundling at interconnection points according to the network code on capacity allocation mechanisms</b>
Legal basis	Article 20 of Commission Regulation (EU) 984/2013
Work programme objective for 2016	Bundling arrangements are to be reported to the relevant NRAs and national reports are to be sent to the Agency regarding yearly progress made in capacity bundling.  The Agency is under legal obligation to produce an initial report and may produce subsequent annual reports.
Performance indicators and targets (deadlines)	Based on national reports, the Agency publishes a report on progress made in capacity bundling. This report is expected on 4 November 2016.  Timely delivery of the report and data collection ahead of report. (Q4 2016)
Achievement against target	The legal obligation was to produce the initial report only. Due to limited resources the Agency decided not to produce the second report.

<b>Task</b>	<b>Monitor the network code on balancing</b> - Implement the monitoring report on the network code on balancing - Opinion(s), if sought by NRAs, on within-day obligations and continuous revision of the annual reports on interim measures according to the network code on balancing
Legal basis	Article 9 of Regulation(EC) No 715/2009
Work programme objective for 2016	Report on the implementation status of the network code on balancing. Engage TSOs and NRAs, in particular as concerns their contribution to data collection. Provide practical recommendations in the implementation report.
Performance indicators and targets (deadlines)	Implementation monitoring report. Q4/2016 No opinions have been sought thus far.
Achievement against target	An extensive implementation monitoring report was published on 7 November 2016. <a href="http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/acer%20report%20on%20the%20implementation%20of%20the%20balancing%20network%20code.pdf">http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/acer%20report%20on%20the%20implementation%20of%20the%20balancing%20network%20code.pdf</a> A workshop to discuss the results of the report was organised on 9 November 2016 in Warsaw. It drew significant attention from across the EU.

<b>Task</b>	<b>Oversee ENTSOG's monitoring of the implementation of the network code on interoperability and data exchange rules</b>
Legal basis	Article 9 of Regulation (EC) No 715/2009 and Article 25(1) of Commission Regulation (EU) No 2015/703
Work programme objective for 2016	Report on the implementation status of the network code on interoperability and data exchange. Provide practical recommendations in the implementation report. Engage TSOs and NRAs. Work with ENTSOG on data collection parameters.
Performance indicators and targets (deadlines)	Implementation monitoring report. Q4/2016-Q1/2017

Achievement against target	ENTSOG reporting was completed on 5 October 2016. Additional information on interconnection agreements was provided by ENTSOG at the end of 2016. The Agency intends to open a public consultation on implementation status. Limited information on the effective implementation of the code has delayed reporting until Q3/2017.
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<b>Task</b>	<b>3<sup>rd</sup> ACER report on monitoring congestion at interconnection points and overseeing ENTSOG's implementation monitoring of CMP guidelines with a view to combined application of CMPs</b>
Legal basis	Point 2.2.2.1.2 of the Commission's decision of 24 August 2012, Annex I, point 2.2 of congestion management procedures in the event of contractual congestion (CMP guidelines).
Work programme objective for 2016	The third report on congestion at interconnection points is to be prepared based on the recommendations made in the Agency second report and any new recommendations made in the light of the changes observed in the report.  The third report is due on 1 June 2016.
Performance indicators and targets (deadlines)	The timely delivery of the report and collection of data for the report possibly according to the amended deadlines proposed in the Agency's first report.  Target date: Q2 2016
Achievement against target	The Report was published by the deadline date (31 May 2016).  <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%202016%20Report%20on%20Congestion%20at%20IPs%20in%202015.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%202016%20Report%20on%20Congestion%20at%20IPs%20in%202015.pdf</a>  The quality of the data which the Agency receives from ENTSOG's transparency platform requires further improvement both in terms of completeness and accuracy.

<b>Task</b>	<b>Review of network code amendment requests and own-initiative draft amendments based on Article 7 of the gas regulation and preparation of reasoned proposals to the Commission, where appropriate</b>
Legal basis	Article 7 of Regulation(EC) No 715/2009
Work programme objective for 2016	Codes that have been implemented and applied may trigger stakeholder requests for ad hoc amendments and may also lead to own initiatives to improve application. Amendments supported by the market will be forwarded to the Commission as reasoned proposals to amend the codes adopted thus far.



Performance indicators and targets (deadlines)	Timely response to and consultation on amendment requests received. Amendments taken further as reasoned proposals are well justified; inconsistency, where identified, is addressed and market functioning improved.  This is an ad hoc task. Deadlines do not apply.
Achievement against target	No amendment requests were received or initiated in 2016.

## Gas regional initiatives

### Support and monitoring

Task	Coordination and monitoring of activities for the early voluntary implementation of network codes before rules become legally binding
Legal basis	Several articles on regional cooperation in Regulations (EC) Nos 713/2009 and 715/2009  Article 6 of Regulation (EC) No 715/2009
Work programme objective for 2016	The Agency coordinates and supports active GRI regions through the gas regional initiatives coordination group with a view to fostering the early implementation of network codes and to promote regional market integration. As concerns the latter, NRAs will report periodically on their projects and the Agency will summarise and evaluate the results of the self-evaluation and the measures proposed.
Performance indicators and targets (deadlines)	Provided in the regional work plans and gas target model (indicators and self-evaluations).
Achievement against target	Step-by-step progress on GTM indicators was presented in the Agency's 2016 market monitoring report. Although self-assessments were collected, most arrived late and therefore no evaluation was performed in 2016.

### Annual status review report

Task	Annual regional initiatives status review report, reviewing developments in gas regional initiatives and providing guidance for future work
Legal basis	Several articles on regional cooperation in Regulations (EC) Nos 713/2009 and 715/2009

Work programme objective for 2016	Annual report documenting progress made in the GRI.
Performance indicators and targets (deadlines)	Delivery of the report by January 2017.
Achievement against target	The report was published in early February 2017. <a href="http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/acer%20regional%20initiatives%20status%20review%20report%202015.pdf">http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/acer%20regional%20initiatives%20status%20review%20report%202015.pdf</a>

<b>Task</b>	<b>Regional implementation of network codes and guidelines using the gas regional initiative (GRI) framework, focused on the South South-East (SSE) region</b>
Legal basis	Several articles on regional cooperation in Regulations (EC) Nos 713/2009 and 715/2009
Work programme objective for 2016	Monitor network code implementation within the GRIs, specifically in the SSE GRI. Collect information about the progress made and encourage NRAs to follow best practices before implementation.
Performance indicators and targets (deadlines)	Deadlines difficult to establish. Ongoing support for countries and regions lagging behind in implementation or in need of closing regulatory gaps in early implementation.
Achievement against target	Interaction with a number of NRAs regarding network code implementation, including exchange of best practices. Presentation of network code implementation results in the SSE region in December in Bucharest.

### Cross-sector issues (electricity and gas)

Market monitoring has become increasingly sophisticated as the number of topics to monitor has increased (e.g. network code implementation). Moving monitoring closer in time to actual events remains a challenge. In the future, Agency resources allowing, the market monitoring report could be further enriched with additional indicators to measure the market effects of the various network codes.

## Monitoring

### Monitoring of the internal markets in electricity and natural gas

<b>Task</b>	<b>The 5<sup>th</sup> market monitoring report covering retail prices in electricity and natural gas, barriers to entry, wholesale market functionality and level of integration, consumer welfare benefits or losses as a result of market integration (or lack thereof), access to networks (including electricity produced or gas from renewable energy sources), market effects of network code implementation and compliance with consumer rights (including protection and enforcement of consumer rights).</b>
Legal basis	<p>Articles 11(1) and (2) of Regulation (EC) No 713/2009</p> <p>Article 7(3) of Regulation (EU) No 1227/2011</p> <p>Article 6 of Regulation (EC) No 713/2009</p> <p>Network codes</p>
Work programme objective for 2016	<p>In 2016 the market monitoring report (MMR) will focus on the functioning of energy markets and ways to improve their efficiency in order to make energy more affordable for European consumers. More specifically, the MMR will analyse trends in electricity and natural gas retail prices, degree of wholesale market integration, access to networks (including electricity produced or gas from renewable energy sources), market effects of network code implementation and compliance with consumer rights.</p> <p>In line with previous issues raised, the MMR will provide an in-depth analysis of barriers to integration and give recommendations to the European Parliament and Commission on how to remove them.</p> <p>The Agency's policy and market monitoring teams for gas and electricity will coordinate with the European Commission's Directorate-General for Energy on the contents of the MMR in order to avoid duplication.</p> <p>The Agency will also cooperate and coordinate with the council of European energy regulators (CEER).</p> <p>In addition to the tasks included in the work programme, the market monitoring team carefully watched the performance of the ENTSO-E's transparency platform which is an important source of information, not only on market participants but also for the wholesale electricity chapter of the market monitoring report. As has been highlighted by the Agency on different occasions, the platform has room for improvement and this triggered the review of its procedural manual which is subject to the opinion of the Agency. That opinion was published on 8 February 2017.</p>
Performance indicators and	<p>Timely completion of the annual market monitoring report.</p> <p>Positive feedback by the European Parliament, the European Commission and stakeholders on the market monitoring report,</p>

<p>targets (deadlines)</p>	<p>including the possibility of a survey following the publication and presentation of the report.</p> <ul style="list-style-type: none"> <li>- expected completion date: November 2016.</li> <li>- over 75 unique downloads within one month of publication.</li> <li>- reader survey: 2 out of every 3 respondents were satisfied or highly satisfied.</li> </ul>										
<p>Achievement against target</p>	<p>The Agency delivered the MMR as planned in close cooperation with the NRAs:</p> <ul style="list-style-type: none"> <li>- the wholesale (electricity &amp; gas) chapters were published early (16 September) and a workshop was held in Ljubljana the following week; and</li> <li>- the retail, consumer protection and empowerment and key insights and recommendations chapters were published on 9 November and presented to the public that same day.</li> </ul> <p>The MMR was presented to the European Parliament on 9 November.</p> <p>While no reader survey was organised for the MMR, stakeholders generally provided positive feedback (e.g. during the Madrid Forum).</p> <p>Within the first month of publication the unique downloads for different chapters were as follows:</p> <table data-bbox="467 1025 1401 1310"> <tr> <td>Consumer protection and empowerment</td> <td style="text-align: right;">7</td> </tr> <tr> <td>Electricity and gas retail markets</td> <td style="text-align: right;">13</td> </tr> <tr> <td>Wholesale electricity</td> <td style="text-align: right;">52</td> </tr> <tr> <td>Wholesale gas</td> <td style="text-align: right;">59</td> </tr> <tr> <td>Key insights and recommendations</td> <td style="text-align: right;">33</td> </tr> </table> <p>Altogether, there were 164 website hits within one month of publication.</p> <p><a href="http://www.acer.europa.eu/en/Electricity/Market%20monitoring/Pages/Current-edition.aspx">http://www.acer.europa.eu/en/Electricity/Market%20monitoring/Pages/Current-edition.aspx</a></p>	Consumer protection and empowerment	7	Electricity and gas retail markets	13	Wholesale electricity	52	Wholesale gas	59	Key insights and recommendations	33
Consumer protection and empowerment	7										
Electricity and gas retail markets	13										
Wholesale electricity	52										
Wholesale gas	59										
Key insights and recommendations	33										

## TSO cooperation

Pursuant to Article 6 of the Agency's regulation, the tasks related to TSO cooperation consisted of formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other relevant ENTSO documents (e.g. annual Summer and Winter supply outlooks); monitoring ENTSO task execution; monitoring progress in new interconnector projects, implementation of TYNDPs and regional cooperation of TSOs. The Agency also monitored the implementation of the inter-TSO compensation mechanism pursuant to Article 1(4) of part A of the Annex to Commission Regulation (EU) No 838/2010.

## Electricity

<p><b>Tasks</b></p>	<p><b>Annual monitoring report on the implementation and management of the inter-TSO compensation fund</b></p> <p><b>Opinions on ENTSO-E's annual work programme and ENTSO-E's annual report</b></p> <p><b>Opinions on ENTSO-E's annual Summer and Winter supply outlooks</b></p> <p><b>Opinions on ENTSO-E's common network operation tools including a common incidents classification scale (the latter subject to the ICS report)</b></p> <p><b>Opinion on ENTSO-E's research and development plan</b></p> <p><b>Opinion on national ten-year electricity network development plans to assess their consistency with the Community-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Community-wide network development plan</b></p> <p><b>Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators</b></p> <p><b>Report on monitoring the implementation of the Community-wide electricity TYNDP and progress made in implementing projects to create new interconnector capacity</b></p> <p><b>Opinion on ENTSO-E's 2016 draft ten year network development plan</b></p> <p><b>Opinion on ENTSO-E's 2016 draft scenario development report</b></p>
<p><b>Legal basis</b></p>	<p>Article 1(4) part A of the Annex to Commission Regulation (EU) No 838/2010</p> <p>Articles 6(3)(b) and (4) of Regulation (EC) No 713/2009 in conjunction with Articles 8(3)(d) and (e) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(f) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(a) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(a) of Regulation (EC) No 714/2009</p> <p>Article 8(11) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(c) of Regulation (EC) No 714/2009</p> <p>Articles 6(7) and (8) of Regulation (EC) No 713/2009</p>

	Articles 6(3)(b) and (4) of Regulation (EC) No 713/2009 in conjunction with Articles 8(3)(b) and (10) of Regulation (EC) No 714/2009
Work programme objective for 2016	Activities regarding opinions on ENTSO-E documents to be carried out upon submission of the relevant documents by ENTSO-E by the legal deadlines. Opinion on national network development plans to assess consistency with the Union-wide network development plan and monitoring of the implementation of the Union-wide electricity TYNDP and annual monitoring report on implementation of the ITC mechanism.
Performance indicators and targets (deadlines)	Timely delivery and quality of the documents. Monitoring report on 2014 ITC implementation: October 2016. Opinion on ENTSO-E's work programme and the TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant. Opinion on ENTSO-E's other documents: after receipt of the document by ENTSO-E.
Achievement against target	The Agency adopted and published all the deliverables envisaged in its 2016 annual work programme except for the opinion on ENTSO-E's 2016 draft ten year network development plan. 1- The Agency adopted its opinion on ENTSO-E's 2015-16 Winter outlook report and its 2015 Summer review on 5 February 2016. <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2001-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2001-2016.pdf</a> 2 - The Agency adopted its opinion on ENTSO-E's network operation tools report on 17 March 2016. <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2002-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2002-2016.pdf</a> 3 - The Agency adopted its opinion on ENTSO-E recommendations on cooperation with EU and third-country TSOs on 17 March 2016. <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2003-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2003-2016.pdf</a> 4 - The Agency adopted its opinion on the implementation of investments in electricity transmission networks on 27 July 2016. <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2008-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2008-2016.pdf</a> 5 -The Agency adopted its opinion on ENTSO-E's 2016 Summer outlook report and its 2015-2016 Winter review on 4 October 2016. <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2010-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2010-2016.pdf</a> 6 - The Agency adopted its opinion on ENTSO-E's 2017-2026 research and innovation roadmap on 4 October 2016. <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2011-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2011-2016.pdf</a>

	<p>7 - The Agency adopted its opinion ENTSO-E's 2016 draft TYNDP scenario development report on 4 October 2016.</p> <p><a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2012-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2012-2016.pdf</a></p> <p>8 - The Agency adopted its opinion on ENTSO-E's 2016 to December 2017 draft work programme on 16 December 2016 slightly later than two months after receipt (i.e. 7 October 2016).</p> <p><a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2015-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2015-2016.pdf</a></p> <p>9 - The Agency adopted its annual monitoring report on the implementation of the inter-TSO compensation fund in 2015 in November 2016.</p> <p><a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ITC%20Monitoring%20Report%202016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ITC%20Monitoring%20Report%202016.pdf</a></p> <p>ENTSO-E's 2016 draft ten year network development plan was received by the Agency later than expected (i.e. on 28 November 2016) and the Agency's opinion was adopted on 3 February 2017.</p>
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## Gas

<b>Tasks</b>	<p><b>Opinions on ENTSOG's 2017 annual work programme and ENTSOG's 2015 annual report</b></p> <p><b>Opinions on ENTSOG's common network operation tools including a common incidents classification scale and research plans</b></p> <p><b>Opinions on ENTSOG's annual Summer and Winter supply outlooks</b></p> <p><b>Reviews and recommendations on national TYNDPs focusing on their (in)consistency with the Community-wide TYNDP</b></p> <p><b>Opinions on ENTSOG's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators</b></p> <p><b>Report on implementation monitoring of the Community-wide TYNDP and progress made in implementing projects to create new interconnector capacity</b></p>
Legal basis	<p>For all deliverables: Article 6(3)(b) of Regulation (EC) No 713/2009.</p> <p>For work programme and TYNDP: Article 6(4) of Regulation (EC) No 713/2009 and Article 9(2) of Regulation (EC) No 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 (EC) No 715/2009.</p>
Work programme	<p>Opinions on submitted documents have been regularly delivered in past years, except for opinions on network operation tools, including the common incidents classification scale and research plans and</p>



objective for 2016	recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators, which were not submitted to the Agency by ENTSOG. The Agency will deliver its opinion within two months of the receipt of ENTSOG's 2017 work programme.
Performance indicators and targets (deadlines)	Timely delivery of reports and opinions. Opinion on ENTSOG's work programme and TYNDP: within two months following receipt of the document from ENTSOG if considered non-compliant.
Achievement against target	<p>The Agency adopted and published all the deliverables envisaged in its 2016 annual work programme except for the opinions on research plans and recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators which ENTSOG did not submit to the Agency.</p> <p>1 - The Agency adopted its opinion on ENTSOG's 2017 annual work programme on 26 October 2016: <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2013-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2013-2016.pdf</a></p> <p>2 - The Agency adopted its opinion on ENTSOG's 2015 annual report on 3 October 2016: <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2009-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2009-2016.pdf</a></p> <p>3 - The Agency adopted its opinion on ENTSOG's annual Summer supply outlook on 22 October 2016: <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2007-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2007-2016.pdf</a></p> <p>4 - The Agency adopted its opinion on ENTSOG's 2016-2017 Winter supply outlook on 16 December 2016: <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2016-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2016-2016.pdf</a></p> <p>5 - On 5 December 2016 the Agency adopted its review and recommendations on the (in)consistency of national network development plans with the Community-wide TYNDP and its report on monitoring the implementation of the Community-wide TYNDP and progress made in the implementation of projects to create new interconnector capacity: <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2014-2016.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2014-2016.pdf</a></p> <p>ENTSOG published the agreed common network operations tools (CNOT) table on 7 November 2016 and on 17 November 2016 it issued a press-release announcing the conclusion of the CNOT process for each of the relevant data exchange requirements identified. Due to ENTSOG's late delivery of the CNOT, the Agency adopted and published its opinion on 9 February 2017.</p>



## A. Guidelines for trans-European energy infrastructure

The tasks assigned to the Agency under Regulation (EU) No 347/2013 mostly relate to the process of identifying and monitoring the implementation of projects of common interest (PCIs).

