

BACKGROUND DOCUMENTS

of the 63rd ACER Administrative Board Meeting

18-19 June 2024

	Agenda point	Direct link
2024 Market Monitoring Report on capacities for cross-zonal trade of electricity (including the progress in reaching the so-called '70% requirement') and congestion management.	2.1	Link
2024 Market Monitoring Report: Analysis of the European LNG market developments	2.1	Link
Regulation (EU) 2024/1106 of the European Parliament and of the Council of 11 April 2024 amending Regulations (EU) No 1227/2011 and (EU) 2019/942 as regards improving the Union's protection against market manipulation on the wholesale energy market	2.2	Link
123 and 124 BoR meetings - minutes	2.3	Link – 123 Link – 124
ECA Special Report 03/2023: internal electricity market integration	2.4	Link
Consolidated Annual Activity Report 2023	2.6	Link
AB Opinion No 01/2024 on Final Accounts for the Financial Year 2023	2.8	Link
AB Decision No 03/2024 – Transfer of pension rights	2.9	Link
AB Decision No 04/2024 - Decision No 4 - 2024 - on the request for the Commission agreement on derogation - anti-harassment	2.9	Link
AB Decision No 5/2024 - 2024 ACER Budget - first amendment	2.10	Link
Minutes of the AB Review Panel for the 2024 conflict of interest evaluation	2.14	Link

Below are the documents that are not available for download from ACER's website:

Cover note

**63rd ACER Administrative Board meeting
18-19 June 2024**

Subject: **CONSOLIDATED ANNUAL ACTIVITY REPORT OF THE
EUROPEAN UNION AGENCY FOR THE COOPERATION OF
ENERGY REGULATORS FOR THE YEAR 2023**

Background:

Each year the Agency shall prepare the Consolidated Annual Activity Report providing an overview of the activities of the Agency for the previous year. The Consolidated Annual Activity Report shall contain an independent section on the regulatory activities of the Agency and a section on financial and administrative matters.

On 5 June 2024 the Board of Regulators approved the independent section of the Consolidated Annual Activity Report on the regulatory activities of the Agency during the year considered.

The Administrative Board shall adopt and publish the Consolidated Annual Activity Report, on the basis of the draft annual report referred to in Article 19(1)(k) of the Agency's funding Regulation. The report shall be further transmitted to the European Parliament, the Council, the Commission, the European Court of Auditors, the European Economic and Social Committee and the Committee of the Regions by 1 July of each year.

The Consolidated Annual Activity Report is structured according to the template foreseen in the Communication from the Commission on the guidelines for programming document for decentralised agencies and the template for the Consolidated Annual Activity Report for decentralised agencies as revised in 2020.

Action required: *The Administrative Board is invited to adopt the Consolidated Annual Activity Report 2023.*

Cover note
63rd ACER Administrative Board meeting
18-19 June 2024

Subject: OPINION ON THE FINAL ACCOUNTS OF THE AGENCY FOR THE FINANCIAL YEAR 2023

Background:

In accordance with Article 35.4 of Regulation (EU) 2019/942 of 5 June 2019 and Article 102 of the Financial Regulation of the Agency, the Accounting Officer shall draw up the final accounts of the Agency upon receiving the observations on the provisional accounts from the European Court of Auditors.

The final accounts shall be sent by the Director to the Administrative Board for an opinion. The European Court of Auditors adopted the opinion on the provisional accounts of the Agency on 24 May 2024. The accounting officer of the European Union Agency for the Cooperation of Energy Regulators has certified that the annual accounts of the Agency for the year 2023 have been prepared in accordance with the Financial Regulation and the accounting rules applicable and declares that it has a reasonable assurance that the accounts present fairly, and in all material aspects, the financial position, the results of the operations and the cash-flow of the Agency.

The European Court of Auditors and the external audit firm, Baker Tilly, have audited the accounts of the Agency and expressed their opinion that these accounts present fairly, in all material aspects, the financial position of the Agency at 31 December 2023, the results of its operations, its cash flow, and the changes in net assets for the year 2023.

Action required: The Administrative Board is invited to adopt Opinion No 1/2024 on the final accounts of the Agency for the financial year 2023.

