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Document title: ACER Taking stock of the regulators' human resources Summary of findings

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BoR Summit

Taking stock of the regulators' human resources

Summary of findings

- Collectively NRAs allocate the equivalent of around 200 full-time staff to carrying out work in the Agency's working groups and the Board of Regulators.
- Despite resource constraints all NRAs – including the smallest – commit considerable resources to cooperation within ACER, with a disproportionate strain on the small and medium-sized NRAs.
- Despite this significant commitment to cooperation, many NRAs would like to be even more actively involved in the Agency's work but simply lack sufficient overall resources to take on a more active role.
- However, those NRAs with extremely low levels of resource currently cannot do more than passively observe developments.
- Inadequate resourcing of NRAs puts at risk the effective delivery of the regulatory policies that underpin the Internal Energy Market - and ultimately the benefits of the IEM to consumers.

1. Background

The statutory duties of national regulatory authorities (NRAs) have been successively extended under EU legislation, frequently without these new duties being met by equivalent increases in resources. Some NRAs have even faced decreasing levels of resources. This has often had an effect on NRAs' ability to attract and retain personnel with vital expertise. This risks eroding NRAs' independence and their ability to engage in cooperation at European level. These risks, and the need to address them, were raised by the European Court of Auditors in a 2015 special report.¹

The ACER Board of Regulators gathered objective and comparable data from NRAs about how many staff they have overall and how many of these staff they commit to work within ACER (including seconded national experts)². This data is presented in Annex I with additional explanations in Annex II. The aim of the present paper is to provide a clear picture of the current status of NRAs' resources (including their ability to participate in ACER's work), in order to encourage the Commission to explore the issue. The key findings have also been considered and reflected in an ACER Recommendation on ensuring the independence of the NRAs and the Agency³.

2. Key findings

Even though NRAs have the same duties and obligations under European legislation, there are major differences in the resources they receive from their national governments - even taking into account differences in nationally delegated responsibilities and considering the differences in national market

¹ *Improving the security of energy supply by developing the internal energy market: more efforts needed*, European Court of Auditors, Special Report 16/2015

² This work emerged as part of a wider initiative; an executive summary of which can be found on the ACER website, *'Taking action and reinforcing regulatory cooperation to deliver the IEM'*

³ ACER Recommendation No 01/2016 of 30 May 2016 on ensuring the independence of the Agency for Cooperation of Energy Regulators and National Regulatory Authorities

structures. Indeed, some NRAs operate with extremely low levels of resource - four have fewer than 12 full-time equivalent staff for energy regulation and a further five have fewer than 50. These compare with an average size of around 160 staff among the remaining 19 NRAs. Although here too there is a wide range (see Table 2), which is only partly explained by different market structures.

Collectively, NRAs make a significant commitment of resources to cooperation within the Agency – including the smaller NRAs. In total, there are the equivalent of around 200 full-time NRA staff participating in the Agency Working Groups and the Board of Regulators. However, not all of these resources are immediately “visible” because much of the work – on drafting, reviewing and commenting on, and inputting data for ACER documents – is carried out by experts working from the national capitals. Nor does this figure include the further resources that NRAs allocate to collaborating within other regional, European and international organisations such as the Council of European Energy Regulators (not to mention MEDREG, NordREG, ICER and others). These organisations also carry out important and strategic work that falls outside the ambit of the Agency’s responsibilities. Equally, NRAs have additionally provided a number seconded national experts to ACER over the last four years (see Figure 1). These have been a mixture of regular and “cost-free”, as well as a mixture of short and longer term secondments.

Cooperation within ACER puts a much greater strain on the resources of smaller and medium-sized NRAs (see Figure 1). Most of the smallest NRAs tend to allocate more than 10% of their total resources to ACER work. Likewise, the medium-sized NRAs allocate, in real terms, broadly similar levels of resources as the largest ones (see Table 2). For the medium-sized NRAs this is a proportionally much larger allocation of resources at 10.4% - compared with an average of 4.5% for the six largest NRAs.

Many NRAs made it clear that they would like to be more actively engaged with ACER work but lack the resources to be able to do so. Taking a leading role within a Working Group or Task Force clearly implies the need to commit additional resources over and above those required to keep up (even passively) with the many streams of work within the Agency. For example, in addition to the Board of Regulators, there are four Agency Working Groups with around 15 Task Forces, the REMIT Coordination Group with additional groups reporting to it, and other streams of work such as the Regional Initiatives. This is a significant volume of work to follow, especially for NRAs with fewer than 50 staff with core tasks overseeing national markets; tasks which have been increased through legislation such as REMIT and TEN-E.