In this connection, the Agency worked on the following deliverables in 2016:

### Electricity and gas

<b>Task</b>	<b>Annual consolidated report on the progress of projects of common interest and (if appropriate) recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation</b>
Legal basis	Article 5(5) of Regulation (EU) No 347/2013
Work programme objective for 2016	Consolidated reports follow project promoters' submission of annual reports for each project of common interest to the competent authority and either to the Agency (for projects falling under the categories set out in Annex II.3 and 4 of Regulation (EU) No 347/2013) or to the respective group. Upon receipt of project promoters' submissions by 31 March 2016, the Agency has three months to deliver its consolidated report. Work is conducted in cooperation with the innovation and networks executive agency (INEA) with respect to its financial monitoring duties.
Performance indicators and targets (deadlines)	Timely delivery of the report.
Achievement against target	The Agency published its consolidated report on 30 June 2016: <a href="http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/CONSOLIDATED%20REPORT%20ON%20THE%20PROGRESS%20OF%20ELECTRICITY%20AND%20GAS%20PROJECTS%20OF%20COMMON%20INTEREST%20for%20the%20year%202015.pdf">http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/CONSOLIDATED%20REPORT%20ON%20THE%20PROGRESS%20OF%20ELECTRICITY%20AND%20GAS%20PROJECTS%20OF%20COMMON%20INTEREST%20for%20the%20year%202015.pdf</a>

<b>Task</b>	<b>Opinion on ENTSOs' updated cost-benefit analysis (CBA) methodologies</b>
Legal basis	Article 11(6) of Regulation (EU) No 347/2013

Work programme objective for 2016	The Commission approved CBA methodologies in February 2015 after which ENTSO-E and ENTSOG published them on their websites. These methodologies are to be updated and improved on a regular basis. The Agency, at its own initiative or based on a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders and the Commission, may request such updates and improvements with due justification and timescales. In doing so, the Agency must take suitability for selection of projects of common interest and how to incorporate unit investment costs from the ACER report into account.
Performance indicators and targets (deadlines)	Timely delivery of ad-hoc requests for CBA methodology updates and improvements.
Achievement against target	<p>ENTSO-E's draft updated CBA methodology was received by the Agency later than expected (i.e. on 6 December 2016, after withdrawal of the draft submitted on 29 July 2016). Therefore, the opinion was not adopted in 2016.</p> <p>In 2016 ENTSOG indicated its intention to update the CBA methodology during the course of 2017. The Agency provided ENTSOG with a list of "key CBA improvements" and initiated a dialogue with the Commission and ENTSOG to ensure the timely accommodation of the regulators' view in the updated CBA methodology.</p>

### Activities subject to specific conditions

In 2016 the Agency performed the following tasks upon request:

<b>Task</b>	<b>Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions, when requested jointly by the concerned NRAs or when the concerned NRAs fail to take a decision within a predefined period (6 months, with possible extension)</b>
Legal basis	<p>Article 8 of Regulation (EC) No 713/2009 for decisions on terms and conditions and operational security of cross-border interconnectors.</p> <p>Article 36(4) of Directive 2009/73/EC for decisions on exemptions.</p>

<p>Work programme objective for 2016</p>	<p>For cross-border infrastructure, the Agency shall decide on terms and conditions for access and operational security, only:</p> <ul style="list-style-type: none"> <li>- in cases in which the competent national regulatory authorities have not been able to reach an agreement within a period of six months from when the case was referred to the last of those regulatory authorities; or</li> <li>- at the joint request of the competent NRAs. The competent NRAs may jointly request that the period be extended by a period of up to six months.</li> </ul> <p>When preparing its decision, the Agency shall consult the NRAs and the TSOs concerned and shall be informed of the proposals and observations of all the TSOs concerned. This task involves a decision which must cover the following elements: a procedure for capacity allocation; a timeframe for allocation; shared congestion revenues; and the levying of charges on the users of the infrastructure referred to in Article 17(1)(d) of Regulation (EC) No 714/2009 or Article 36(1)(d) of Directive No 2009/73/EC.</p> <p>The Agency may, if necessary, issue an interim decision to ensure that security of supply or operational security of the infrastructure in question is protected.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely delivery of a decision within six months from the date of referral to the Agency.</p>
<p>Achievement against target</p>	<p>No request for such decisions was received in 2016.</p>

<b>Task</b>	<b>Decisions on investment requests including on cross-border cost allocation</b>
<p>Legal basis</p>	<p>Article 12(6) of Regulation (EU) No 347/2013</p>
<p>Work programme objective for 2016</p>	<p>Pursuant to Article 12(3) of Regulation (EU) No 347/2013, promoters of projects of common interest are eligible to submit an investment request including a request for cross-border cost allocation (CBCA). In 2016 new CBCA requests could be referred to the Agency. Investment / CBCA requests may be submitted at any time. A decision must be forthcoming within three months from the date of referral to the Agency, with a possible two month extension where additional information is needed.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Delivery of a decision within the prescribed period of time from the date of referral to the Agency with a possible two month extension in where additional information is needed.</p>

Achievement against target	<p>No new investment in electricity request was referred to the Agency in 2016.</p> <p>A request for investment in gas was referred to the Agency regarding PCI No 8.1.2.2 (Paldiski LNG) on 19 November 2015. The project promoter withdrew the request on 11 January 2016.</p> <p>Hence, the Agency did not issue any decision on investment requests including on cross-border cost allocation.</p>
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<b>Task</b>	<b>Opinions regarding preliminary decisions taken by NRAs on TSO certification when requested by the Commission</b>
Legal basis	<p>Article 9(2) of Regulation (EC) No 713/2009</p> <p>Article 3(1) of Regulations (EC) Nos 714/2009 and 715/2009</p>
Work programme objective for 2016	Regular consultation and information exchange takes place between the Commission and the Agency. Support is provided for TSO certification by delivering, upon request, an opinion on preliminary decisions by NRAs on TSO certification.
Performance indicators and targets (deadlines)	Timely delivery of the opinion to the Commission.
Achievement against target	In 2016 the Agency did not receive any request to provide an opinion on NRA decisions regarding TSO certification.

<b>Task</b>	<b>Peer reviews as submitted to the Agency based on Article 7(4) of Regulation (EC) No 713/2009</b>
Legal basis	Article 7(4) of Regulation (EC) No 713/2009
Work programme objective for 2016	<p>At the request of a regulatory authority or of the Commission, the Agency must provide a fact-based opinion on whether a decision taken by a regulatory authority complies with the guidelines referred to in Directive No 2009/72/EC, Directive No 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those directives or regulations. Where a national regulatory authority is not in compliance, the Agency must inform the Commission and the Member State concerned of such non-compliance within four months of the day of receipt. As of the end of 2014, the Agency had received two peer review requests. The Agency shall provide an opinion on whether an NRA decision complies with the guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those directives or regulations.</p>

	Provision of a fact-based opinion and, in cases of non-compliance, issue a report on said non-compliance to the Commission and the Member State concerned within four month from the date of its adoption.
Performance indicators and targets (deadlines)	Delivery of the opinion and the information report regarding non-compliance to the Commission and the Member State concerned (where applicable) within a reasonable period of time.
Achievement against target	In 2016, the Agency did not receive any request for a peer review opinion.

<b>Task</b>	<b>Opinions and recommendations, within its sphere of competence, upon request by the European Parliament, the Council or the European Commission</b>
Legal basis	Article 5 of Regulation (EC) No 713/2009
Work programme objective for 2016	As requested by the European Parliament, the Council and the European Commission, provide support to those same institutions by delivering the requested opinions and recommendations.
Performance indicators and targets (deadlines)	Timely delivery of opinions and recommendations.
Achievement against target	In 2016, the Agency did not receive any request for opinions or recommendations by the European Parliament, the Council or the European Commission.

### Opinions and recommendations on the Agency's own initiative

In 2016 the Agency did not issue any opinion or recommendation on its own initiative:

<b>Task</b>	<b>Opinions and recommendations, within the sphere of its competence, to the European Parliament, the Council and the European Commission, whenever appropriate, to ensure the proper functioning of the internal energy market</b>
Legal basis	Article 5 of Regulation (EC) No 713/2009
Work programme objective for 2016	The Agency is responsible for issuing opinions and recommendations, on its own initiative and whenever appropriate, to ensure the proper functioning of the European internal energy market. Recommendation(s) on specific mechanisms to further enhance cooperation between NRAs and the effectiveness of regulatory action at EU level.

	Opinions and recommendations in other areas, including regulatory oversight of mandatory and voluntary EU TSO bodies, where necessary or appropriate.
Performance indicators and targets (deadlines)	Timely delivery of recommendations.
Achievement against target	<p>In 2016 the Agency did not issue any opinion or recommendation under Article 5.</p> <p>The Agency did provide input for the preliminary work on the new regulation concerning gas supply security and the practical application of the solidarity principle.</p> <p>The Agency actively participated in the PCI selection process via cooperation platform sessions in which infrastructure problems and needs were identified.</p>

## B. Wholesale market monitoring – REMIT

2016 marked the final year of REMIT’s implementation phase and overlapped with the first full year of data collection during its operational phase. While many of the obligations and market abuse prohibitions introduced by REMIT already applied since the regulation’s entry into force on 28 December 2011, the entry into force in early January 2015 of the implementing acts triggered important deadlines for data reporting. Market participants and third parties reporting on their behalf had to:

- report wholesale energy contract transactions admitted to trading at organised market places and fundamental data from ENTSO’s central information transparency platforms as of 7 October 2015, and
- report all other wholesale energy contract transactions (OTC standard and non-standard supply contracts; transportation contracts) and reportable fundamental data from TSOs, LSOs and SSOs as of 7 April 2016.

REMIT’s operational phase commenced with the entry into force of the REMIT implementing acts on 7 January 2015. It overlaps with REMIT’s implementation phase during a transitional period which lasted until the time the Agency became fully operational in terms of its data collection through a phase-in approach of the REMIT implementing acts, i.e. 7 July 2016, when all data sets will have to be reported to the Agency, including the back-loading of outstanding non-standard contracts.

In 2016, the Agency only received part of the requested additional human resources for the purpose of REMIT implementation and operations. Therefore, it reallocated resources and reprioritised tasks, and in some cases reduced the scope of implementation to ensure that the most crucial activities related to REMIT implementation and operations were undertaken. It also focused on the quality of the data reported and on compliance with reporting obligations set out in REMIT Article 8. The most significant specific change in the 2016 revised annual work programme concerned the scope of market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation. A revised market monitoring strategy based on available resources was developed and a number of tasks originally envisaged in the work programme were deprioritised e.g. the establishment of suitable mechanisms to access emission allowance data; publication of some trade information; making the Agency's commercially non-sensitive trade database available for scientific purposes and assessment of the operation and transparency of different market place categories and trading methods. The Agency also reduced some of the planned activities related to close cooperation and coordination with other authorities to ensure coordinated enforcement of REMIT and the Market Abuse Directive.

At the end of 2016, the Agency's market monitoring department was replaced by two newly established departments: the market surveillance and conduct department and the market integrity and transparency department.

All documentation related to REMIT implementation mentioned in this section can be found on the REMIT website: <https://www.acer-remit.eu/portal/public-documentation>.

<b>Task</b>	<b>Operation, further development and, if necessary, improvements of the centralised European register of energy market participants (CEREMP) forming part of the Agency's REMIT information system (ARIS) for the collection of trade, fundamental and other data and to share data with NRAs in accordance with the REMIT implementing acts</b>
Legal basis	Articles 7 to 10 and 12 of Regulation No 1227/2011
Work programme objective for 2016	CEREMP deployment and operation; Deployment and operation of ARIS and its market monitoring solution completed within 9 months of the entry into force of the implementing acts concerning the data to be reported in phase 1 of data reporting and within 15 months of the entry into force of the implementing acts concerning the data to be reported in phase 2 of data reporting; Share with and disseminate information to NRAs;



	<p>Ensure operational reliability and professional secrecy of the information received by the Agency by taking all necessary measures to prevent misuse of and unauthorised access to the information received and stored in the Agency's systems, by identifying sources of operational risk and by minimising such risk through the development of appropriate systems, controls and procedures.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>99% of planned system availability.</p> <p>No security system breaches involving data leakage.</p>
<p>Achievement against target</p>	<p>All other major ARIS components were successfully developed and deployed in 2016. The Agency provided 99% of planned system availability and no security system breaches involving data leakage were identified.</p> <p>NRA registration of market participants started in July 2014 and continued throughout 2016.</p> <p>Data collection successfully commenced on 7 October 2015 and 7 April 2016 and the process making data sharing available to NRAs was started shortly thereafter and is ongoing.</p> <p>In 2016, the Agency implemented its REMIT information security policy which was adopted in early 2015. This document covers all relevant aspects to ensure the operational reliability, confidentiality, integrity and protection of information received, pursuant to Articles 4(2), 8 and 10 of REMIT. The Agency took all necessary measures to prevent any misuse of and unauthorised access to the information stored in its systems.</p>

<p><b>Task</b></p>	<p><b>Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation according to Article 7 of REMIT, in cooperation with NRAs and on the basis of data collected in accordance with the REMIT implementing acts, and the establishment, further development and operation of the Agency's market surveillance solution devised to undertake its market monitoring activity</b></p>
<p>Legal basis</p>	<p>Article 7 and 8 of Regulation (EU) No 1227/2011</p>
<p>Work programme objective for 2016</p>	<p>Monitoring methodologies under development. Ongoing review of cases notified. Market monitoring of the data collected according to Articles 7 and 8 of Regulation (EU) No 1227/2011. Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.</p> <p>A revised market monitoring strategy is being developed to the extent possible with the limited resources available to the Agency.</p>



Performance indicators and targets (deadlines)	The performance indicators and targets will be defined once the revised market monitoring strategy has been developed.
Achievement against target	<p>Systematic market monitoring with SMART tools requires complete and accurate data. In 2016, the Agency's market monitoring activities were focused on evaluating the completeness and quality of reported data. The Agency is assessing data completeness according to Article 8 of REMIT.</p> <p>An EU-wide market surveillance strategy was developed in 2016 in collaboration with NRAs to ensure effective market monitoring at EU level.</p>

<b>Task</b>	<b>Coordination of NRAs and other relevant authorities, including at regional level, without prejudice to their responsibilities, aimed at promoting best practices for the implementation of REMIT and to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent fashion, including update of the Agency's guidance on the application of REMIT definitions and coordination of NRAs' investigation activities targeting cases of cross-border market abuse</b>
Legal basis	Article 16(1) of Regulation (EU) No1227/2011
Work programme objective for 2016	<p>Try to ensure that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent fashion, including update of the Agency's guidance on the application of REMIT definitions and coordination of NRAs' investigation activities targeting cases of cross-border market abuse.</p> <p>Publication of the Agency's guidance as required.</p> <p>Coordinate investigation of cases of alleged cross-border market abuse as required.</p> <p>A revised market monitoring strategy is being developed to the extent possible with the limited resources available to the Agency.</p>
Performance indicators and targets (deadlines)	Performance indicators and targets will be defined once the revised market monitoring strategy has been developed.
Achievement against target	<p>In 2016, the Agency coordinated and cooperated with NRAs through the REMIT coordination group and the AMIT working group and their respective sub-groups.</p> <p>The 4<sup>th</sup> edition of ACER guidance on the application of REMIT was published on 17 June 2016.</p> <p>It was difficult to coordinate the increasing number of cases in 2016 (48 new cases were opened in 2016) with the limited human resources available to the Agency.</p>

	An EU-wide market surveillance strategy was developed in 2016 in collaboration with NRAs to ensure effective market monitoring at EU level.
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<b>Task</b>	<b>Cooperation with NRAs, ESMA, competent national financial market authorities and other authorities, as well as with supervisory authorities, international organisations and the administrations of third countries, in order to ensure that a coordinated approach is taken when enforcing market abuse rules where actions relate to one or more wholesale energy products which are financial instruments to which Article 9 of Directive No 2003/6/EC applies and also to actions relating to one or more wholesale energy products to which Articles 3, 4 and 5 of REMIT apply pursuant to Article 1(3) of REMIT</b>
Legal basis	Articles 1(3), 10 and 16 of Regulation (EU) No 1227/2011
Work programme objective for 2016	Cooperation on the basis of memoranda of understanding (MoUs); Coordination in the investigation of alleged cross-border market abuse cases as required; and Promotion of best practices in the implementation of REMIT.
Performance indicators and targets (deadlines)	Conclusion of MoUs with relevant authorities and implementation of the MoUs in force through regular meetings with the relevant authorities.
Achievement against target	In 2016, the Agency coordinated and cooperated with NRAs through the REMIT coordination group and the AMIT working group and their respective sub-groups. Regular Q&A sessions were held with NRAs to coordinate replies to stakeholder questions.  Cooperation with ESMA, national financial market authorities and other relevant authorities continued through ad hoc meetings. No additional MoUs were concluded.

<b>Task</b>	<b>Annual report on Agency activities under REMIT pursuant to Article 7(3) of REMIT</b>
Legal basis	Article 7(3) of Regulation (EU) No 1227/2011
Work programme objective for 2016	Expected submission of the 4 <sup>th</sup> annual REMIT report: Q3 2016. The Agency shall submit a report to the Commission at least annually in which the Agency assesses the operation and transparency of different categories of market places and ways of trading and may make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency. In

	<p>order to streamline the use of human resources, a consistent part of the above will be included in the Agency's market monitoring report.</p> <p>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 EU 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>Performance indicators and targets (deadlines)</p>	<p>Submission of the annual report on REMIT implementation by the end of Q3.</p> <p>Over 30 website hits within one month of the publication of the report</p>
<p>Achievement against target</p>	<p>The 2016 REMIT annual report on the Agency's activities in 2015 was published on 7 October 2016, one year after data collection went live.</p> <p>45 website hits were recorded within one month of the publication of the report.</p>

## PART II (a) Management

### 2.1 Administrative Board (AB)

In 2016 the composition of the AB changed considerably. This was mainly due to a number of mandates coming to an end in January 2016 and to two resignations in 2015. The AB also appointed a new chair and vice-chair in January 2016.