Cover note
63rd ACER Administrative Board meeting
18-19 June 2024

Subject: ADMINISTRATIVE BOARD DECISIONS ON IMPLEMENTING PROVISIONS RECEIVED BY THE EUROPEAN COMMISSION

Background:

The Implementing Provisions giving voice to the EU Staff Regulations are drafted, revised and adopted by the European Commission. These rules apply to agencies by analogy unless a tailored version for agencies (called Model Decision) is envisaged.

According to Article 110(2) of the Staff Regulations, implementing rules shall apply by analogy to agencies nine months after their entry into force at the Commission, unless an opt-out is requested and granted, particularly in view of the drafting of Model Decisions.

In the name of legal certainty, agencies are invited to provide a decision adopting or opting out of implementing provisions. The competence for ACER lays with the Administrative Board.

The Agency received two notifications from the European Commission on the adoption of the following implementing provisions:

- Decision C(2024) 1038 of 21 February 2024 amending Decision C(2011)1278 final on the General Implementing Provisions for Articles 11 and 12 of Annex VIII Staff Regulations on the transfer of pension rights
- Commission Decision C(2023)8630 of 12 December 2023 on the prevention of and fight against psychological and sexual harassment, and repealing Decision C(2006)1624/3

Decision C(2024) 1038 of 21 February 2024 amending Decision C(2011) 1278 final on the General Implementing Provisions for Articles 11 and 12 of Annex VIII Staff Regulations on the transfer of pension rights

These new rules set out the method to calculate the years of pensionable service to be credited under Article 11(2) and (3) of Annex VIII to the Staff Regulations. The Commission updated the conversion coefficients to consider the evolution of the legal framework and actuarial parameters in line with Article 83a(3) of the Staff Regulations. The interest rate set out in Article 8 of Annex VIII to the Staff Regulations was updated on 1 January 2024: from the previous rate 2.9% to a new rate of 2.2%. The conversion coefficients used for the calculation of the actuarial equivalent that can be transferred for the calculation of the number of years of pensionable service to be credited.

These rules should be adopted by analogy.

Commission Decision C(2023) 8630 of 12 December 2023 on the prevention of and fight against psychological and sexual harassment, and repealing Decision C(2006)1624/3

The Standing Working Party (SWP) has informed the agencies that in coordination with the Commission, a specific model decision adapted to agencies will be developed, which will better suit the needs of the agencies.

The Administrative Board is requested to opt-out from the Commission's rules, in light of an upcoming Model Decision.

Action required: *The Administrative Board is invited to:*

- adopt by analogy Decision C(2024) 1038 of 21 February 2024 amending Decision C(2011)1278 final on the General Implementing Provisions for Articles 11 and 12 of Annex VIII Staff Regulations on the transfer of pension rights

- adopt opt-out from Commission Decision C(2023) 8630 of 12 December 2023 on the prevention of and fight against psychological and sexual harassment, and repealing Decision C(2006)1624/3 (in view of model decision).

Cover note
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Subject: Amendment of Decision No 17/2023 on the budget and the establishment plan of the Agency - Financial Year 2024

Background:

In January 2024, the Agency established the amount of fees due to the Agency by applying the approved fees collection model on the number of records reported by the Registered Reporting Mechanism (RRM) for the financial year 2023.

The amount of fees envisaged for the financial year 2024 at the time of the budget adoption was EUR 12 439 431. On the other hand, the total amount of debit notes issued amounted to EUR 11 619 750.

Moreover, the Agency's received three partial enrolment fee payments from new RRM, thus generating additional revenue of EUR 13,500.

In line with the above, the total revenue of the Agency for the financial year 2024 needs to be reduced by the difference between the initially planned revenue and the revenue established, i.e. EUR 806 181. The reduction is to be absorbed by de-prioritising the

- ARIS archiving solution for EUR 400 000,
- IT consultancy services for EUR 100 000
- REMIT Case Management Tool / Notification Platform related investments in new functionalities and improvements for EUR 200 000, and
- reducing in scope the SMARTS/NMS improvements for the SMARTS/NMS visualisation tools and new alerts to support surveillance for EUR 106 181.

Furthermore, the revision of the Electricity Market Design regulation brings additional resources of EUR 2 656 000 that are to be allocated towards Titles 1, 2, and 3 of the Agency's budget.

In order to balance the revenue and expenditure of the Agency it is appropriate to amend Decision No 17/2023 of the Administrative Board of the Agency of 13 December 2023.

Action required: The Administrative Board is invited to adopt the budget amendment.