

**CONSOLIDATED ANNUAL ACTIVITY REPORT**  
**OF**  
**THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF**  
**ENERGY REGULATORS**

**2021**



**In pursuance of FR 2018/1046, FFR No 2019/715<sup>1</sup>**

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<sup>1</sup> Commission Delegated Regulation (EU) 2019/715 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

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## THE ANALYSIS AND ASSESSMENT OF THE ADMINISTRATIVE BOARD

The Administrative Board has examined the Consolidated Annual Activity Report for the year 2021 of the European Union Agency for the Cooperation of Energy Regulators and notes that:

- The Agency aligned its policies and operational achievements with the EU priorities in the field of energy in line with ACER's 2021 work programme: the completion of the internal energy market and the monitoring of trading in the wholesale energy markets of the Union remained at the heart of the Agency's objectives;
- The challenges faced by the Agency related to the completion of the internal energy market, including delivering the benefits to EU energy consumers, are correctly identified and the operational achievements contributing to the implementation of the EU energy policy priorities are convincingly presented;
- The Agency faced successfully the challenges deriving from the Covid-19 pandemic, adapting its work methods to ensure the safety of staff without disrupting work processes. It largely met its objectives through prioritisation and redeployment of staff, whenever possible, to overcome the difficulties encountered due to resource constraints and the need to allocate resources for peaks of unpredictable workload, especially when called to replace NRAs in the adoption of decisions requesting high-level expertise. This also put considerable pressure on the Agency's legal resources;
- Resource constraints in general had a significant impact on the extent to which the Agency was able to contribute to the completion of the internal energy market to the benefit of energy consumers and the competitiveness of the Union, since some of the Agency's work could not be done to the extent which would be desirable;
- In 2021 the Agency collected fees from the Registered Reporting Mechanisms (RRMs) for the services it provides for the collection, handling and analysing of data reported by the energy market participants for the implementation of REMIT. As this was the first year in which fees were collected, the Agency was cautious in contracting its resources and delayed the start of several operational projects planned to be covered by fees until the settlement of the first fees instalment at the end of April;
- As a result of the above the Agency reached a slightly lower implementation of the commitment appropriations, a high level of carry-overs from the commitments open balances at year-end and lower implementation rate of payment appropriations. The Agency did not reach its targets for the implementation of its budget of the current year appropriations, as it was short on the commitment appropriations (94.06%) as compared to a target of 95% and 65.96% on payment appropriations as compared to the 75% target;

- The key performance indicator targets were largely met, with the exception of the appropriation commitments mentioned above and a few indicators concerning the improvement of REMIT data quality and market surveillance, due to the lack of sufficient resources;
- The Director has provided a clear declaration of assurance;
- The controls and supervisory checks performed in 2021 provided no evidence of significant or repetitive errors in reporting by Agency departments, budget execution, human resources management or KPI implementation;
- The issues of inadequate or ineffective controls identified in audits and the Agency's discharge procedure are being addressed by the Agency. The Director shall take further actions to address the comments made by the European Court of Auditors in its preliminary observations and to report, in due course, on the actions taken.

It concluded that:

The Agency has successfully implemented the 2021 work programme. The available resources allocated to the activities described in the report were used for their intended purpose in accordance with sound financial management principles.

For the Administrative Board



The Chair

M. THIOLLIERE

16 June 2022

**EXECUTIVE SUMMARY**  
**FOREWORD BY THE DIRECTOR OF THE AGENCY**

**MISSION**

ACER fosters a fully integrated and well-functioning Internal Energy Market, where electricity and gas are traded and supplied according to the highest integrity and transparency standards, so that EU consumers can benefit from a wider choice, fair prices and greater protection. To achieve this, we work closely with the European Institutions, National Regulatory Authorities (NRAs), national governments and market players.

**Multiannual objectives**

<b>Objective 1</b>	<b>Contribute to the completion of the Internal Energy Market and the monitoring of its functioning</b>
<b>Goals</b>	Supporting the integration of the electricity and gas markets in the European Union as assigned by the Agency’s founding Regulation and other provisions in the Third Package, and further enhanced with the acts of the “Clean Energy for all Europeans” package. The achievements of these goals should be instrumental to the goals of the European Green Deal.
<b>Objective 2</b>	<b>Contribute to the Infrastructure and Security of Supply Challenges</b>
<b>Goals</b>	The Regulation (EU) No 347/2013 on Guidelines for trans-European energy infrastructure (TEN-E Regulation) introduced a new framework aimed at promoting the development of Projects of Common Interest (PCIs), i.e. infrastructure projects that are particularly beneficial in supporting a more integrated European energy market. According to the Third Package, the Agency was already involved in the energy network development process, but the TEN-E Regulation projected this involvement into a new dimension. The Regulation aims at enhancing the physical integration of the internal energy market, including by ensuring that no Member State is isolated from the European network. As one of the many players involved, the Agency