The composition of the AB from January 2016 onwards was as follows:

<b>Members appointed by the Council</b>	
<b>Member</b>	<b>Alternate</b>
Edmund Hosker	Jurijs Spiridonovs
Georgios Shammass	Martin Hansen
Piotr Grzegorz Woźniak	Carlos Aguirre Calzada
Guy Lentz	Pál Kovács
Jochen Penker, Vice-Chair	Romas Švedas
<b>Members appointed by the EP</b>	
Romana Jordan, Chair	Uwe Leprich
Rene Tammist	António Jorge Viegas de Vasconcelos
<b>Members appointed by the EC</b>	
Dominique Ristori	Florian Ermacora
Agnieszka Kaźmierczak	Aba-Garrote Paloma

The AB met five times in 2016 (on 27-28 January, 7 June, 22 September, 18 October and 15 December).

It adopted 22 decisions:

1	AB decision on the appointment of a new BoR member and alternate member*	27/01/2016
2	AB decision on the estimate of revenue and expenditure and the Agency's establishment plan for cooperation of energy regulators for the 2017 financial year	27/01/2016
3	AB decision on the application of the flexibility rule regarding ACER's 2016 establishment plan	28/01/2016
4	AB decision on the appointment of a new BoR member*	07/03/2016
5	AB decision on the appointment of the new BoR member and alternate member*	07/03/2016
6	AB decision on implementing rules governing the reclassification procedure for contract staff**	04/04/2016
7	AB decision on implementing rules governing the reclassification procedure for temporary staff**	04/04/2016
8	AB decision on implementing rules on working time**	04/04/2016
9	AB decision on the appointment of a new BoR member*	22/04/2016
10	AB decision on the appointment of a new BoR and alternate member*	18/05/2016
11	AB decision on the appointment of two members as reporting officers for the assessment of the director's annual performance	07/06/2016
12	AB decision on the adoption by analogy of implementing rules regarding part-time work	07/06/2016
13	AB decision on the adoption of transfers of appropriations**	12/08/2016
14	AB decision on the appointment of a new BoR alternate member*	13/09/2016
15	AB decision setting up the staff committee	22/09/2016
16	AB decision on the non-application of the EC decision on the minimum duration for the recourse to non-permanent staff in EC service (7-year rule)	22/09/2016
17	AB decision on the adoption of the 2017Work programme	22/09/2016
18	AB decision on the appointment of BoA members	18/10/2016
19	AB decision granting the director permission to engage with the FSR	15/12/2016
20	AB decision on the 2017 ACER budget	15/12/2016
21	AB decision on the 10 percent flexibility of the establishment plan	15/12/2016
22	AB decision on the replacement of BoA members (pairing)	15/12/2016

\*Appointment 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 adopted one opinion in 2016.

1	AB opinion on the approval of the financial accounts for the 2015 financial year	07/06/2016
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The most significant risk for the Agency in 2016 was yet again related to the implementation of REMIT. As in 2015, the main issue was the gap between the minimum allocation of human resources which the Agency considers necessary to meet REMIT objectives and staffing allocation under the EU budget. This gap remained significant despite the increase in human resources foreseen for 2016 when 15 additional posts were authorised, 11 of which were allocated to REMIT-related functions.

Ineffective application of REMIT, even if due to reasons beyond the Agency's control, could have a reputational risk on the Agency (in addition to economic damages suffered by taxpayers due to the negative effects on markets), and more generally on the Union.

The second most important risk for the Agency in 2016 was a decrease in the correction coefficient for Slovenia affecting staff salaries. This is not the first reduction over the Agency's

six-year existence and could have a significant negative impact on staff recruitment (attracting new staff) and retention.

These risks were frequently discussed at AB meetings in 2016 and important controls were implemented:

Regarding REMIT implementation, the Agency adopted measures to reduce risk by attempting to raise the awareness of EU institutions, national regulatory authorities and stakeholders as to the benefits of the proper implementation of REMIT, by adopting practical solutions to ensure completion of the registration process in the timeframe envisaged by REMIT and through the implementation of internal security measures.

Regarding the correction coefficient, the Agency continued to participate in the Agency coordination working group to ensure a better understanding of how the correction coefficient was calculated and of the statistical data used for this procedure. The Agency also put social measures in place for staff consisting of an increase in the contribution to school fees with a view to at least partially offsetting a potential further decrease in the correction coefficient.

## 2.2 Major developments

On 15 December 2016 the AB adopted AB decision No 21/2016 amending the Agency's establishment plan<sup>2</sup>. This decision implements the procedure established in Article 38(1) of the Agency's financial rules (AB decision 22/2016 ('flexibility rule')). According to that flexibility rule the AB may, under certain circumstances, modify the Agency's establishment plan for up to 10% of the authorised posts. The specific conditions for the implementation of this procedure were met, considering that:

- the total volume of appropriations would not be affected;
- the ceiling on the total number of posts authorised was not exceeded (as the number of posts remained unchanged);
- the modification did not affect grades AD15, AD14 or AD 13, and
- the Agency carried out the benchmarking exercise for 2015 in accordance with applicable provisions.

Moreover, the Agency completed its core REMIT implementation in 2016. The second phase of data collection of all reportable trade and fundamental data got off to a successful start on 7 April 2016 and the deadline for the back-loading of pre-existing contracts by market participants expired on 6 July 2016. On 7 October 2016, the Agency completed one full year of data collection from organised market places and transparency platforms from the European network of transmission system operators for electricity and gas under REMIT. The number of records submitted to the Agency exceeded all expectations. The Agency has put more than 600 pages of guidance on data reporting at the disposal of market participants and continues to provide additional guidance through frequent updates of its REMIT reporting user package, including through Q&As on REMIT policy issues and FAQs on transaction reporting

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<sup>2</sup> Exception No.4/2016, see the chapter on Register of Exceptions.

issues. It is now up to market participants to implement a clear system to comply with REMIT requirements, including their reporting obligations. The Agency, together with NRAs, is currently focusing on data quality, but some milestones of REMIT implementation such as the collection of insider information, have not yet been reached and had to be delayed due to limited resources. These will be implemented in 2017 or later.

Lastly, in November 2016 the Agency established two new REMIT departments replacing the defunct market monitoring department: the market integrity and transparency department and the market surveillance and conduct department. Both departments are jointly responsible for tasks under REMIT and work together closely. The market integrity and transparency department (MIT) is responsible for general REMIT policy matters, market data reporting, data quality, data sharing, business intelligence tools and market data management tasks under REMIT. The market surveillance and conduct (MSC) department performs hands-on market surveillance to deter market abuse and foster confidence in the proper functioning of energy markets.

### 2.3 Budgetary and financial management

The Agency's budget for the financial year ending 31 December 2016 was funded by a subsidy from the general EU budget amounting to EUR 15 872,582. On top of the annual subsidy an amount of EUR 5 206.69 was recognised under fund source IC4 as assigned revenue stemming from recovered overpaid amounts. There was no agreement reached regarding contributions to the Agency from EFTA countries.

During the 2016 financial year the Agency implemented 98.11% of its commitment appropriations. The sum of EUR 6 057,625.97 has been carried over into 2017 to cover legal obligations that were pending at year's end.

Appropriations not used at the end of financial year 2016 amounted to EUR 528 883.75. These were comprised of:

- unused 2016 appropriations amounting to EUR 304 800.60;
- cancelled appropriations carried over from 2015 amounting to EUR 223 237.87;
- exchange rate differences amounting to EUR 845.28.

These will be returned to the European Commission during the course of 2017.

There were a number of budgetary transfers in the 2016 financial year to reallocate resources from areas where budgetary savings were identified towards areas where resources were scarce to ensure the achievement of the year's objectives. Five lots of budgetary transfers were approved within and between headings, including one exceeding the 10% limit which was approved by the Agency's AB.

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

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

Task	Budget implementation and audit
<p>Work programme objective for 2016</p>	<p><i>Budget implementation</i></p> <p>Since becoming financially autonomous in 2011, the Agency has strived to improve its financial management and budget implementation rate.</p> <p>A number of policies and procedures have been introduced and followed to ensure effective budget management. In 2015 the Agency introduced e-invoicing and paperless workflow which added to the efficiency of its financial management.</p> <p>Annual budget implementation results have been gradually improving in recent years reaching 95% of commitment appropriations and 69.84% of payment appropriations in 2014 and 95.05% of commitment appropriations and 74.88% of payment appropriations in 2015.</p> <p>In 2017 the Agency will strive to further improve upon these results.</p> <p><i>Audit</i></p> <p>Since its establishment, the Agency has not received any critical recommendations from internal or external auditors.</p> <p>Furthermore, all recommendations from past years have been implemented as planned, reported in a timely manner and approved by the respective authority. As a result, the Agency has been granted a discharge every year. The Agency's objectives for 2016 were as follows:</p> <ul style="list-style-type: none"> <li>- To achieve a high level of budget implementation for both commitment and payment appropriations.</li> <li>- To implement the recommendations of the internal audit service (IAS) in a timely manner, to receive a positive opinion from the European Court of Auditors (ECA), and to implement its recommendations.</li> </ul>
<p>Performance indicators and targets (deadlines)</p>	<ol style="list-style-type: none"> <li>1. Minimum 95% execution of 2016 commitment appropriations by the end of Q4 2016.</li> <li>2. Minimum 75% execution of 2016 payment appropriations by the end of Q4 2016.</li> <li>3. Non-qualified opinion from ECA and 95% of its recommendations implemented in line with the agency's action plan.</li> <li>4. 95% of IAS recommendations implemented and reported in line with the Agency's action plan.</li> </ol>



Achievement against target	<ol style="list-style-type: none"> <li>1. The Agency implemented 98.11% of its commitment appropriations in 2016.</li> <li>2. The Agency implemented 59.95% of its payment appropriations in 2015.</li> <li>3. The Agency received a non-qualified opinion from ECA on its 2015 financial accounts.</li> <li>4. The IAS did not perform any audits in 2016.</li> </ol>
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## 2.4 Human resources management

On 31 December 2016, 112 staff, 60 temporary staff, 26 contract staff, 4 seconded national experts, 12 trainees, 8 interim staff and 2 experts from FERC were employed by the Agency. In 2016 the Agency received 15 additional temporary agent positions (AD)

The organisational chart and the Agency's establishment plan are presented in Annex III and Annex IV respectively.

In 2016, along with the revision and improvement of internal HR-related processes and templates, the Agency adopted the following general implementing provisions and model decisions:

- General implementing provisions regarding Article 87(3) on the conditions of employment of other servants of the European Union (AB decision No 06/2016);
- General implementing provisions regarding Article 54 of the conditions of employment of other servants of the European Union (AB decision No 07/2016);
- On working time (AB decision No 08/2016);
- On adapting implementing rules to part-time staff regulation by analogy (AB decision No 12/2016);
- On setting up a staff committee (AB decision No 15/2016);
- On the non-application of the Commission decision on the maximum duration for the recourse to non-permanent staff in the Commission services (AB decision No 16/2016).

In 2016 the Agency also signed a service level agreement (SLA) with the Directorate-General for Human Resources and Security (DG HR) for the *provision of sysper and related services*. With the signing of this SLA the Agency is included in the project to acquire the HR personnel database system of the European Commission (sysper), which will simplify and streamline the management of data (staff repository, analytics) related to the Agency's workforce.

The Agency carried out a benchmarking exercise in 2016 in line with the provisions of Article 29(3) of the framework financial regulation (FFR).

The snapshot for the benchmarking exercise was taken on 31 December 2016. 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.

Following is a breakdown, based on three job type categories, of the 121 total positions (including 9 vacant positions) in the Agency as of 31 December 2016:

**1. Administrative support and coordination** – 23 positions, accounting for 19.01% of total posts.

**2. Operational** – 91 positions, accounting for 75.20% of total posts.

**3. Neutral** – 7 positions, accounting for 5.79% of total posts.

Benchmarking exercise results are presented in Annex VI.

Task	Human resources management
Work programme objective for 2016	<p>The human resources (HR) team focused efforts on the amendment of processes and procedures for the implementation of the amended staff regulations and the new implementing rules.</p> <p>Staff for the 15 additional positions allocated to the Agency will have to be recruited in 2016.</p> <p>No critical comments in the areas of human resources, administration or management were received from the 2015 ECA audit.</p> <p>The HR Team will strive to maintain the quality of HR services in 2016.</p> <p>Best practices, including flexitime and personal initiative training (PIT), to be introduced to contribute to a balanced workplace.</p> <p>The Agency's objectives for 2016 are as follows:</p> <ul style="list-style-type: none"> <li>- Develop and implement a competency framework in the Agency;</li> <li>- Recruit additional resources in line with the Agency's establishment plan and replace departing staff members in an efficient and timely manner;</li> <li>- Successfully complete the annual performance appraisal exercise in 2016, in line with the new implementing rules;</li> <li>- Ensure that staff members regularly attend training to improve their skills and competencies;</li> <li>- Prepare for the introduction and use of the Commission's HR tool sysper; and</li> </ul>

<p>Performance indicators and targets (deadlines)</p>	<ul style="list-style-type: none"> <li>- Receive a positive evaluation from the ECA.</li> <li>- Competency framework introduced in the Agency by Q4 2016;</li> <li>- Average length of recruitment procedure: 4 months (including the 1-month period of publication of the vacancy notice);</li> <li>- Minimum 90% of the recruitment target reached in 2016;</li> <li>- 100% of the Agency's staff subject to performance appraisal undergoes evaluation in the 2016 exercise in line with the new implementing rules;</li> <li>- Minimum 75% attendance at trainings;</li> <li>- No critical or very important recommendations received from the 2016 ECA audit.</li> </ul>
<p>Achievement against target</p>	<ul style="list-style-type: none"> <li>- The first preparatory document for the layout of the ACER competency framework has been prepared, but given the other priorities in the field of human resources management, completion of the exercise has been postponed to 2017.</li> <li>- 19 selection procedures were launched in 2016 to fill vacancies or to establish reserve lists, four (4) of which are still on-going in 2017. The average duration of the 15 closed selection procedures was 3.94 months (shortest: 2.20 months, longest: 5.29 months).</li> <li>- The Agency launched two traineeship calls in 2016. The average length of the trainee selection procedures was 2.03 months.</li> <li>- In 2016 the Agency recruited 14 temporary staff, 13 contract staff, 2 SNEs and 2 experts from FERC. It likewise filled 10 traineeship positions for the traineeship period starting in March 2016 and 12 traineeship positions for the traineeship period starting in September 2016.</li> <li>- Four temporary staff, 2 contract staff and 4 SNEs left the Agency in 2016.</li> <li>- At the end of 2016 nine TA posts out of 69 (13.04%) were vacant, one of which was reserved for the purpose of a 10% cut in TA positions in 2017. Four of these positions were filled in early 2017.</li> <li>- The appraisal exercise was finalised on 3 May 2016. 100% of the eligible staff took part.</li> <li>- Training attendance at the close of 2016 was at 91.3%.</li> </ul>

## Other administrative tasks

### 2.5.1. Procurement and facility management

Task	Procurement and facility management
Work programme objective for 2016	<ul style="list-style-type: none"> <li>- The Agency's objectives for 2016 were to:</li> <li>- Prepare a health and safety at work policy and set up a health and safety committee to oversee implementation of the policy;</li> <li>- Perform fitting out and maintenance works at office premises as needed to ensure smooth continuation of the Agency's work;</li> <li>- Successfully implement the 2016 procurement plan.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Policy on health and safety at work drafted and put in place by Q2 2016;</li> <li>- Health and safety committee set up and operational by Q2 2016;</li> <li>- On-time implementation of the fitting out and maintenance plan at the Agency's office premises in 2016;</li> <li>- At least 80% implementation of the 2016 procurement plan.</li> </ul>
Achievement against target	<ul style="list-style-type: none"> <li>- Following the Commission's health and well-being programme, the Fit@work initiative was launched substituting the policy on health and safety at work. Fit@work was adopted in Q3 and is constantly being adapted to fit the Agency's needs.</li> <li>- In the context of the Fit@work initiative, in Q3 the Agency set up a working group which replaced the health and safety committee to prepare the Fit@work programme. The Fit@work working group is continuously updating the programme to meet the Agency's needs and interests.</li> <li>- The maintenance plan was finalised in Q3.</li> <li>- Implementation of the new fitting out plan started in December 2016 and was finalised in the first two months of 2017.</li> <li>- The implementation rate of the procurement plan approved for 2016 was 118.37%. At the end of 2016 the procurement plan included 72 procurement procedures</li> </ul>

	(very low-value procedures based on existing FWCs are not included in this number). Their status was as follows: 58 awarded, 6 cancelled, 3 not awarded, 1 on-going and 4 pending (to be launched in the course of 2017 or cancelled).
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The number, type and value of procurement procedures carried out in 2016 are presented below:

1) Operational

Type of procedure	Number of procedures	Value of contracts in EUR	Total amount committed in EUR
<b>Negotiated – very low value – direct contract</b>	27	104,491.50	104,491.50
<b>Negotiated - low value –framework contracts (FWC)</b>	0	Not applicable.	Not applicable.
<b>Negotiated - low value – direct contract</b>	1	55,000.00	55,000.00
<b>Negotiated (Article 134(1)(b)(ii) RAP)</b>	1	1,852,000.00	1,852,000.00
<b>Open – FWC (concluded in 2016)</b>	3	7,560,000.00	Not applicable.
<b>Specific contracts, following FWC</b>	15	3,874,419.43	3,874,419.43
<b>Order forms following FWC</b>	145	70,100.69	70,100.69
<b>TOTAL</b>	<b>192</b>	<b>13,516,011.62</b>	<b>5,956,011.62</b>