In responses to qualitative questions about what factors affect NRAs’ decisions to become actively involved in particular deliverables, a high workload at national level was the most frequently cited negative factor. Availability of the appropriate experts (with English language skills) and availability of budget to attend meetings were also cited by some NRAs as negative factors.

3. Conclusions

NRAs have important objectives to oversee their national markets as well as a European mandate to promote a competitive, secure and environmentally sustainable internal market for electricity and gas. Each objective requires a full role to be played in the Agency’s structures and work and demands that NRAs have sufficient resources to carry out the tasks assigned to them (as is stipulated in the Third Package Directives).

NRAs already make a significant contribution in terms of resources to work within the Agency but it is a considerable challenge for smaller, and even medium-sized, NRAs to take a more active role in ACER work. For many of them, more active involvement is simply not possible.

Adequate resourcing of NRAs as an issue of fundamental importance to the effectiveness and credibility of the current regulatory model for Energy in Europe - a model we strongly support and believe in. Although the ACER Recommendation to the European Institutions deals more generally with the need to safeguard the independence and regulatory autonomy of ACER as well as NRAs, the resources deficit also risks the independence of NRAs and the Agency.

Annex I: NRA resources data

NRA size, by number of full time equivalent staff for energy regulation		
Micro (less than 12 full time staff)	Malta	REWS
	Estonia	ECA
	Cyprus	CERA
	Luxembourg	ILR
Small (12-50 FTE)	Lithuania	NCC
	Finland	EV
	Denmark	DERA
	Latvia	PUC
	Slovenia	AGEN-RS
Small-mid (50-75 FTE)	Ireland	CER
	Croatia	HERA
	Slovakia	RONI
	Belgium	CREG
	Portugal	ERSE
Medium (90-140 FTE)	Greece	RAE
	Netherlands	ACM
	France	CRE
	Austria	E-Control
	Sweden	EI
	Bulgaria	EWRC
Large-mid (170-175 FTE)	Italy	AEEGSI
	Spain	CNMC
Large (more than 220 FTE)	Czech Rep.	ERU
	Hungary	HEA
	Poland	URE
	Romania	ANRE
	Germany	BNetzA
	GB	Ofgem

Table 1 lists the NRAs in order of total resources for energy regulation in FTE. Average: 117.3 FTE

Total resources FTE	Group	Number of NRAs	Average total size of NRA (FTE)	Average allocation to ACER (FTE)	Average proportion of total resources (%)
<12	Micro	4	8.55	0.98	13.36
25-50	Small	5	37.18	3.98	11.51
50-75	Small-Mid	5	63.62	4.30	6.65
90-140	Mid	6	109.00	11.42	10.41
170-175	Large-Mid	2	173.00	11.00	6.37
>220	Large	6	291.00	12.29	4.54
	All NRAs	28	117.29	7.48	8.81

Table 2 groups the NRAs by size, showing the average total resources, average allocation of resources to ACER-related work (FTE), and average proportional allocation of resources to ACER (%) for each group.

The table shows that NRA's of all sizes allocate resources to ACER-related work, but also that the size of the allocation tends to be related to the overall size of the NRA – with larger NRAs contributing more FTE in total. However, the table also shows that the smaller allocations of the smallest NRAs represent a higher proportion of their overall staff.