	<p>aims to contribute to the infrastructure challenge in line with its legal mandate.</p> <p>The Agency has various functions and roles regarding the development of the electricity and gas infrastructure. Cost-efficient network development is essential for overcoming physical congestion, improving energy security and ensuring sustainability. Capacity allocation methods and/or congestion management procedures alone cannot resolve physical congestion in electricity and gas transmission systems, especially at interconnection points and other system bottlenecks. Adequate physical transmission capacity is thus a prerequisite for completing the IEM. Additional tasks have been added by the Clean Energy Package acts. In particular, the Agency is tasked to approve the methodology regarding the use of revenues from congestion income.</p> <p>The achievements of these goals should be instrumental to the goals of the European Green Deal.</p>
<p><b>Objective 3</b></p>	<p><b>Increased integrity and transparency of wholesale energy markets</b></p>
<p><b>Goals</b></p>	<p>A well-functioning pan-European energy market demands that energy is traded according to the highest transparency and integrity standards, so that prices reflect the fundamentals of demand and supply. Correct prices further unlock decentralised supply resources and provide a robust basis for investment decisions in for example generation, transmission and storage, such as battery technology, to enhance flexibility in supply.</p> <p>The Regulation on wholesale energy market integrity and transparency (REMIT) aims to establish the conditions for this to happen. The effective implementation of REMIT is thus a major pre-requisite for efficient market integration and the security of energy supply, both of which are essential components of the Energy Union strategy. REMIT introduced a new, unprecedented, sector-specific market-monitoring framework to detect market abuse in European wholesale energy markets, thus deterring such behaviour. It is a monitoring opportunity provided by digitalisation. The Agency aims to ensure that REMIT is fully implemented so that consumers and other market participants can have confidence in the integrity of electricity and gas markets, that prices set on wholesale energy markets</p>

	<p>reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse.</p> <p>A competitive, interconnected and integrated energy market is essential to achieve decarbonisation and security of energy supply at the lowest possible costs and to ensure that the clean energy transition benefits consumers.</p>
<p><b>Objective 4</b></p>	<p><b>Contribute to address longer-term regulatory challenges</b></p>
<p><b>Goals</b></p>	<p>The Agency strives to support political priorities set at the EU level which are relevant for energy regulation, such as the European Green Deal and the related decarbonisation goals for the achievement of the EU climate policy objectives. The aim is to support more cost-effective pathways for the EU's energy objectives and to help regulators and policymakers remain at the forefront of the regulatory implications of a rapidly changing energy system.</p> <p>In doing so, the Agency focuses on topics with clear regulatory relevance, for instance those linked to the <a href="#">Bridge beyond 2025 Recommendation</a>. These could include the future use of gas infrastructure, the role of power-to-gas installations, the possibilities for hydrogen in a decarbonised energy system, the development of hybrid infrastructure assets such as offshore grid linking multiple jurisdictions and the development of demand response.</p> <p>Challenges include also the future greater penetration of renewable-based generation into the European electricity system, which will be a source of new challenges for the electricity and gas systems in the years to come, including in terms of adequacy and flexibility. These challenges may require a regulatory and market design response. The Agency is committed to contributing to this effort.</p> <p>The Agency intends, over the next years, to reassess the identified challenges, to see to what extent they have been addressed, and to consider whether additional challenges have in the meanwhile emerged, which may require a regulatory response.</p>



## The Agency's Governance

- The [Director](#) manages and represents the Agency.
- The [Administrative Board](#) (AB) is responsible for the Agency's governance as well as all administrative and budgetary activities. The AB members are appointed by the European Commission, the European Parliament and the Council of the European Union.
- The [Board of Regulators](#) (BoR) is in charge of the regulatory policy and overseeing all the activities connected. The BoR is composed by senior representatives of the National Regulatory Authorities (NRAs) for energy of the 27 Member States.
- The [Board of Appeal](#) (BoA) deals with complaints lodged against [ACER decisions](#). It is independent from the administrative and regulatory boards.
- The [ACER Working Groups](#) advise the ACER Director and the Board of Regulators on the regulatory activities of the Agency. The Working Groups are composed of representatives of ACER, national regulators, and the European Commission.
- ACER can also count on the support of over a hundred committed employees, both permanent staff and experts seconded by national regulatory authorities (NRAs). ACER staff is organised in [departments and horizontal clusters](#), and is responsible for running the daily operations and effectively fulfilling the Agency's mandate.

## FOREWORD BY THE DIRECTOR OF THE AGENCY – THE YEAR IN BRIEF

It is an honour for me to present the 2021 Consolidated Annual Activity Report ('CAAR') of the European Union Agency for the Cooperation of Energy Regulators ('ACER'). In line with the mandatory template, it describes the activities performed by the Agency, as well as the extent to which it met the objectives set out in its Work Programme in 2021.