2) Administrative

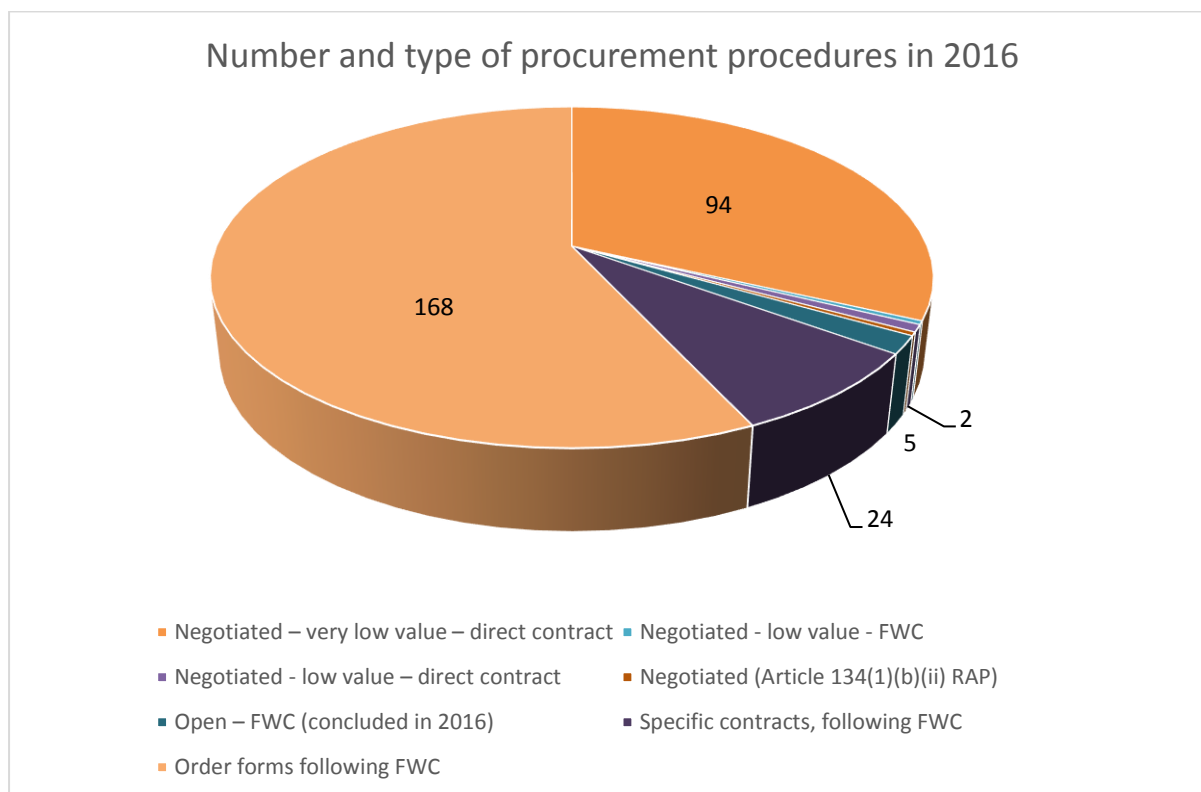
Type of procedure	Number of procedures	Value of contracts in EUR	Total amount committed in EUR
<b>Negotiated – very low value – direct contract</b>	67	187,079.29	187,079.29
<b>Negotiated - low value - FWC</b>	1	60,000.00	Not applicable.
<b>Negotiated - low value – direct contract</b>	1	31,687.56	31,687.56
<b>Negotiated</b>	0	Not applicable.	Not applicable.
<b>Open – FWC (concluded in 2016)</b>	2	631,000.00	67,000.00
<b>Specific contracts, following FWC</b>	9	196,167.57	196,167.57
<b>Order forms following FWC</b>	23	57,373.36	57,373.36
<b>TOTAL</b>	<b>103</b>	<b>1,163,307.78</b>	<b>472,307.78</b>

3) Total (operational and administrative)

Type of procedure	Number of procedures	Value of contracts in EUR	Total amount committed in EUR
<b>Negotiated – very low value – direct contract</b>	94	291,570.79	291,570.79

<b>Negotiated - low value - FWC</b>	1	60,000.00	0.00
<b>Negotiated - low value – direct contract</b>	2	86,687.56	86,687.56
<b>Negotiated (Article 134(1)(b)(ii) RAP)</b>	1	1,852,000.00	1,852,000.00
<b>Open – FWC (concluded in 2016)</b>	5	8,191,000.00	67,000.00
<b>Specific contracts, following FWC</b>	24	4,070,587.00	4,070,587.00
<b>Order forms following FWC</b>	168	127,474.05	127,474.05
<b>TOTAL</b>	<b>295</b>	<b>14,679,319.40</b>	<b>6,495,319.40</b>

The following graph shows the number of procurement procedures for each type carried out in 2016:



## 5.2. ICT infrastructure

Task	ICT development
Work programme objectives for 2016	<p>The Agency's objectives for 2016 are as follows:</p> <ul style="list-style-type: none"> <li>- Complete the renewal of IT infrastructure which started in 2015;</li> <li>- Deploy new services and applications as a result of the Agency's renewal of its IT infrastructure. The Agency will strive to ensure successful deployment and, where needed, smooth transition between old and new services;</li> </ul>

	<ul style="list-style-type: none"> <li>- Acquire and further develop applications and services to cover Agency departments' needs and to maintain or renew existing ones. The IT team will collect and assess business requirements and proceed with all the necessary procedures that will support the efficient functioning of the Agency;</li> <li>- Provide high level IT support services to enable the Agency staff to perform their tasks effectively.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>- Human resource constraints and mobility of IT staff may have an impact on the timely delivery and quality of output;</li> <li>- Close collaboration with the Agency's departments was needed in order to effectively define and implement their IT needs.</li> </ul>
Achievement against the target	<ul style="list-style-type: none"> <li>- The ICT strategy was adopted in Q1 2016 following the IAS IT risk assessment in February 2016. The overall satisfaction rate was 99.4%.</li> </ul>

## 2.5 Assessment by management

In 2016 the Agency continued to implement effective policies, management tools and monitoring and control procedures, aiming to ensure 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.

*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 middle and high-value procurement procedure has been put in place. *Ex-post* control is performed annually by the court of auditors on a sample of at least 4 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 eyes' principle, further verified by the introduced *ex-post* controls.

*Ex-post* controls on financial transactions did not result in any remarks, identification of irregularities or recommendations in 2016. Paperless workflow in the ABAC accounting system was adopted in 2015. A new model for paperless workflow of carry-overs was developed and implemented at the end of the 2016 financial year. It contributed to the improvement of process, traceability of documentation and helped keep financial transactions in compliance with applicable rules.

Revised guidelines on financial circuits and segregation of duties at the Agency were adopted in 2015 and further applied in 2016. The guidelines define specific roles and responsibilities for all those taking part in the financial circuit.

2016 saw an improved rate of commitment appropriations - 98.11% compared to 95.09% in 2015.

*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. 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 2016 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 2016 (both financial and operational) and the additional assurance provided by external and internal audits, it is safe to say that the control environment established by the Agency works as intended and provides reasonable assurance of achievement of objectives and legality and regularity of activities and underlying transactions.

## 2.6 Budget implementation tasks entrusted to other services and entities

No budget implementation tasks were entrusted to other services or entities.

## 2.7 Assessment of audit results during the reporting year.

### 2.7.1 Internal audit service (IAS)

The IAS conducted a full risk assessment and IT risk assessment from 22 to 26 February 2016. It 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. It led to 5 actions that must be completed by the end of 2017 and reported in the 2017 annual activity report.

In 2015-2016 the IAS audited the Agency's procurement process in line with its 2013-2015 IAS strategic internal audit plan. The aim of the audit was to assess the adequacy of the Agency's design, efficiency and effectiveness in managing the internal control system of its procurement process.

The scope of the audit included a review of:

- The set-up, resourcing and management arrangements of the Agency's procurement function to ensure efficient and effective management of the procurement process;
- The procurement plan and its ability to meet Agency needs and support its business objectives;
- The launching of procurement procedures in compliance with the applicable rules and regulations;
- The management of the opening, evaluation and award procedures, in compliance with the applicable rules and regulations;
- Agency monitoring and reporting measures allowing for a timely follow-up of the implementation of the procurement plan as well as corrective measures in case of deficiencies.



As a result, the IAS made six recommendations, four rated as 'important' and two as 'very important'. Action on the two 'very important' recommendations was completed and they were proposed for closure in March 2017.

## 2.7.2 European Court of Auditors (ECA)

### Audit of the 2015 annual accounts

ECA audited the 2015 annual accounts in March 2016. The audit mission 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<sup>3</sup>

In the opinion of the ECA the Agency's annual accounts accurately depicted, in all material respects, its financial position at 31 December 2015, 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<sup>4</sup>

In the opinion of the ECA, the transactions underlying the annual accounts for the 2015 financial year were legal and standard in all material respects.

The ECA made one comment, which did not call its opinion into question, regarding the high level of appropriation carried over into the following financial year, caused mainly by the multi-annual nature of the REMIT project and the delays in approving the implementing regulation for this project (see section 2.9.2).

The 2015 accounts were audited in March 2016 by an external audit firm engaged by the Agency in accordance with the provisions of Article 208 of the general financial regulation<sup>5</sup>. The external auditors audited the annual accounts (balance sheet at 31 December 2015 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 ECA's opinion of the final accounts.

### Audit of the 2016 annual accounts

The European Court of Auditors (ECA) together with Ernst & Young audited the Agency's 2016 annual accounts. The comments made related to:

- the large amount of funds carried over into the 2017 financial year mainly because of the multiannual nature of the REMIT project and a concentration of procurement procedures at the end of the year leading to pending obligations at year's end, and
- the agreed action plan between the Agency and the IAS to improve the efficiency of procurement processes and procedures.

<sup>3</sup> [http://www.eca.europa.eu/Lists/ECADocuments/ACER\\_2014/ACER\\_2014\\_EN.pdf](http://www.eca.europa.eu/Lists/ECADocuments/ACER_2014/ACER_2014_EN.pdf)

<sup>4</sup> See footnote 3.

<sup>5</sup> Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002.

## 2.8 Follow up on recommendations and action plans for audits

### 2.8.1 Recommendations issued by the IAS

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 implementation;
- REMIT market surveillance; and
- IT governance.

#### Follow-up on previous recommendations (2015 audit)

The 2015 IAS audit on procurement processes resulted in six recommendations (four 'important' and two 'very important'). Recommendation 1 and 2, marked as 'very important' were completed and closed in March 2017 (also see section 2.7.1.)

#### Follow-up on earlier recommendations (2014 audit)

The 2014 IAS audit on the development of framework guidelines and opinion on network codes resulted in four observations and six recommendations (one 'very important' and five 'important')<sup>6</sup>. Two recommendations were implemented and closed in 2014 and two other recommendations were implemented and closed in 2015.

Of the remaining two recommendations (rated as 'important') one was implemented and completed in 2016. The last recommendation is proposed for closure (see ANNEX 1, reporting on KPI 13, for more details).

### 2.8.2 Recommendations issued by the ECA

The ECA issued a positive opinion on the reliability of the 2015 accounts and on the legality and regularity of the transactions underlying the accounts.

Its report contained one specific recommendation on the high amount of appropriations carried over into the following financial year, to a large extent related to the REMIT project (see section 2.7.2 above).

The Agency justified<sup>7</sup> the amount of carryover in its reply.

#### Follow-up on earlier recommendations

Work is still ongoing on the 2014 recommendation regarding the establishment of a European School. The host Member State finalised the feasibility study and the Slovenian Ministry of Education and Sports then decided on the location of the European School. The host Member State's plan is to launch the European School in the autumn of 2018 (school year 2017/2018).

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<sup>6</sup>As reported in the Agency's 2014 annual activity report.

<sup>7</sup>[http://www.eca.europa.eu/Lists/ECADocuments/ACER\\_2015/ACER\\_2015\\_EN.pdf](http://www.eca.europa.eu/Lists/ECADocuments/ACER_2015/ACER_2015_EN.pdf) ; page 12

## 2.9 Follow up on observations from the discharge authority

In its Report on discharge in respect of the Agency's budget implementation for financial year 2014<sup>8</sup>, the European Parliament confirmed the status of recommendations from previous years as 'completed' and issued the following recommendations:

- called on the Agency to review and publish the remaining CVs and declarations of interest without delay, as provided for in its conflict of interest policy;
- called on the Agency to continue strengthening its internal controls and to ensure that the controls introduced work effectively and contribute to the achievement of its objectives;
- encouraged the Agency and the host Member State to resolve the issue with the establishment of a European School and called on the Agency to inform the discharge authority of the state of play of the negotiations.

The Agency addressed the above recommendations. In particular, it took the necessary steps to collect and publish the remaining CVs and declarations of interest. The annual assessment of the effectiveness of the Agency's internal control standards was conducted and, as a follow up where required, measures were taken to improve the control environment. The Agency provided the discharge authority with further information on developments regarding the host state's European School project (see section 2.8.2. above).

## 2.10 Transparency and integrity

The Agency continued to pay careful attention to the management of (potential) conflicts of interest which is crucial in ensuring its independence and transparency and in maintaining the trust of stakeholders and the citizens. Since conflicts of interest (Col), actual or perceived, could call the integrity of the decision-making process into question, the Agency has implemented a comprehensive Col policy, including provisions related to staff (with stricter requirements for management), its boards, working groups and task forces.

In 2016 the Agency collected the annual declarations of interest (Dols) of its management staff (director and department heads), of AB members and alternates, the BoR and the board of appeal (BoA), as well as declarations from the chairs and co-chairs of the Agency's working groups and of the convenors of the Agency's task force. The Dols were reviewed in accordance with policy provisions and published on the Agency's website together with the CVs of the people in question. Due to changes in the composition of the boards, notably the BoR, a few Dols were not immediately available on the website as they had to first be filled out by the newly appointed members.

In 2016 the AB's review panel identified a potential conflict of interest concerning the Dol of one of its members. Measures were taken in accordance with Agency policy: the AB Chair informed the appointing institution (in this case the Council), which was called upon to review the matter. The Agency has not yet been informed of the outcome.

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<sup>8</sup><http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0160+0+DOC+XML+V0//EN>

The Agency also enhanced its internal anti-fraud web pages, which include a specific toolbox available to staff with information on definitions, red flags, early warning system, etc.

## **Part II (b) External evaluations (where applicable)**

Not applicable

## **Part III Assessment of the effectiveness of internal control systems**

### **3.1 Risk management**

#### **Overall management of risk**

As in previous years, the Agency managed its risks at various levels, ranging from standard risks addressed through internal control standards, to risks related to specific tasks monitored at department level. Critical risks, potentially affecting the Agency's main objectives, were assessed at Agency level.

Agency management closely monitored the achievement of the 2016 work programme objectives through the Agency's KPIs using the Agency's traffic light system (see annex 1). Most KPIs remain the same from year to year to ensure consistency in comparisons, however the targets to be achieved in the year in question are set on an annual basis. As in previous years, KPIs were discussed on a quarterly basis at coordination and management meetings. Specific attention was paid to objectives when related KPIs identified delays or under-performance 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 as concerns budget implementation (e.g. monthly implementation reports discussed at management meetings).

The activities and tasks envisaged in the 2016 annual work programme were planned on the basis of the draft budget approved by the AB in early 2015. As the Agency was not assigned all the resources necessary to fully implement its work programme, in January 2016 the Agency reviewed its annual work programme and matched the activities envisaged with available human resources.

#### **Risk Register – critical risks in 2016**

Along with the preparation of the Agency's programming document, the Agency ran its annual risk assessment exercise covering 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.

As a result of the exercise, management identified two risks considered to be both likely and with a potentially significant impact on Agency activities: the first related to regulatory activities and the second to human resources management.

#### 1. The implementation of REMIT

The Agency identified a considerable gap between the minimum allocation of human resources which the Agency considered necessary to fulfil its role in meeting the objectives of REMIT and staffing allocation under the EU Budget. This gap remained large even after the 15 additional posts, 11 assigned to REMIT-related activities, were authorised in 2016. Ineffective application of REMIT, even if due to reasons beyond the control of the Agency, was considered a reputational risk for the Agency (in addition to the economic damage suffered by taxpayers due to the negative impact on markets), and for the Union.

The Agency adopted measures to reduce this risk by attempting to raise awareness among EU institutions, national regulatory authorities and stakeholders as to the benefits of properly implementing REMIT by adopting practical solutions to ensure the completion of the registration process in the timeframe envisaged by REMIT and through the implementation of internal security measures (also see section 2.1.). The work programme was likewise reviewed in the light of available funds and allocation of human resources.

#### 2. Human resources management

A decrease in the correction coefficient for Slovenia affecting staff salaries could have a significant negative impact on staff recruitment (attracting new staff) and retention.

### **Other issues**

Besides the issues discussed above, specific attention was also paid to data protection in relation to collection and management of information (also forming part of the policy for the prevention and management of conflicts of interest).

While no cases of fraud were detected, the Agency made an effort to raise awareness among staff of anti-fraud issues by executing in-house training based on the Agency's anti-fraud strategy using guidelines and material provided by the European Anti-Fraud Office (OLAF).

### **3.2 Compliance and effectiveness of internal control standards**

Since 2011, in keeping pace with its growth, the Agency has progressively developed and implemented a series of internal measures to ensure that its activities are controlled effectively and that they provide reasonable assurance with regard to the achievement of its objectives.

This is ensured, in particular, by the established internal control system<sup>9</sup> that aims to provide assurance of the effectiveness and efficiency of operational activities, meet all legal and regulatory requirements, ensure that financial and management reporting is reliable and that assets and information are safeguarded.

The internal control system encompasses 16 internal control standards (ICS), structured around the following six major 'building blocks':

1. Mission and values;
2. Human resources;
3. Planning and risk management process;
4. Operations and control activities;
5. Information and financial reporting;
6. Evaluation and audit.

The Agency has established and monitors an internal control standards framework that provides an overview of the control system, i.e. minimum requirements, specific measures to ensure compliance with these requirements and their state of play.

An assessment of the effectiveness of the internal control standards, based on the guidance drafted in 2014, was performed in 2015 to evaluate the efficiency of the controls in place and to identify and propose areas for improvement.