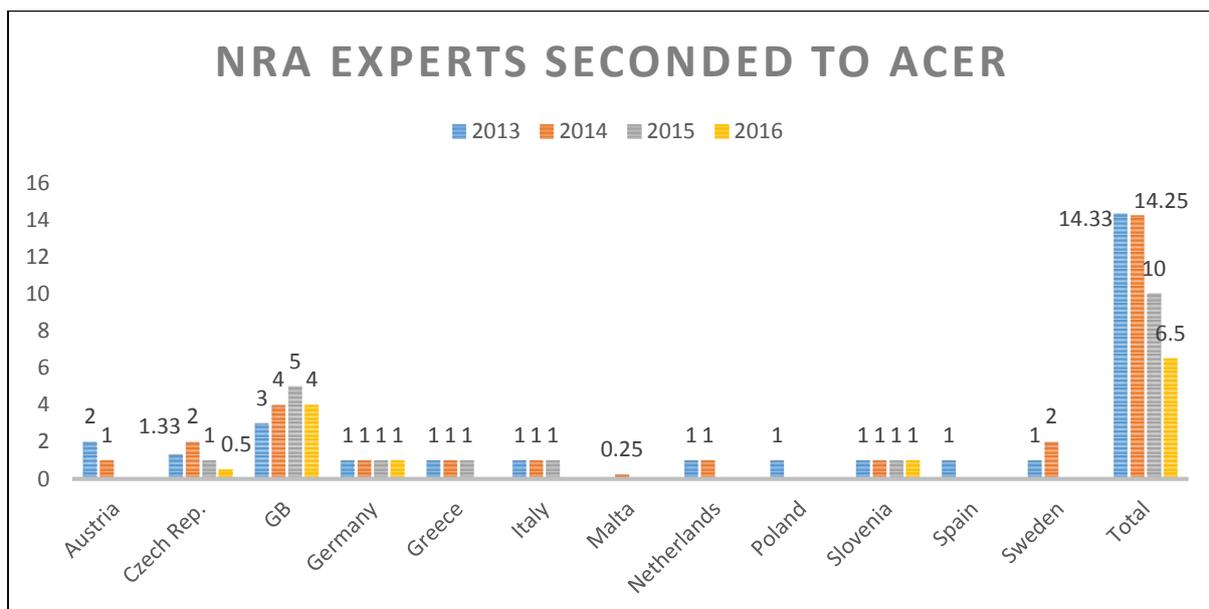


Figure 1 shows the approximate number of NRA experts seconded to ACER in each year since 2013. In total, 12 NRAs have seconded national experts to ACER over four years. These have been a mixture of short term and longer term secondments.

Annex II: Explanation of the data

This annex explains the basis on which NRAs were asked to provide the data (in Annex I) to ensure that it is comparable, accounting for differences in national responsibilities.

While NRAs all have the same tasks and responsibilities under European energy legislation, their tasks under national legislation can vary quite substantially. For example, some NRAs have responsibility for district heating, government RES support schemes, and energy consumer protection. Similarly, in some Member States the NRAs have responsibility for regulation of multiple sectors such as water, telecoms, rail and waste management. These varying tasks and responsibilities imply varying resource requirements, as well as different organisational structures. Therefore, in order to ensure that the information provided by the NRAs would be as comparable as possible, and thus ensure that the information would provide useful insights, NRAs were asked to provide information on the basis described below. These figures may, therefore, vary slightly from figures reported elsewhere (for example national annual reports) because of the specific focus of this exercise and the need to ensure, as far as possible, consistency between the NRAs' responses.

Total NRA resources for energy regulation: NRAs were asked to report only the resources corresponding to their activities for energy regulation. This includes the tasks assigned to NRAs under the European legislation but, where relevant, also includes some additional tasks in energy regulation, such as regulation of district heating or consumer protection – though not all NRAs have these same responsibilities. Resources for regulation of non-energy sectors and resources allocated to non-regulatory activities, including those under the direction of a government department (such as administration of support schemes) were not included. NRAs were asked to include resources in supporting roles (such as legal departments and IT support). Multi-sector NRAs were asked to include the proportion of such support teams relevant to their energy activities. NRAs were asked to report the figure for the 2015-16 financial year, or the figure correct as of March 2016.

NRA resources allocated to ACER: NRAs were asked to calculate how much resource they allocate to participation in ACER work. They were asked to report this figure in full-time equivalent (FTE). The activities that NRAs were asked to take into account were those related to participation in the Board of Regulators, Agency Working Groups, Task Forces and other workstreams (including the Regional Initiatives). Such work involves attending meetings, drafting, reviewing and commenting on draft deliverables, preparing briefings for Board of Regulator members and working group Chairs (for those NRAs where this is relevant). NRAs were also invited to include any activities at national level for coordinating their ACER-related work. The figures do not include the NRA resources required for the implementation of European legislation at national level – such as the experts working at national level on the implementation of the Network Codes or REMIT. These activities, while stemming from European legislation, are considered to be a national competence. Many NRAs noted that they allocate the same experts to participate in ACER working groups to work on national implementation. In these cases, the information provided is on the basis of the NRA's estimate of the approximate proportion of those experts' time on national and ACER-related topics (reported in FTE).



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