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In 2021, the Agency was tasked in the context of high energy prices with assessing the benefits and drawbacks of the current wholesale electricity market design. Energy prices started to rise dramatically around mid-2021 leading to calls to mitigate their effects on consumers. The outcome of ACER's first part of this work is captured in the preliminary assessment published in November 2021. Importantly, this work continued in 2022 resulting in a final report delivered end of April as originally requested. Such a task is only possible thanks to the dedication of my staff and the fruitful discussions with NRAs within the Agency's BoR. Market design questions are important issues to reflect upon, calling for careful considerations.

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The Covid19 pandemic continued to affect the Agency's working methods. While the Agency had already gained considerable experience in this respect in 2020, ensuring business continuity, the lingering uncertainty related to the duration of the pandemic inevitably represented a burden. Staff presence at the office was limited in line with the safety measures available, in full respect of the measures adopted by the Slovenian government. While teleworking was for long stretches of the year the Agency's normal operational mode, staff did return to the office when the situation permitted it. The Agency's Continuity Management Group (CMG), which included the Senior Management and selected staff members, continued to operate throughout the year. As in 2020, the pandemic continued to put strain especially on recruitment and onboarding procedures. The Agency nevertheless continued to deliver the tasks foreseen in its work programme.

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Effective arrangements were put in place in particular for the implementation of the REMIT-related tasks concerning the supervision of energy wholesale markets to identify market manipulation. The Agency continued to collect enormous amounts of confidential data, which is safely available to case-handlers only through the security systems envisaged at the Agency itself. In fact the quantity of transactions collected continues to increase in the course of the year, reaching an average of 7.2 million records a day. This figure has more than doubled

since 2019 when it stood at 3 million records. Needless to say, such figures posed a formidable challenge to the Agency and its REMIT information system ARIS.

The work of the Electricity and Gas departments proceeded largely in line with plans, despite the pandemic. The Agency also continued to contribute to the European Green Deal, which aims to make Europe the first climate-neutral continent by 2050, for example, via position papers.

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2021 was a crucial year to put the Agency's finances on a more stable footing through the introduction of fees for collecting, handling, processing and analysing the information reported by market participants or by entities reporting on their behalf as a new source for the funding of REMIT related services. Despite the initial uncertainty fee collection was a success. Since the Agency had no prior experience in this domain, it was however cautious in contracting its resources and delayed the start of several operational projects planned to be covered by fees until the settlement of the first fees instalment at the end of April. This lowered the implementation of the commitment appropriations and resulted in a high level of carry-overs from the commitments open balances at year-end and lower implementation rate of payment appropriations. As a consequence, the Agency did not reach its targets for the implementation of its budget of the current year appropriations being short on the commitment appropriations 94.06% as compared to a target of 95% and 65.96% on payment appropriations as compared to the 75% target. I am confident that that the valuable experience gained in 2021 will help the Agency to address this issue in the future.

Human resources continued to be strained in 2021. However, in 2021 the Budgetary Authority decided that over the next years the Agency will be reinforced in terms of human resources, which will be very welcome to fulfil our mandate, including the extra tasks the Agency received over the last years.

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The regulatory part of this CAAR (Part I) mirrors the Agency's 2021 Programming Document in terms of activities, tasks and deliverables. The Agency's main regulatory achievements can be found in the section below this foreword.

The administrative part of the report and the related annexes contain the information the Agency is required to report in line with the template for the CAAR for decentralised agencies. In the opinion of the European Court of Auditors (ECA), the payments underlying the accounts for the year ended 31 December 2020 are legal and regular in all material respects, apart from a total amount of EUR 752 654 that represent 3.71% of all payments made by the Agency in

2020. For these a qualified opinion on the legality and regularity of payments underlying the accounts was issued by ECA. This is the same issue as the one identified in the 2019 ECA report, related to the ordering of 'out of price list' services for the implementation of the so-called REMIT Regulation under one of ACER's long-term Framework Contracts. Some of the contracts concluded involved the period covered by ECA's audit, i.e. 2019, and some of them the first months of 2020, i.e. before receipt of ECA's draft audit report. The issue was therefore inevitably formally again the subject of the discharge procedure, despite the fact that it was addressed by the Agency, as acknowledged during the hearing before the CONT committee which I was called to attend in late November 2021.

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Allow me to express my gratitude to my colleagues in the Agency for their effort, commitment, enthusiasm and flexibility, particularly in these challenging times. I also appreciate the strong support of the NRAs, through the Board of Regulators (BoR) and their expert contributions to the Agency's Working Groups.


The Agency's Administrative Board (AB) continued to play a crucial role in ensuring that ACER carried out its mission and perform the tasks assigned to it by legislation. I am grateful both to the BoR and AB for the support provided to the Agency and their flexibility in working methods during this difficult period.