The results of the assessment and the control activities performed in 2015, designed to further strengthen the internal control environment, are presented below.

### ICS 2: ethical and organisational values

In 2016 the Agency continued to implement its ethics and integrity policies such as the policy on the prevention and management of conflicts of interest, along with its anti-fraud and whistle-blowing policies. As mentioned under 'transparency and integrity', the Agency also pays particular attention to the implementation of its policy on the prevention and management of conflicts of interest, with provisions applicable to all staff (including specific requirements to reduce the risks of 'revolving doors').

### ICS 3: staff allocation and mobility

All temporary staff selection procedures in 2016 were launched in accordance with the model decision on the *procedure governing the engagement and use of temporary staff under Article 2(f) of the conditions of employment of other servants of the European Union (CEOS)*. This rule defines a consistent policy for temporary staff in the Agency with a view to facilitating staff mobility both within the Agency and between EU decentralised agencies.

Moreover, in 2016 the Agency revised its staff planning exercise methodology for the 2017-2019 period in line with activity-based management principles and conforming to EU Agencies' benchmarking exercises. According to this approach, in N-1 and N-2 positions are allocated according to Agency activities. This approach aims to streamline resource planning and identify staffing needs in greater detail.

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<sup>9</sup> Established by the AB with Decision AB No 08/2011 on the Adoption of Internal Control Standards and revised by AB decision No 10/2012.

#### ICS 4: staff evaluation and development

In 2016 the Agency implemented the AB's decision on the *general implementing provisions governing the procedure for annual appraisal of temporary and contract staff of the Agency*.

The appraisal system is designed to provide regular and structured feedback to improve performance and contribute to future career development. It describes roles and responsibilities, timelines and the expected outcomes of the annual performance appraisal exercise and introduces a new qualitative approach to individual assessment.

#### ICS 7: operational structure and ICS 8: processes and procedures

In 2016 the Agency introduced the following new tools and functionalities:

- **Data protection tool.** Introduces a paperless process and workflow to initiate a data protection notification request to the DPO. The template is designed to simplify data needed and clarify the roles of the different participants involved in the process (requester, DPO, EDPS, HoD).
- **KPI tool.** Enables a paperless process and workflow to monitor audit recommendations, IAS action plans and performance indicators.
- **New Intranet.** Completely re-structured information and filing, collaboration features, user friendliness and web design, and plays a major role in presenting the Agency's environment with all other ACER tools.

A number of other improvements were also made to other tools. For example, case management, security groups, confidential and non-confidential information management functionalities were added to the record repository tool; the carry forward module was added to the financial tool and additional improvements were introduced into the flexitime tool. Lastly, the facility management module was added to the help desk tool and SLA and MoU module management was developed and implemented in the contract tool.

In all these modifications and developments, the Agency focused on efficiency gains, data quality and optimisation and automatisisation of processes and resources, thus ensuring data control and an audit trail.

In the area of human resources, the Agency identified the main processes and commenced drafting of HR standard operating procedures in the area of selection and recruitment, entry into service and staff appraisal.

ICT policy was also reviewed in January 2016. The new policy aims to reflect the Agency's current practices and needs with a view to striking a balance between reasonable flexibility for users and prioritising business needs, while maintaining a fast, efficient, professional and secure ICT user support and overall IT environment.

#### ICS 11: document management

In order further to ensure the protection of personal data, the Director has introduced data protection coordinators tasked with assisting the data protection officer in the performance of his/her duties in accordance with Article 24(1) of Regulation (EC) No 45/2001. This measure further ensures that the processing of personal data at the Agency will not adversely affect the rights and freedoms of data owners and ensures continuity of data protection in the event that the data protection officer is absent, unable to discharge his or her duties or the post of data protection officer is temporarily vacated.



## ICS 12: information and communication

In 2016 the Agency made a link to a feedback tool included in the Agency's opinions, recommendations and publications available to stakeholders, interested parties and the general public. The tool covers all the Agency's official documents and allows stakeholders to rate the relevance and quality of the Agency's deliverables and provide feedback.

## ICS 15: assessment of internal control systems

A general assessment of the effectiveness of the internal control system was conducted on the basis of the guidance issued in 2014. Specifically, the assessment aims to come to a conclusion as to the state of play and degree of compliance of the 16 internal control standards with the minimum requirements using pre-defined questions, and to identify areas of weakness where controls should be strengthened. The following areas were identified with a view to further strengthening the control environment:

- IT governance and security - further implementation of information security policy, measures to improve IT governance;
- business continuity - practical implementation of the Agency's business continuity plan; and
- document management - implementation of a document management policy and related procedures: registration, classification, filing plan, retention, etc.

Additional measures may be undertaken in the area of internal and external communication and in the development of the operational structure, processes and procedures to further strengthen existing controls.

## Conclusion

In 2016 the Agency continued to implement a comprehensive internal control and performance and results-oriented management system, including risk management and ensuring a proportional approach to compliance, on the one hand, and effectiveness of internal procedures and systems on the other. According to the assessment of ICS implementation, the Agency complied with the minimum requirements underlying each control standard. The specific actions implemented and the controls introduced under each of the prioritised standards in 2016 proved to work efficiently and contributed to the Agency's commitment to continuous improvement. In addition to the positive results achieved in previous years, no significant or material weaknesses in the Agency's ICS were found in 2016. The annual review of the ICS and the risk assessment exercise provide reasonable assurance that the Agency is achieving its objectives.



## Part IV. Management assurance

### 4.1 Review of the elements supporting assurance

The building blocks of assurance, as described in Part II and Part III, underpin the reasonable assurance provided by authorising officers in their declaration of assurance of the AAR. 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 above, 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 a whole set of *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 tangibility of identified weaknesses is used as the basis to define significant weaknesses in both qualitative and quantitative terms. Qualitative criteria are linked to failure in achieving the Agency's short-term objectives, reputational risks, significant weaknesses in the control system and repetitive errors. These involve use of resources, sound financial management and the legality and regularity of transactions. Their significance 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 2016 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 ECA 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 need to maintain a high level of efficiency 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 ICS 16 and to ensure it will continue to achieve the objectives in its work programmes in years to come.

#### Register of exceptions

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 2016 four (4) exceptions to established procedures were approved and documented in the register of exceptions, as follows:

Exception No. 1/2016 was an exceptional two month extension of a traineeship. While contravening Director Decision 2013-31 of 4 December 2013 on the amendment of the rules governing the Agency's traineeship programme, the exception was deemed in the interest of the service as it provided continuity to Agency activities.

Exception No. 2/2016 was an exceptional one-off payment to reimburse an Agency delegation member for travel costs incurred while attending the Energy Working Party of the EU Council and related meetings in Brussels on 9 and 10 September 2015. Payment was from the *imprest account* as stipulated in Director Decision 2011-18 of 23 September 2011 on the imprest account policy.

Exception No. 3/2016 was necessary to award a contract to a tenderer following procurement procedure ACER/OP/ADMIN/12/2016 and was an exceptional deviation from the requirements laid down in Article 110(3) of the financial regulation and Article 149 of the rules of application.

Exception No. 4/2016 concerned career development of Agency staff members resulting from three past reclassification procedures. Due to a bona-fide error in interpreting reporting/programming documents, the establishment plan adopted as part of the general EU Budget(s) did not properly reflect the actual grades of staff members in service at the Agency but rather the recruitment/appointment grades under Article 38(1) of Decision AB No 22/2013 on the adoption of the Agency's financial regulation. In the interest of the service, the Agency exceptionally contravened (1) Director Decision 2013-29 of 7 November 2013 on the reclassification of temporary agents after the performance appraisal procedure in 2013, (2) Director Decision 2014-17 of 26 November 2014 on the reclassification of temporary agents after the performance appraisal procedure for the year 2013 and (3) Director Decision 2015-28 of 11 December 2015 on the reclassification of temporary agents after the performance appraisal procedure for the year 2014.

In 2016, one (1) procedural incident was registered. In substitution of a temporary staff member on sick leave, a member of temporary staff (2f) was engaged on a short-term fixed contract for a period of six months or up to three months following the replaced staff member's return from sick leave, whichever comes first.

## Building block 2: results of audits and external evaluations during the reporting year

Since its establishment, the Agency has not received any critical recommendations from internal or external auditors and 2016 was no exception as no critical recommendations were issued. Furthermore, as provided in Part III above, all recommendations from previous years were implemented as planned, reported in a timely manner and approved by the relevant authority.

## Building Block 3: follow-up on reservations from previous years

The authorising officer's declaration of assurance in the 2015 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 of assurance.

#### 4.2 Reservations (if applicable)

No reservations have been made in the current annual activity report.

#### 4.3 Overall conclusions on assurance (where applicable)

Not applicable

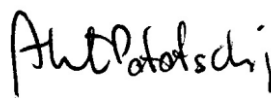
## Part V. Declaration of assurance

I, the undersigned director of the agency for the cooperation of energy regulators,  
in my capacity as authorising officer,

Declare that the information contained in this report gives a true and fair view and 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 provide the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgment and on the information at my disposal, such as the results of the self-assessment, *ex-post* controls, the observations of the internal audit service and the lessons learnt from court of auditors reports from past years.

I hereby confirm that I am not aware of anything not reported here which could harm the interests of the Agency.



Alberto Pototschnig

Ljubljana, 15 June 2017



## Annexes


### Annex I. Reporting on KPIs

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

					
KPI is fulfilled and task completed with a small delay/issue	KPI is fulfilled and task completed	On track, no problems envisaged	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

#### External Communication


Task	Agency Website
Objectives and deadlines (indicative)	<p>The Agency's goal is to further improve its website in terms of user-friendliness, features and functionalities so that stakeholders find it easy to navigate. It needs to be regularly updated so as to encourage returning visits.</p> <p>In particular, tasks will focus on further developing ACER's online surveys, dedicated workspaces for meetings and workshops and different actions to bring the Agency's work closer to EU citizens.</p>
KPIs	<ol style="list-style-type: none"> <li>1. Unique website hits: 3% increase with respect to the preceding year.</li> <li>2. Online survey: at least 2/3 of respondents satisfied or highly satisfied.</li> </ol>
End of 2016	<ol style="list-style-type: none"> <li>1. Unique visits: 33,643 in 2016/Q4 (36542 in 2015/Q4) -7.9% compared to 2015</li> <li>2. No survey was run due to limited resources.</li> </ol>  


Task	Relations with media / information for stakeholders
KPIs	<p>3. Number of news items in Infolashes: &gt; 40</p> <p>4. Number of references to the Agency in selected media included in the Agency's media monitoring (proxy for impact): 200</p>
End of 2016	<p>3: total: 55</p> <p>4: total: 99</p> 

### Staff satisfaction



Task	Review of staff engagement /satisfaction
KPIs	<p>5. 2/3 of staff participating in the staff engagement survey satisfied or highly satisfied.</p> <p>6. 70% of staff satisfied or highly satisfied with the level of information shared by line managers.</p>
End of 2016	This KPI is not applicable in 2016 as the survey is run every second year.



### Administration and human resources

Task	Human resources management
KPIs	<p>7. Average length of recruitment procedures: 4 months (including the 1-month period of publication of the vacancy notice).</p> <p>8. 100% of the Agency's staff subject to performance appraisal on an annual basis.</p> <p>9. 75% of staff satisfied or very satisfied with the Agency's training policy.</p>
End of 2016	<p>7. There were 13 recruitment procedures of which one lasted longer than average. Average duration of the 12 recruitment procedures: 3.9 months. Duration of one recruitment procedure: 8 months.</p> <p>8. 100% of eligible staff participated in the appraisal exercise.</p> 


	<p>9. The Agency's training policy will be evaluated through the staff engagement survey in 2017. Therefore this KPI is not applicable in 2016.</p> 
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Budget Implementation and Audit

Task	Budget implementation and audit
KPI	<p>10. At least 95% execution of commitment appropriations.</p> <p>11. Minimum 75% execution of payment appropriations.</p> <p>12. Non-qualified opinion received from the European Court of Auditors (ECA) and 75% of its recommendations implemented in line with the Agency's action plan.</p> <p>13. 80% of the internal audit service (IAS) recommendations implemented and reported in line with the agency's action plan.</p>
End of 2016	<p>10. 98.11% implementation of commitment appropriations by 31.12.2016 </p> <p>11. 59.95% implementation of payment appropriations by 31.12.2016. Committed but unpaid expenditure has been carried forward. Execution of payment appropriations did not meet the KPI because in 2013 the Agency received a substantial budget amendment for the REMIT project at the end of the year. The Agency successfully used its resources to award the contracts from the procurement procedures before the end of 2013, carrying pending obligations over to the following year. The renewal of those contracts in subsequent years perpetuated the same situation as legal commitments are entered into at year-end but are honoured the following year. However, it should be noted that the commitment appropriation for the 2016 financial year under budget chapter 'REMIT expenditure' has been implemented at the maximum 100% level. The Agency is closely monitoring the situation and addressing any issue by applying improved budget monitoring and forecasting and stricter procurement planning. </p> <p>12. Non-qualified opinion from ECA received.</p>

	<p>One recommendation from 2014 on the European School is marked as outstanding (the establishment of a European School in Ljubljana is beyond the Agency's control) and one recommendation on carry over received in the 2015 audit will be closed in next year's report. </p> <p>13. The 2014 IAS audit on the development of framework guidelines and the opinion on network codes resulted in four observations and six recommendations (one 'very important' and five 'important')<sup>10</sup>. Four recommendations were implemented and closed over the course of 2014 -2015.</p> <p>Of the remaining two recommendations (rated as 'important') one was implemented and completed in 2016. The last recommendation is proposed to be closed as a number of practical measures designed to improve the way Agency working groups operate have been implemented and have delivered most of the expected results. After careful consideration, the Agency concluded that the conditions are not currently right to proceed with the planned revision of the rules for the functioning of the Agency's working groups.</p> <p>The 2015 IAS audit on procurement processes resulted in six recommendations (four 'important' and two 'very important'). The two recommendations, marked as 'very important' were completed and closed by March 2017. One of the recommendations marked as 'important' was also submitted for consideration and closure.</p> <p>The February 2016 IAS risk assessment report included topics for the internal audits for the period 2017-2019. An update on developments in the risk areas was requested by IAS. An action plan was adopted. </p>
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ICT infrastructure


Task	ICT development
KPI	14. 80% of staff satisfied or very satisfied with IT services on the basis of an annual satisfaction survey.
End of 2016	<p>14. The overall satisfaction rate was 99.4%, based on IT helpdesk statistics.</p> <p>Tickets resolved during 2016:</p> <p>- Total: 1050 </p>

<sup>10</sup>As reported in the Agency's 2014 annual activity report.




	<ul style="list-style-type: none"> <li>- Very satisfied: 190</li> <li>- Satisfied: 10</li> <li>- Partially satisfied: 3</li> <li>- Not satisfied: 3</li> </ul>
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Regulatory practice and cooperation with NRAs





Task	Regulatory cooperation
KPI	15. 70% positive feedback from an annual survey measuring stakeholders' satisfaction with the Agency's regulatory activities.
End of 2016	<p>15. The survey was conducted at the end of 2015/early 2016. Over 70% of respondents agreed that the data provided by the Agency is highly reliable, that its output, reports and activities are of a high standard, that the Agency's work and decision-making is transparent, that the Agency plays an important role in the internal energy market and that it is an efficient organisation. Some recommendations were proposed as regards NRA involvement in the work of the Agency. Based on survey results, in 2016 the Agency proposed:</p> <ul style="list-style-type: none"> <li>- A recommendation to EU institutions (ACER Recommendation 01/2016 of 30 May 2016) on the Agency's own initiative proposing measures to ensure the independence of the Agency and NRAs, including through the provision of sufficient resources.</li> <li>- Enhanced cooperation between the Agency's bodies to promote involvement of all NRAs in Agency work (e.g. new procedural arrangements were proposed).</li> </ul> 

Electricity framework guidelines, network codes, opinions and recommendations






Task	Agency acts in the electricity field envisaged in the work programme and in regulations applicable to the Agency
KPI	16. 90% of the above acts delivered according to the timelines set out in the work programme (i.e. in line with the three-year plan or legal deadlines laid down in the regulations), as updated (where relevant) by the planning group process.

End of 2016	<p>All the activities envisaged under the CACM and FCA guidelines were performed on time and with the required level of quality.</p> <p>The Agency even went beyond its mandate by issuing a recommendation to improve capacity calculation methodologies and methodologies for the sharing of redispatching and countertrading costs.</p> 
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Gas framework guidelines, network codes, opinions and recommendations



Task	Agency acts in the gas field envisaged in the work programme and in regulations applicable to the Agency
KPI	17. 90% of acts delivered according to the timelines set out in the work programme (i.e. in line with the three-year plan or legal deadlines laid down in the regulations), as updated (where relevant) by the planning group process.
End of 2016	<p>The NC on harmonised gas transmission tariff structures voted in the committee on 30 September 2016. </p> <p>The implementation monitoring report for the CAM NC was published on 27 October 2016. </p> <p>The implementation monitoring report for the balancing NC was published on 7 November 2016. </p> <p>The implementation monitoring report on congestion management procedures was published on 21 September 2016. </p>

Cross-sector issues (electricity and gas)

Tasks	<p>Key reports produced by the Agency in the gas and electricity fields:</p> <p>Annual market monitoring report</p> <p>Regional initiatives annual status review report</p> <p>Annual consolidated report on progress of projects of common interest (PCI)</p>	
KPIs	<p>18. 67% of the above-mentioned reports published on time.</p> <p>19. Positive feedback on selected reports based on online surveys (70% satisfied or very satisfied).</p> <p>20. Number of unique downloads of the MMR.</p>	
End of 2016	<p>18. Wholesale market volumes (electricity &amp; gas) were published on 16 September and a workshop was held the following week.</p> <p>Retail market and consumer protection and empowerment volumes, and key finding and recommendation volumes were published on 9 November.</p>	
	<p>The gas regional initiatives annual status review report was published in February 2017.</p> <p>The PCI implementation monitoring report was published on 30 June.</p> <p>19. No online surveys took place in 2016.</p> <p>20. Altogether, there were 164 unique downloads of the MMR.</p>	   

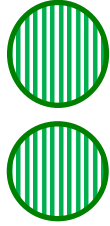
Relevant opinion documents on ENTSO-E and ENTSG

<p>Tasks</p>	<p>ENTSO-E related opinions, reviews, recommendations and reports:</p> <p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund</p> <p>Opinions on ENTSO-E's annual work programme and ENTSO-E's annual report</p> <p>Opinions on ENTSO-E's annual Summer and Winter supply outlooks</p> <p>Opinions on ENTSO-E's common network operation tools including a common incidents classification scale (the latter being subject to the ICS report)</p> <p>Opinion on ENTSO-E's research and development plan</p> <p>Opinion on the national ten-year electricity network development plans to assess their consistency with the Community-wide network development plan and (if appropriate) recommendations to amend either the national ten-year network development plans or the Community-wide network development plan</p> <p>Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators</p> <p>Report on monitoring the implementation of the Community-wide electricity TYNDP and progress as regards the implementation of projects to create new interconnector capacity</p> <p>Opinion on ENTSO-E's 2016 draft ten year network development plan</p> <p>Opinion on ENTSO-E's 2016 draft scenario outlook and adequacy forecast</p>
<p>KPI</p>	<p>21. 90% of opinions, reviews, recommendations and reports delivered on time.</p>
<p>End of 2016</p>	<p>All expected deliverables were delivered by the end of 2016, i.e. on time and with the required level of quality.</p> <p>The last two missing opinions (on the TYNDP and on the work programme) will be issued in January 2017, i.e. within the two-month period following their submission to the Agency.</p> 

Tasks	<p>ENTSOG related opinions, reviews, recommendations and reports:</p> <p>Opinions on ENTSOG's 2017 annual work programme and ENTSOG's 2015 annual report</p> <p>Opinions on ENTSOG's common network operation tools including a common incidents classification scale and research plans</p> <p>Opinions on ENTSOG's annual Summer and Winter supply outlooks</p> <p>Reviews and recommendations on national TYNDPs with respect to their (in)consistency with the Community-wide TYNDP</p> <p>Opinions on ENTSOG's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators</p> <p>Report on monitoring the implementation of the Community-wide TYNDP and progress made as regards the implementation of projects to create new interconnector capacity</p>
KPI	22. 90% of opinions, reviews, recommendations and reports delivered on time
End of 2016	<p>All the expected deliverables were delivered by the end of 2016, i.e. on time and with the required level of quality.</p> <p style="text-align: right;"></p> <p>The opinion on the TYNDP was issued in Q1 2017 and the opinion on updated methodologies for cost-benefit analysis will be issued in Q2 2017, i.e. within the two-month period following their submission to the Agency.</p> <p style="text-align: right;"></p>



Wholesale market monitoring – REMIT


Task	<p>Establishment, further development and operation of a centralised European registry for energy market participants (CEREMP) and of the Agency's REMIT information system (ARIS) for collection of trade, fundamental and other data and for data sharing with NRAs in connection with REMIT implementing acts</p>
KPI	<p>23. 99% system availability.</p> <p>24. 0 security system breaches involving data leakage.</p>



End of 2016	<p>23. System availability reached.</p> <p>24. No breaches detected.</p> 
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<b>Task</b>	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, and establishment, further development and operation of the Agency's market surveillance solution to perform its market monitoring activity
KPI	25. The performance indicator and targets will be defined once the revised market monitoring strategy is developed.
End of 2016	25. KPI not applicable. Current state of play: the market surveillance strategy was endorsed in December 2016 at the REMIT CG and BoR level. Further work is required to develop a governance section which distributes market monitoring tasks among the Agency, the NRAs and the persons professionally arranging transactions (PPATs). In 2016, the Agency's market monitoring activities were focused on evaluating the completeness and quality of the reported data. The Agency is assessing the completeness of data in accordance with Article 8 of REMIT.

<b>Task</b>	Coordination of NRAs and other relevant authorities, including at regional level, without prejudice to their responsibilities
KPIs	26. Performance indicators and targets will be defined once the revised market monitoring strategy is developed.
End of 2016	26. KPI not applicable. Current state of play: the market surveillance strategy was endorsed in December 2016 at the REMIT CG and BoR level. Regular meetings with NRAs through the REMIT CG and its standing committees and through the AMIT working group and its wholesale market surveillance (WMS) and IT task forces; regular Q&A sessions with NRAs to coordinate replies to stakeholder queries.

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 to promote a coordinated approach to the enforcement of market abuse rules where actions relate to one or more wholesale energy products which are financial instruments to which Article 9 of Directive 2003/6/EC applies and also to one or more wholesale energy products to which Articles 3, 4 and 5 of REMIT apply
KPIs	27. Conclusion of MoUs with relevant authorities and practical implementation of the MoUs through regular meetings with the relevant authorities.
End of 2016	<p>27. Cooperation with NRAs: regular meetings with NRAs through the REMIT CG and its standing committees and through the AMIT WG and its WMS and IT TFs; regular Q&amp;A sessions with NRAs to coordinate replies to stakeholder queries.</p>  <p>Cooperation with ESMA and other relevant authorities: participation in ESMA standing committees.</p> <p>No further activities were undertaken with authorities other than NRAs under existing MoUs given the lack of resources and allocation of available resources to ARIS operations. MoUs with Member States' financial and competition authorities were postponed until 2017 and possibly beyond due to lack of resources. As in previous years, cooperation with relevant authorities will continue on an ad-hoc basis.</p> 

Task	Reporting on REMIT: Annual report on Agency activities under REMIT
KPI	28. Submission of the annual report on REMIT implementation by the end of Q3.
End of 2016	<p>28. The 2016 REMIT annual report on Agency activities in 2015 was published on 7 October 2016, one year after data collection went live.</p> 

Task	Implementation of Conflict of Interest Policy
KPI	<p>29. All Dols submitted by the deadline reviewed by end of April.</p> <p>30. All Dols submitted by the deadline published by end of April.</p>
End of 2016	<p>29. All BoR and BoA member Dols, DoCs and CVs were received by the deadline and reviewed by the end of April. Since new AB members were appointed at the end of January, their declarations were delayed slightly and were reviewed on 7 June.</p> <p>30. All BoR member/alternate Dols and CVs, as well as the AWG and TF chairs and vice chairs were published on the website by the end of April. All BoA member Dols, DoCs and CVs were published on the website. All 14 (out of 18) AB Dols, DoCs and CVs received on time were published on the website by the end of April. The remaining 4 were published by 7 June. All management Dols and CVs were published on the website.</p>  



**BUDGET OUTTURN ACCOUNT**

The budget outturn account shows, on a cash basis, the actual amounts cashed as income and the amount of cash consumed to honour commitment payments. It also shows the amount of unused and cancelled appropriations.

	<b>31 December 2016 €</b>	<b>31 December 2015 €</b>
<b>INCOME</b>		
Commission subsidy	15,872,582.00	11,266,000.00
Other income - assigned revenue	5,206.69	1,794.86
<b>TOTAL INCOME</b>	<b><u>15,877,788.69</u></b>	<b><u>11,267,794.86</u></b>
<b>EXPENSES</b>		
<b>Expenditure related to agency employees - Title I</b>		
Payments	7,097,367.86	5,981,090.43
Carry-forwards and carry-overs	171,384.93	123,305.72
<b>Agency premises and associated expenses - Title II</b>		
Payments	1,630,136.07	1,491,093.51
Carry-forwards and carry-overs	1,008,329.37	790,520.57
<b>Operational expenditure - Title III</b>		
Payments	787,858.19	963,319.87
Carry-forwards and carry-overs	4,877,911.67	1,363,546.18
<b>TOTAL EXPENSES</b>	<b><u>15,572,988.09</u></b>	<b><u>10,712,876.28</u></b>
Total appropriations not utilised	304,800.60	554,918.58
<b>BUDGET OUTTURN BEFORE SPECIAL ITEMS</b>	<b><u>304,800.60</u></b>	<b><u>554,918.58</u></b>
Cancelled carry-overs	223,237.87	198,293.88
Exchange rate differences	845.28	(786.46)
<b>BUDGET OUTTURN</b>	<b><u>528,883.75</u></b>	<b><u>752,426.00</u></b>

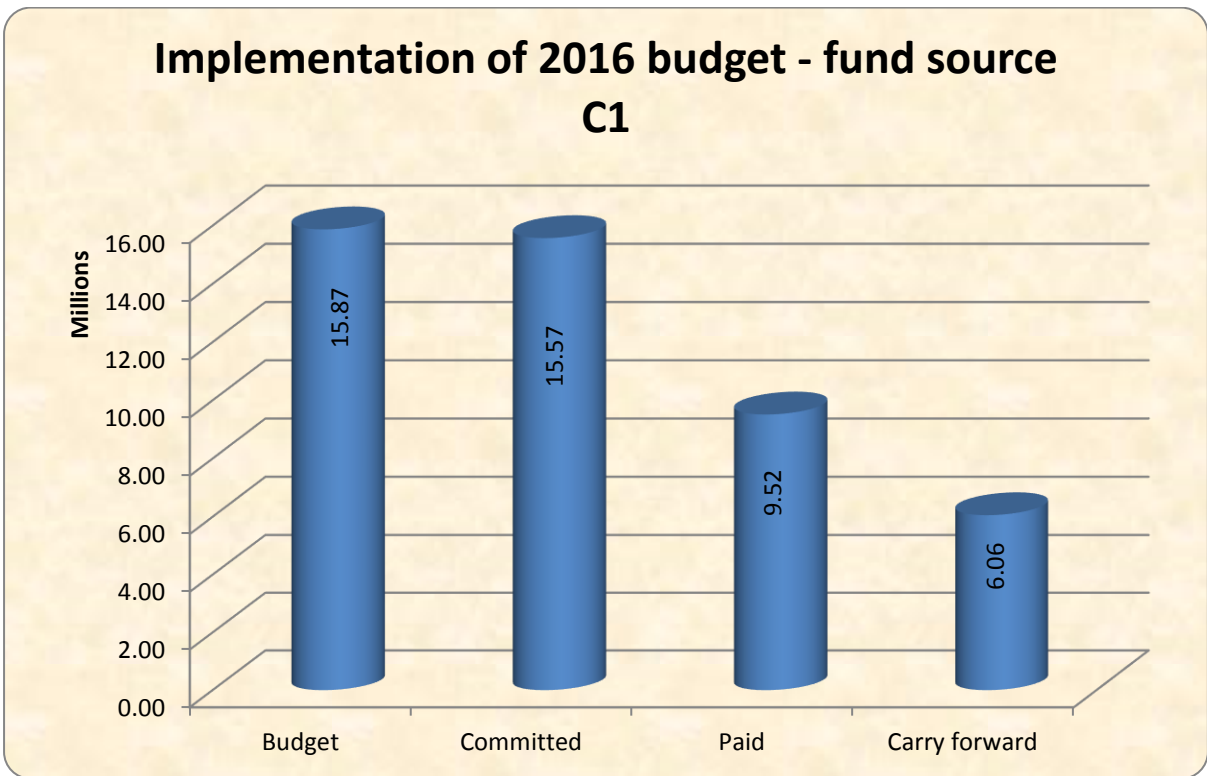
## BUDGET IMPLEMENTATION

The following tables show detailed budget implementation by budget title and individual budget line – fund source C1 (also see headings for C4 and C8).

### BUDGET IMPLEMENTATION APPROPRIATION FUND SOURCE – C1

	<b>31 December 2016 €</b>
<b>TITLE 1</b>	
Budget	7,367,869.00
Committed	7,268,752.79
Paid	7,097,367.86
Carry forward	171,384.93
Carry over	0.00
Total expenditure	7,268,752.79
Appropriations not utilized	99,116.21
Executed	98.65%
<b>TITLE 2</b>	
Budget	2,768,716.00
Committed	2,638,465.44
Paid	1,630,136.07
Carry forward	1,008,329.37
Carry over	0.00
Total expenditure	2,638,465.44
Appropriations not utilized	130,250.56
Executed	95.30%
<b>TITLE 3</b>	
Budget	5,735,997.00
Committed	5,665,769.86
Paid	787,858.19
Carry forward	4,877,911.67
Carry over	0.00
Total expenditure	5,665,769.86
Appropriations not utilized	70,227.14
Executed	98.78%
<b>TOTAL</b>	
Budget	15,872,582.00
Committed	15,572,988.09
Paid	9,515,362.12
Carry forward	6,057,625.97
Carry over	0.00
Total expenditure	15,572,988.09
Appropriations not utilized	299,593.91
Executed	98.11%

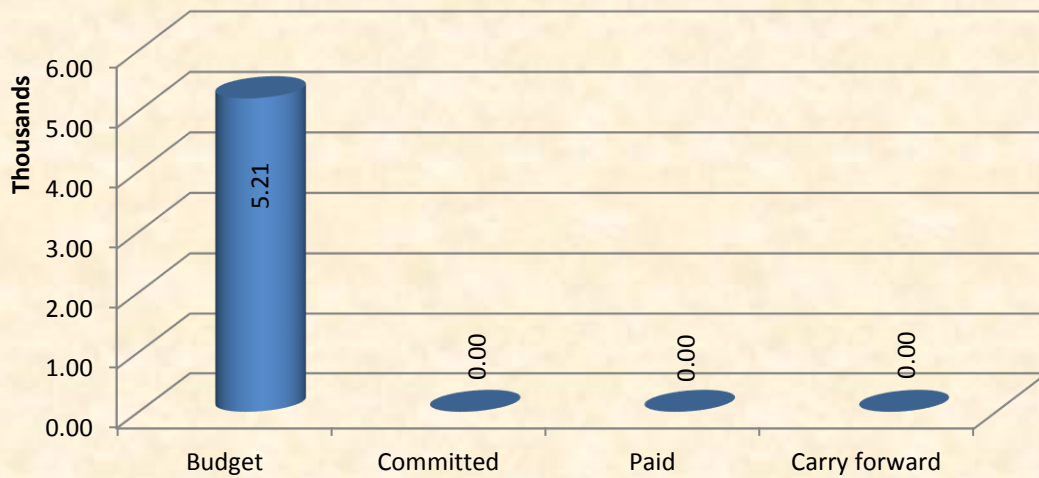
## Implementation of 2016 budget - fund source C1



### BUDGET IMPLEMENTATION CURRENT YEAR – FUND SOURCE C4

	<b>31 December 2016 €</b>
<b>TITLE 1</b>	
Budget	4,730.53
Appropriations not utilized	4,730.53
Executed	0.00%
<b>TITLE 2</b>	
Budget	476.16
Appropriations not utilized	476.16
Executed	0.00%

## Implementation of 2016 budget - fund source C4



### BUDGET IMPLEMENTATION – FUND SOURCE C8

**31  
December  
2016  
€**

#### TITLE 1

Budget	123,305.72
Committed	97,743.66
Paid	97,743.66
Total expenditure	97,743.66
Cancelled carry-forwards	25,562.06
Executed	79.27%

#### TITLE 2

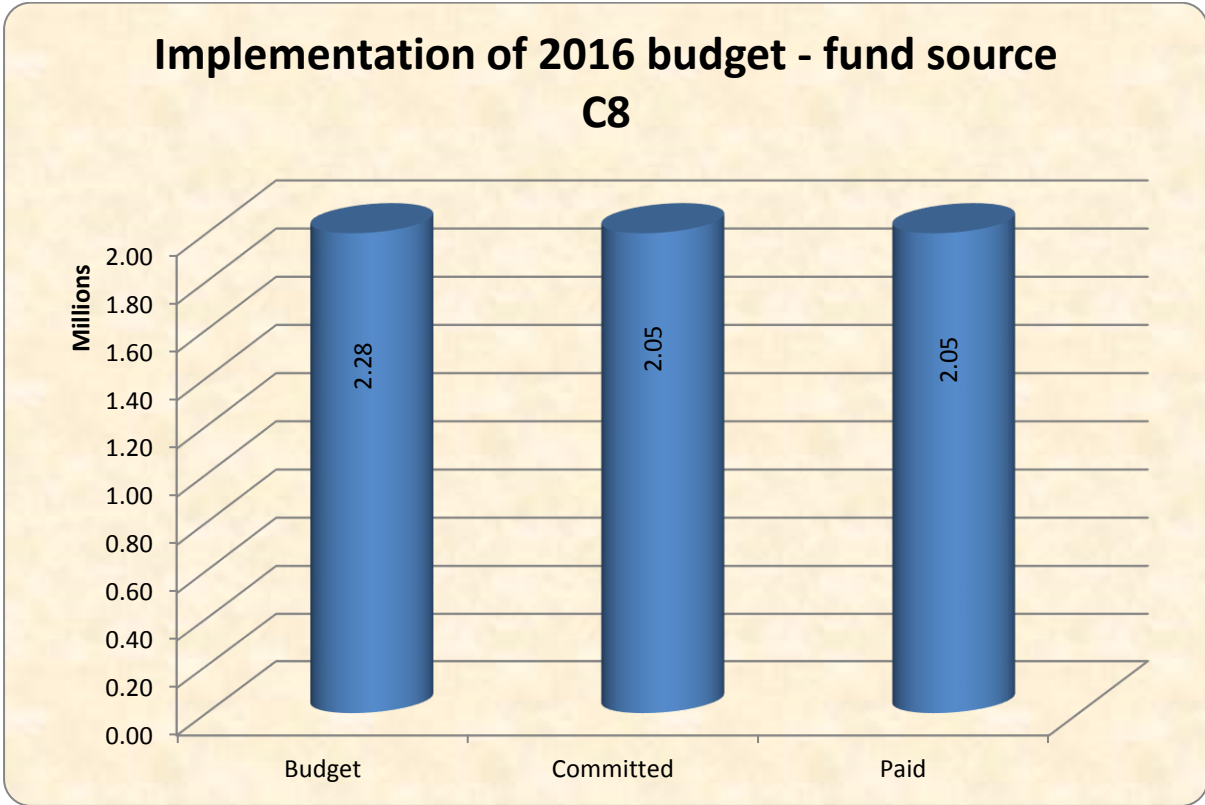
Budget	790,520.57
Committed	631,298.95
Paid	631,298.95
Total expenditure	631,298.95
Cancelled carry-forwards	159,221.62
Executed	79.86%

#### TITLE 3

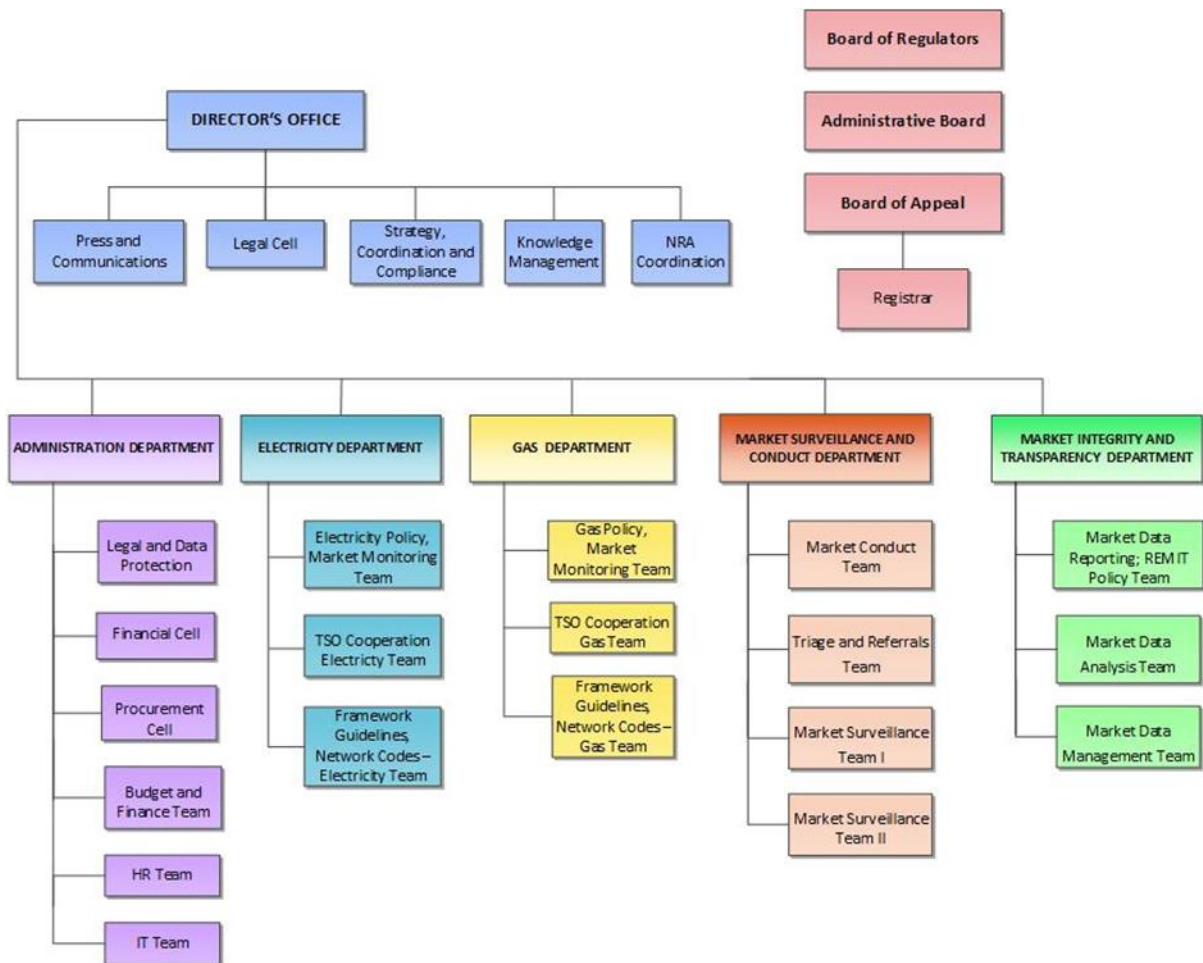
Budget	1,363,546.18
Committed	1,325,091.99
Paid	1,325,091.99
Total expenditure	1,325,091.99
Cancelled carry-forwards	38,454.19
Executed	97.18%

**TOTAL**

Budget	2,277,372.47
Committed	2,054,134.60
Paid	2,054,134.60
Total expenditure	2,054,134.60
Cancelled carry-forwards	223,237.87
Executed	90.20%



Annex III. Organisational chart



Annex IV. Establishment plan

The Agency's establishment plan for 2016 is presented below:

Category and grade	Establishment plan in voted EU Budget 2016		Modifications in 2016 in application of flexibility rule <sup>-11</sup>		Posts filled as at 31 December 2016 <sup>12</sup>		Establishment plan in voted EU Budget 2017 <sup>13</sup>	
	Officials	TA	Officials	TA	Officials	TA	Officials	TA
AD 16								
AD 15		1		1		1		1
AD 14								
AD 13								
AD 12				3		3		
AD 11		5		5		2		5
AD 10						2		
AD 9		2		2		3		2
AD 8		10		10		10		10
AD 7		10		10		6		10
AD 6		7		7		10		7
AD 5		19		16		11		18
<b>Total AD</b>		<b>54</b>		<b>54</b>		<b>48</b>		<b>53</b>
AST 11								
AST 10								
AST 9								
AST 8								
AST 7								
AST 6				1				
AST 5		1		4		1		1

<sup>11</sup> In line with Article 38(1) of the framework financial regulation, the administrative board may, under certain conditions, modify the establishment plan by up to 10% of posts authorised.

<sup>12</sup>Including modifications in application of the flexibility rule.

<sup>13</sup> Recruitment grades

AST 4		1		1		4		1
AST 3		13		9		7		13
AST 2								
AST 1								
<b>Total AST</b>		<b>15</b>		<b>15</b>		<b>12</b>		<b>15</b>
AST/SC6								
AST/SC5								
AST/SC4								
AST/SC3								
AST/SC2								
AST/SC1								
<b>Total AST/SC</b>								
<b>TOTAL</b>		<b>69</b>		<b>69</b>		<b>60</b>		<b>68</b>



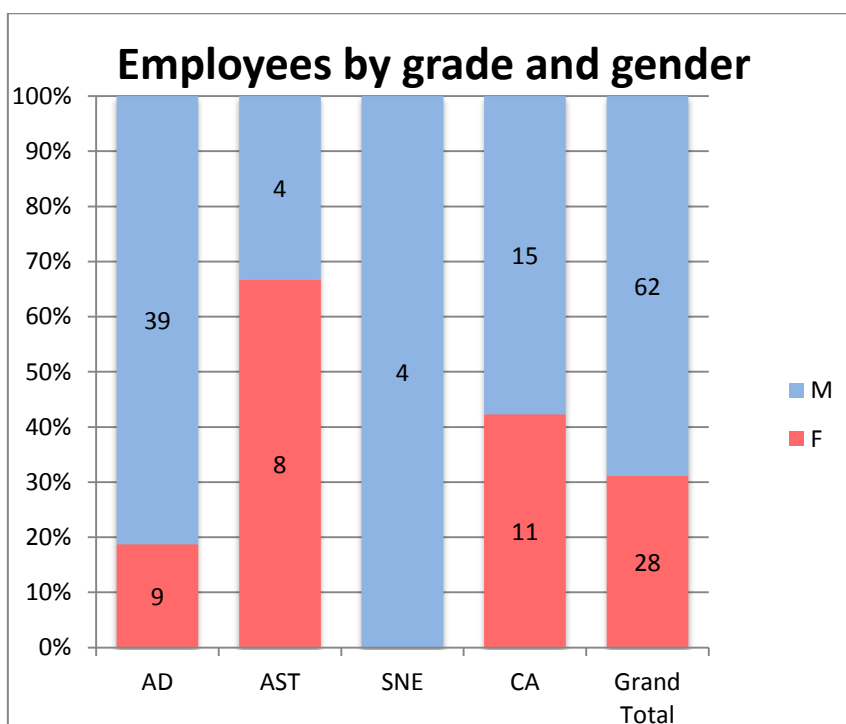
Gender and geographical balance

**1) Gender balance**

In accordance with Article 1d of the staff regulations and Articles 12(1) and 82(1) of the CEOS, the Agency applies an equal opportunities policy regarding its staff, adopting measures and taking actions to promote equal opportunities for men and women. Its targets can be broken down into several types of measures such as those designed to:

- eliminate all gender discrimination in recruitment, training and career development paths;
- reconcile personal and working life (e.g. implementing provisions on teleworking were adopted under Decision AB No 21/2012);
- raise awareness of gender equality issues; and
- protect personal dignity in the workplace.

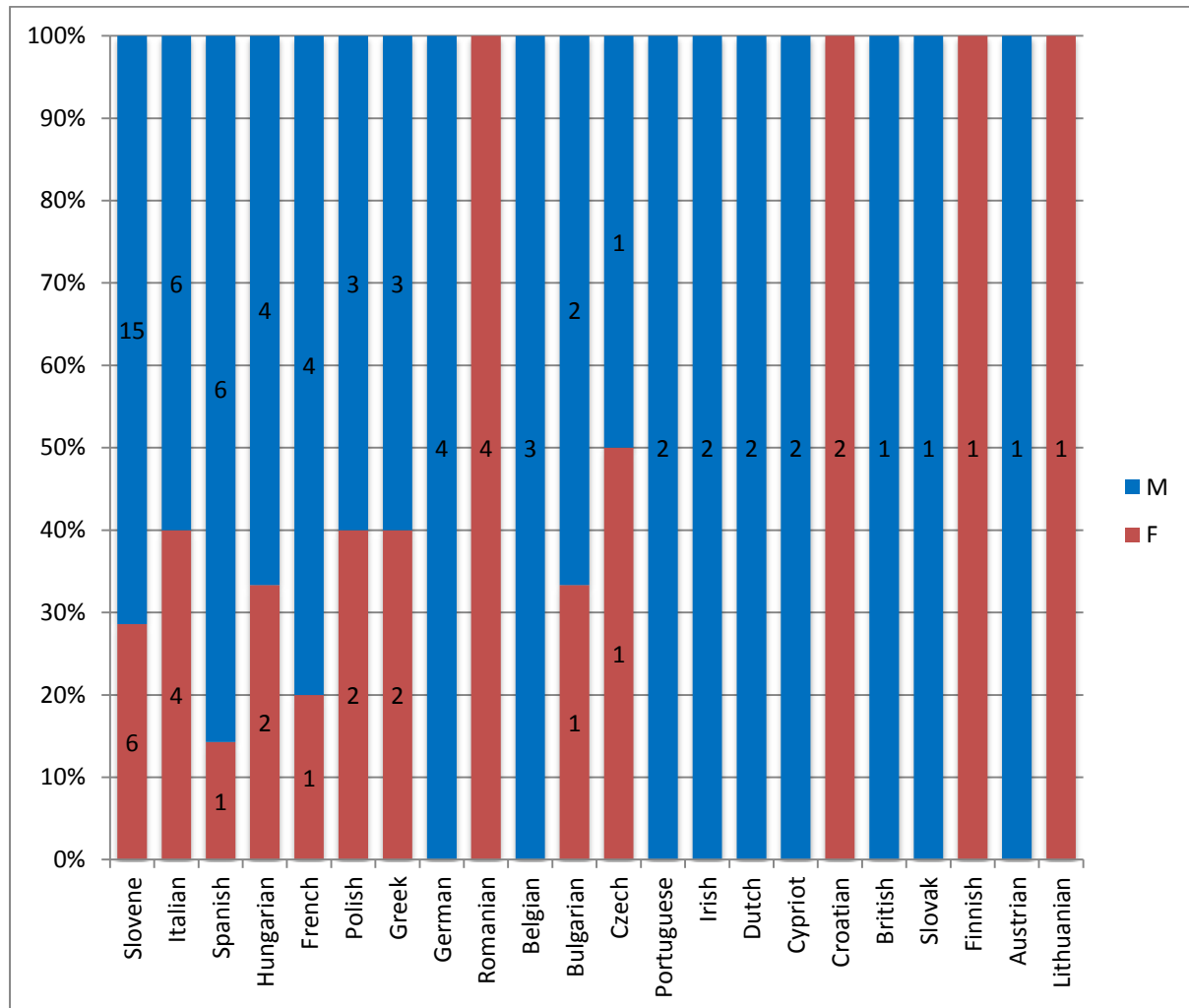
The graph below represents an overview of the Agency's staff (including temporary staff, contract staff and seconded national experts) by grade and gender as of 31 December 2016.



## 2) Geographical balance

In January 2016, ACER employed staff members (temporary staff and contract staff) and seconded national experts from 22 different EU countries: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and the United Kingdom.

The graph below represents an overview of the Agency's staff by country of origin and gender on 31 December 2016.



Annex VI. Results of the 2016 job screening exercise

<b>Job Type (sub) category</b>	<b>Year 2015 (total number*)</b>	<b>Year 2015 (%)</b>	<b>Year 2016 (total number*)</b>	<b>Year 2016 (%)</b>
<b><i>Administrative support and coordination</i></b>	<b>22.2</b>	<b>22.84%</b>	<b>23</b>	<b>19.01%</b>
<i>Administrative support</i>	16.2	16.67%	16	13.22%
<i>Coordination</i>	6	6.17%	7	5.79%
<b><i>Operational</i></b>	<b>66</b>	<b>67.90%</b>	<b>91</b>	<b>75.20%</b>
<i>Top level operational coordination</i>	9	9.26%	13	10.74%
<i>Programme management &amp; implementation</i>				
<i>Evaluation &amp; impact assessment</i>				
<i>General operation</i>	57	58.64%	78	64.46%
<b><i>Neutral</i></b>	<b>9</b>	<b>9.26%</b>	<b>7</b>	<b>5.79%</b>
<i>Finance/control</i>	9	9.26%	7	5.79%
<i>Linguistic</i>				
<b>Total:</b>	<b>97.2**</b>	<b>100%</b>	<b>121</b>	<b>100%</b>

\*Total number of establishment plan posts (occupied and vacant) and seconded national experts, contract staff, interim staff and trainees (as per the Agency's job screening methodology guidelines)

\*\*Two posts allocated at 60% working time, counting towards 0.6 FTE each.

## STATEMENT OF FINANCIAL PERFORMANCE

<i>for the year ending 31 December 2016</i>	Notes	1 January - 31 December 2016 €	1 January - 31 December 2015 €
<b>REVENUE</b>	1		
European Commission subsidy		15,343,698.25	10,513,574.00
Other operating revenue		917.35	1,036.64
<b>TOTAL OPERATING REVENUE</b>		<b>15,344,615.60</b>	<b>10,514,610.64</b>
<b>ADMINISTRATIVE AND OPERATIONAL EXPENSES</b>	2		
Staff expenses		6,591,352.88	5,537,264.41
Fixed asset related expenses		1,462,977.03	201,703.51
Other administrative expenses		2,746,351.82	2,529,149.53
Operational expenses		3,024,791.64	882,197.64
<b>TOTAL ADMINISTRATIVE AND OPERATIONAL EXPENSES</b>		<b>13,825,473.37</b>	<b>9,150,315.09</b>
<b>SURPLUS/(DEFICIT) FROM OPERATING ACTIVITIES</b>		<b>1,519,142.23</b>	<b>1,364,295.55</b>
<b>FINANCIAL OPERATIONS</b>	3		
Financial operations expenses		138.20	240.00
<b>SURPLUS/ (DEFICIT) FROM FINANCIAL ACTIVITIES</b>		<b>(138.20)</b>	<b>(240.00)</b>
<b>ECONOMIC RESULT OF THE YEAR</b>		<b>1,519,004.03</b>	<b>1,364,055.55</b>

## BALANCE SHEET

		<b>ASSETS</b>	
<i>as of 31 December 2016</i>	Notes	1 January - 31 December 2016 €	1 January - 31 December 2015 €
<b>NON-CURRENT ASSETS</b>			
<b>Intangible fixed assets</b>	4	<b>3,815,104.89</b>	<b>5,087,602.90</b>
<b>Tangible fixed assets</b>	5	<b>439,352.83</b>	<b>371,230.39</b>
Plant and equipment		0.00	234.36
Computer hardware		300,414.08	189,628.36
Furniture and vehicles		78,051.87	71,451.92
Other fixtures and fittings		60,886.88	109,915.75
<b>TOTAL NON-CURRENT ASSETS</b>		<b>4,254,457.72</b>	<b>5,458,833.29</b>
<b>CURRENT ASSETS</b>			
<b>Short-term receivables</b>	6	<b>6,686,817.72</b>	<b>1,807,204.42</b>
Current receivables		668,650.97	1,687,541.79
Sundry receivables		5,787,956.63	37,254.62
Prepaid expenses and accrued income		230,210.12	183,188.01
<b>Cash and cash equivalents</b>	7	<b>801,749.53</b>	<b>2,980,779.39</b>
<b>TOTAL CURRENT ASSETS</b>		<b>7,488,567.25</b>	<b>4,888,763.81</b>
<b>TOTAL CURRENT AND NON-CURRENT ASSETS</b>		<b>11,743,024.97</b>	<b>10,347,597.10</b>
<b>EQUITY AND LIABILITIES</b>			
		1 January - 31 December 2016 €	1 January - 31 December 2015 €
<b>EQUITY</b>			
Accumulated surplus/(deficit)		9,049,471.98	7,685,416.43
Economic result of the year		1,519,004.03	1,364,055.55
<b>TOTAL EQUITY</b>		<b>10,568,476.01</b>	<b>9,049,471.98</b>
<b>CURRENT LIABILITIES</b>			
<b>Accounts payable</b>	8	<b>1,174,548.96</b>	<b>1,298,125.12</b>
Current payables		48,259.30	17.78
Accrued expenses and deferred income		597,405.91	545,681.34
Accounts payable with consolidated entities		528,883.75	752,426.00
<b>TOTAL CURRENT LIABILITIES</b>		<b>1,174,548.96</b>	<b>1,298,125.12</b>
<b>TOTAL EQUITY AND LIABILITIES</b>		<b>11,743,024.97</b>	<b>10,347,597.10</b>

## CASH FLOW STATEMENT

	1 January - 31 December 2016 €	1 January - 31 December 2015 €
<b>Surplus/(deficit) from operating activities</b>	<b>1,519,142.23</b>	<b>1,364,295.55</b>
<b>cash flows from operating activities</b>		
<u>Adjustments</u>		
Amortization (intangible fixed assets)	1,272,498.01	9.176.26
Depreciation (tangible fixed assets)	188,647.20	192,527.25
Amount written off (tangible fixed assets)	1,831.82	0.00
(Increase)/decrease in short term receivables	(4,778,833.30)	248,718.91
(Increase)/decrease in other liabilities	51,724.57	57,137.98
Increase/(decrease) in current payables	48,241.52	(330.60)
Increase/(decrease) in liabilities related to consolidated entities	(223,542.25)	43,873.98
<b>Net cash flow from operating activities</b>	<b>(1,920,290.20)</b>	<b>1,915,399.33</b>
<b>Cash flow from investing activities</b>		
Purchase of tangible and intangible fixed assets	(258,601.46)	(2,306,658.20)
<b>Net cash flow from investing activities</b>	<b>(258,601.46)</b>	<b>(2,306,658.20)</b>
<b>Financing activities</b>		
Financial operations revenues/expenses	(138.20)	(240.00)
<b>Net cash flow from financing activities</b>	<b>(138.20)</b>	<b>(240.00)</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>	<b>(2,179,029.86)</b>	<b>(391,498.87)</b>
Cash and cash equivalents at the beginning of the period	2,980,779.39	3,372,278.26
<b>Cash and cash equivalents at the end of the period</b>	<b>801,749.53</b>	<b>2,980,779.39</b>

## STATEMENT OF CHANGES IN NET ASSETS

*as at 31 December 2016*

<b>Net assets</b>	<b>Opening balance</b>	<b>Economic result of the year</b>	<b>Total Net Assets</b>
	€	€	€
<b>Balance as of 1 January 2016</b>	9,049,471.98	0.00	9,049,471.98
Economic result of the year	0.00	1,519,004.03	1,519,004.03
<b>Balance as of 31 December 2016</b>	<b>9,049,471.98</b>	<b>1,519,004.03</b>	<b>10,568,476.01</b>

## NOTES TO THE FINANCIAL STATEMENTS

### ACCOUNTING POLICIES AND PRINCIPLES

The overarching objective of financial statements is to provide users with an overview of the financial performance, position and cash flow of an entity. For a public entity such as the Agency, this objective is more specific as this information is used in decision making processes and to demonstrate the Agency's accountability for the resources entrusted to it.

The 2016 financial statements were prepared on the basis of the Commission accounting rules as laid down by the Commission's accounting officer, applicable within the confines of the European Union and based on international public sector accounting standards and international financial reporting standards. Financial statements are prepared on an accrual basis whereas budget implementation reports are prepared on a cash basis. Reconciliation between the two methods is presented in the second part of this annual accounts report.

The Agency's accounting system contains general and budget accounts with the functional currency being the euro. The budget accounts provide a detailed picture of budget implementation and are based on cash accounting principles. The general accounts, prepared on an accrual accounting basis, present the financial performance and position of the Agency as of the end of the financial year.

### CURRENCY AND BASIS FOR CONVERSION

#### Functional and reporting currency

The functional and reporting currency used in the preparation of the financial statements for the Agency is the euro.

#### Transactions

Foreign currency transactions were converted into euros in accordance with Article 6 of the Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union,<sup>14</sup> using the official Commission exchange rates of the day on which the payment order was drawn up.

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<sup>14</sup> OJ L 362, 31/12/2012, p 1.

Foreign exchange gains and losses resulting from the settlement of transactions in foreign currency are recorded on the financial performance statement.

## CHART OF ACCOUNTS

The chart of accounts used by the Agency follows the same structure as the chart of accounts used by the Commission (PCUE).

## FINANCIAL PERFORMANCE STATEMENT - NOTES

### 1. Revenue

Agency revenues for the 2016 financial year consist of:

- the subsidy received from the general budget of the Union, and
- foreign exchange gains.

	<b>31 December 2016</b>	<b>31 December 2015</b>
	€	€
European Commission subsidy	15,343,698.25	10,513,574.00
Fixed assets income	0.00	0.00
Exchange rate gains	917.35	1,036.64
Other operating revenue	0.00	0.00
	<b>15,344,615.60</b>	<b>10,514,610.64</b>

### 2. Expenses

Staff expenses consist of personnel-related expenses such as salaries, allowances and related benefits.

All salary calculations of total staff expenses included on the Agency's financial performance Statement are externalized to the office for administration and payment of individual entitlements (also known as the paymaster's office-PMO) which is a central office of the European Commission.

The PMO's mission is to manage the financial entitlements of permanent, temporary and contractual staff working at the Commission and to calculate and pay their salaries and other financial benefits. The PMO provides these services to other EU institutions and agencies as well. The PMO is also responsible for managing the health insurance fund of the institutions and for processing and paying staff member reimbursement claims. The PMO likewise manages the pension fund and pays the pensions of retired staff members. The PMO is audited by the Court of Auditors.

The Agency is solely responsible for providing the PMO with reliable information enabling it to calculate staff costs. It is also responsible for checking that this information is handled properly



in the monthly payroll report used for the purpose of payroll cost accounting. It is not responsible for the calculation of payroll costs as this is the duty of the PMO.

Fixed asset-related expenses reflect amortisation of intangible assets and depreciation of tangible assets for the financial year ending on 31 December 2016.

Other administrative expenses consist of costs associated with the building and those incurred from daily office activities, including the cost of physical inventory that does not qualify as financial assets and the cost of interim personnel.

Operational expenses include the cost of operational missions, meetings, workshops, public hearings, REMIT project-related costs and other Agency operating expenses.

<b>Administrative and operational expenses</b>	<b>31 December 2016</b>	<b>31 December 2015</b>
	<b>€</b>	<b>€</b>
Staff expenses	6,591,352.88	5,537,264.41
Fixed asset related expenses	1,462,977.03	201,703.51
Other administrative expenses	2,746,351.82	2,529,149.53
Operational expenses	3,024,791.64	882,197.64
	<b>13,825,473.37</b>	<b>9,150,315.09</b>

### **3. Financial expense**

Financial expenses related to bank charges for operating the Agency bank accounts.

<b>Financial expenses</b>	<b>31 December 2016</b>	<b>31 December 2015</b>
	<b>€</b>	<b>€</b>
Financial operations expenses	138.20	240.00

## **BALANCE SHEET - NOTES**

### **NON-CURRENT ASSETS**

Assets are resources controlled by the Agency as a result of past events from which future economic benefits or service potential is expected to rise.

Fixed assets are assets with a useful life of more than one reporting period. The valuation of fixed assets on the Agency's financial statements is based on their acquisition price. The book value of these assets is equal to their acquisition price increased or decreased by revaluations and decreased by depreciation and amounts written off.

The Agency uses ABAC Assets2 to record fixed assets. This is an inventory application forming an integral part of the ABAC platform. Two main categories can be distinguished: intangible and tangible assets.

#### 4. Intangible fixed assets

Intangible fixed assets recorded in the Agency's inventory are assets with no physical substance such as software and internally generated intangible assets. Internally generated assets under construction at the end of 2015 were capitalised during 2016 with a 25% depreciation rate applied.

<b>Intangible assets at book value</b>	<b>31 December 2016 €</b>	<b>31 December 2015 €</b>
Intangible assets	3,815,104.89	1,302.08
Intangible assets under construction	0.00	5,086,300.82
	<b>3,815,104.89</b>	<b>5,087,602.90</b>

#### 5. Tangible fixed assets

Tangible assets forming part of the Agency's inventory consist mainly of furniture, computer hardware, telecommunication and audio-visual equipment and other fixtures and fittings.

<b>Tangible fixed assets at book value</b>	<b>31 December 2016 €</b>	<b>31 December 2015 €</b>
Plant and equipment	0.00	234.36
Computer hardware	300,414.08	189,628.36
Furniture and vehicles	78,051.87	71,451.92
Other fixtures and fittings	60,886.88	109,915.75
	<b>439,352.83</b>	<b>371,230.39</b>

#### Amortisation and depreciation

Depreciation and amortisation, a systematic allocation of loss in value over the useful life of an asset, is calculated using the straight-line method with the following rates:

<b>Type of asset</b>	<b>Straight line depreciation and amortisation rate</b>
Computer software	25%
Furniture	10%
Transport and kitchen equipment	12.5%
Computer hardware	25%
Technical equipment	25%
Telecommunication audio-visual equipment	25%

Details on classification and depreciation amounts of fixed assets can be found in the following table:

**FIXED ASSETS**  
**01.01.2016-31.12.2016**

Account number	Asset category	Opening balance	Additions during the year	Movements for work in progress	Disposals during the year	Closing balance	Depreciation Rate and Method	Depreciation		Depreciation charge for the year	Accumulated Depreciation	Closing book value
								Opening balance	Write offs			
21001000	Computer software	40,814.16	0.00	0.00	0.00	40,814.16	L 25%	39,512.08	0.00	922.80	40,434.88	379.28
21001000	Manual asset - computer software	0.00	5,086,300.82	0.00	0.00	5,086,300.82	L 25%	0.00	0.00	1,271,575.21	1,271,575.21	3,814,725.61
21400001	Intangible assets under construction	5,086,300.82	0.00	(5,086,300.82)	0.00	0.00	0.00%	0.00	0.00	0.00	0.00	0.00
23001000	Plant, machinery and equipment	2,225.65	0.00	0.00	(515.65)	1,710.00	L 12,5%	1,991.29	(515.65)	234.36	1,710.00	0.00
24001000	Furniture and rolling stock	105,507.66	21,773.35	0.00	(4,149.38)	123,131.63	L 10%; 12,5%, 25%	34,055.74	(4,149.38)	15,173.40	45,079.76	78,051.87
24101000	Computer hardware	894,013.87	234,371.40	0.00	(4,133.00)	1,124,252.27	L 25%	704,385.51	(4,133.00)	123,585.68	823,838.19	300,414.08
24201000	Other fixtures and fittings	264,856.80	2,456.71	0.00	(500.00)	266,813.51	L 25%	154,941.05	(500.00)	51,485.58	205,926.63	60,886.88
<b>Totals</b>		<b>6,393,718.96</b>	<b>5,344,902.28</b>	<b>(5,086,300.82)</b>	<b>(9,298.03)</b>	<b>6,643,022.39</b>		<b>934,885.67</b>	<b>(9,298.03)</b>	<b>1,462,977.03</b>	<b>2,388,564.67</b>	<b>4,254,457.72</b>

## CURRENT ASSETS

### Receivables

Receivables are computed at original invoice amount minus any write-down for impairment. A write-down for impairment of receivables is established only where there is objective evidence that the Agency will not be able to collect all amounts due according to the original terms of the receivables, the impaired amount being recorded on the financial performance statement.

#### 6. Short-term receivables

For purchases above the threshold amount of EUR 60.00, the Agency benefits from a direct VAT exemption from the Republic of Slovenia. For purchases where the direct exemption is difficult to apply, VAT is refunded by the Republic of Slovenia on a quarterly basis.

Advance payments made to contractors and recorded as short-term pre-financing are for services related to the long term REMIT project expected to be provided in 2016.

Salary advances paid to staff members are processed and/or recovered by the pay master office (PMO) from staff member salary in the month following that of payment.

Social contributions are invoiced in the month following that of their recording.

The subsidy approved from the EU budget is received in instalments when needed during the year.

Deferred charges consist of pre-payments made during the year mainly on subscriptions, insurance premiums, school fees, IT equipment maintenance and bank charges corresponding to the last month of the year.

	<b>31 December 2016 €</b>	<b>31 December 2015 €</b>
VAT receivable	43,777.23	12,805.18
Short term pre-financing	624,873.74	1,674,736.61
Salary advances paid to staff	452.06	37,254.62
Social contribution	(85,077.43)	0.00
Subsidy instalment	5,872,582.00	0.00
Deferred charges		
<i>Pre-payments</i>	230,187.92	180,226.71
<i>Bank charges</i>	22.20	0.00
<i>Deposits and guarantees</i>	0.00	2,940.00
	<b>6,686,817.72</b>	<b>1,907,963.12</b>

#### 7. Cash and cash equivalents

The Agency's main bank account and the imprest account are with UniCredit AG Germany based on a banking services contract signed between the two parties. At 31 December 2016 the main bank account contained the cash needed to honour the Agency's financial obligations carried over into 2017.

	<b>31 December 2016 €</b>	<b>31 December 2015 €</b>
Bank account	795,424.98	2,976,580.17
Imprest account	5,924.39	3,419.39
Petty cash	400.16	779.83
	<b>801,749.53</b>	<b>2,980,779.39</b>

## **EQUITY AND LIABILITIES**

### **8. Current liabilities**

As of 31 December 2016 the Agency had settled most of its current obligations with its suppliers. Open balances were pending settlement at the beginning of 2017.

Accrued expenses relate mainly to goods and services delivered at the end of the financial year, but for which invoices were not received. These amounted to EUR 456 631.57.

According to Staff Regulations (Annex V – Leave, Article 4) staff members are entitled to a compensation equal to one thirtieth of their monthly remuneration for each leave they are owed at the time they leave the service. A holiday compensation sum of EUR 140 774.34 has been calculated and recognised as accrued expense for all untaken annual leave entitlements as of the end of the 2016 financial year.

Budget outturn results remain the property of the European Commission and the Agency must return the unused portion of the pre-financing. Budget outturn for 2016 will be returned in 2017 upon request by the Commission.

	<b>31 December 2016 €</b>	<b>31 December 2015 €</b>
Accounts payable	48,259.30	17.78
Accrued expenses	597,405.91	545,681.34
Repayable positive budget outturn	528,883.75	752,426.00
	<b>1,174,548.96</b>	<b>1,298,125.12</b>

## **FINANCIAL INSTRUMENTS**

Financial instruments held by the Agency are cash and cash equivalents, receivables and payables. The Agency has limited exposure to financial risk and focuses on managing the risks identified below:

### **Credit risk**

Credit risk arises when the Agency's receivables are likely to default on their contractual obligations resulting in financial loss for the Agency.

The maximum exposure to credit risk at the end of the 2016 financial year is the carrying amount of the assets shown under note 6 'Short-term receivable', excluding the amount of short-term pre-financing that is already secured by bank guarantees, and note 7 'Cash and cash equivalents'.

Credit risk associated with the Agency's financial assets is minimal as most is with institutions that have a very sound external credit rating or with debtors who have never defaulted on their debt. The table below shows the credit quality of these assets that are

neither impaired nor past due and which have been grouped into two categories, with and without an external credit rating, for the current and previous financial year.

<b>Category:</b>	<b>Financial Assets</b>	<b>2016</b>
<b>Counterparties with external credit rating</b>		
<i>Prime and high grade</i>		
<i>Upper medium grade</i>	Cash and cash equivalents	801,749.53
<i>Lower medium grade</i>	Refund of VAT from Slovenian customs office	43,777.23
<b>Counterparties without external credit rating</b>		
<i>Debtors who have never defaulted</i>	Receivables, accruals and deferrals	6,018,166.75
<b>TOTAL</b>		<b>6,863,693.51</b>

<b>Category:</b>	<b>Financial Assets</b>	<b>2015</b>
<b>Counterparties with an external credit rating</b>		
<i>Prime and high grade</i>		
<i>Upper medium grade</i>	Cash and cash equivalents	2,980,779.39
<i>Lower medium grade</i>	Refund of VAT from Slovenian customs office	12,805.18
<b>Counterparties without an external credit rating</b>		
<i>Debtors who have never defaulted</i>	Receivables, accruals and deferrals	220,442.63
<b>TOTAL</b>		<b>3,214,027.20</b>

### Liquidity risk

Liquidity risk arises when the Agency is unable to meet its financial obligations as they come due. The Agency is exposed to liquidity risk through its trading in the normal course of business but has appropriate treasury management procedures in place to monitor forecasted cash flow and ensure that sufficient funds are available to meet its legal commitments as they come due.

The Agency's liabilities have remaining contractual maturities as shown in the following table:

<b>At 31 December</b>	<b>2016</b>	<b>2015</b>
Payables with third parties		
<i>Less than one year</i>	21,025.64	17.78

Payables with consolidated entities		
<i>Less than one year</i>	556,117.41	752,426.00
<b>TOTAL</b>	<b>577,143.05</b>	<b>752,443.78</b>

### Market risk

Market risk is the risk that changes in market prices, such as foreign exchange rates and interest rates, will affect the Agency's income or the value of its financial instrument holdings.

The Agency does not have any debt and is therefore not exposed to any risk of interest rate fluctuation, nor is it affected by foreign exchange rates as all its of financial instrument holdings are in euros, its functional currency.

The following table summarises all financial assets expressed in euros.

<b><i>Euro exposure at 31 December</i></b>	<b>2016</b>	<b>2015</b>
<b>Monetary assets</b>		
<i>Cash and cash equivalents</i>	801,749.53	2,980,779.39
<i>Receivables EU budget</i>	5,872,582.00	0.00
<i>Receivables from member States</i>	43,777.23	12,805.18
<i>Receivables from third parties</i>	145,584.75	0.00
<b>Monetary liabilities</b>		
<i>Payables to third parties</i>	21,025.64	17.78
<i>Payables to consolidated entities</i>	556,117.41	752,426.00
<b>Net position</b>	<b>6,286,550.46</b>	<b>2,241,140.79</b>

### CHANGES IN ACCOUNTING POLICIES

There were no changes in accounting policies in the 2016 financial year.

### OTHER DISCLOSURE

#### Contribution in kind

The following contributions in kind were accepted during the 2016 financial year:

From the Council of European Energy Regulators:

- office space, logistical and secretarial support for the Agency's liaison office in Brussels free of any rent, fees or charges.

As the Agency has no legal title to nor does it own these assets, the non-exchange component of these transactions does not appear on the Agency's accounts.

### EVENTS AFTER THE BALANCE SHEET DATE

The Agency has not identified any material event after its balance sheet date that would have an impact on its financial performance or position.

## Annex VIII. Negotiated procedures

There was one negotiated procedures under Article 134(1)(b) of the Commission Delegated Regulation No 1268/2012 of 29 October 2012 on the rules of application of Regulation 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union<sup>15</sup> as amended ('RAP') in 2016.

The table below contains data related to the procurement procedure under Article 134(1)(b) RAP:

2016 negotiated procedure under Article 134(1)(b) RAP			
No..	Contractor's name	Subject of contract	Contract amount
1	Telekom Slovenije d.d.	Migration of the Agency's IT hosting services for the cooperation of energy regulators	EUR 1 852 000.00

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<sup>15</sup> OJ L 362, 31.12.2012, p.1.





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