Stakeholders were also central to the work of the Agency in 2021 and will remain so in the future. I thank them for their contributions and support to the Agency.

As an EU Agency, ACER cooperates as closely as possible with the EU institutions. The Agency is grateful for the support of the European Commission, in particular to the Directorate General for Energy (DG ENER), and the European Parliament, most notably its Committee on Industry, Research and Energy (ITRE).

Ljubljana, 16 June 2022

Christian Pilgaard ZINGLERSEN



## THE AGENCY'S KEY ACHIEVEMENTS IN 2021

### ELECTRICITY SECTOR:

In 2021, the Agency issued several important decisions, with the aim of contributing to a more efficient Internal Electricity Market:

- 1) A framework guideline on sector-specific rules for **cybersecurity aspects of cross-border electricity flows**;
- 2) A paradigm shift in the allocation of **long-term transmission rights** in the Core and Nordic regions with the adoption of the flow-based method;
- 3) A recommendation for the revision of the **Capacity Allocation and Congestion Management Guideline**;
- 4) A first assessment of the main **barriers to price formation and barriers to entry** for new and small participants in Europe;
- 5) A very detailed and in-depth overview of the implementation status and potential non-compliance of the **grid connections and system operation-related Network Codes**;
- 6) Last but not least, a significant upgrade of the expectations vis-à-vis the European **Resource Adequacy Assessment**.

### GAS SECTOR:

In 2021, the Agency delivered all its planned gas deliverables, mainly in the form of the mandated reports. It also made an additional effort in view of the upcoming legislation to decarbonise the energy sector in line with the EU Green Deal. These additional efforts led to the following publications:

1. A position paper, jointly with CEER, on key regulatory requirements to achieve **gas decarbonisation**;
2. A white paper, jointly with CEER, on rules to prevent **methane leakage** in the energy sector;

3. A regulatory white paper, jointly with CEER, on when and how to regulate **hydrogen networks**.

#### **CROSS-SECTORAL (ELECTRICITY AND GAS):**

In 2021, the Agency delivered all its planned cross-sectoral deliverable, mainly in the form of mandated reports. It made an additional effort mainly in view of the ongoing TEN-E negotiations, in the form of the following publications:

1. A position paper, jointly with CEER, on improving the regulation on guidelines for **trans-European energy networks (TEN-E)**;
2. A white paper, jointly with CEER, on regulatory treatment of **power to gas**.

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

In 2021, the Agency's key achievements in the field of REMIT were:

- 1) **Ensuring consistency in the implementation of REMIT across the Union** by providing a revamped ACER Guidance on the application of REMIT to NRAs.
- 2) **Delivering on market monitoring** by screening under REMIT collected data in an efficient and effective way. ACER shares in a secure way through its Case Management Tool with National Regulatory Authorities (who are responsible for investigations and enforcement) potential instances of market abusive behaviour. Moreover, ACER shares suspicious transactions with NRAs through its Notification Platform.
- 3) **Collecting millions of records of transactions per day for the purpose of market monitoring by ACER and NRAs**, including the implementation of the withdrawal of the United Kingdom from the European Union under REMIT, the stabilisation of the Agency's REMIT Information Systems thanks to the successful implementation of REMIT fees and the adoption of a decision to collect additional SIDC data by January 2022.

**TASKS DEPRIORITISED OR NOT EXECUTED DUE TO LACK OF RESOURCES****MARKET INTEGRITY AND TRANSPARENCY:**

Several activities under the task “Policy activity to support the Agency’s REMIT mandate” and under the task “REMIT Information Management” originally foreseen in the Work Programme were deprioritised, mainly those relating to the completion of the Agency’s mandate to making publicly available REMIT information according to Article 12(2) of REMIT beyond the REMIT Quarterly reports and to collect derivatives and emission allowances reported under EU financial market legislation according to Article 10(3) of REMIT, even though an SLA was concluded with ESMA to access derivatives data through ESMA’s TRACE system.

**MARKET SURVEILLANCE AND CONDUCT:**

The scope of the efficiently and effectively monitoring of trading activities in wholesale energy markets to detect and prevent market abusive behaviour trading based on inside information and market manipulation based on REMIT data focused on cross-border aspects.

Moreover, the development of additional “bespoke alerts” to detect anomalous instances of trading behaviour, was significantly slowed down since 2018. The enhancement of existing alerts for market monitoring purposes and development of new alerts was deprioritised in 2021 due to a lack of financial resources. However, with the REMIT fees in place the development and enhancement of “bespoke alerts” is set to improve in the near future.

Providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations (pursuant to Article 6(8) of Regulation (EU) No 2019/942) was not executed.

The suspension of the creation of cross-border investigatory groups for REMIT breach cases remained in place.

## **PART I: REGULATORY ACHIEVEMENTS IN 2021<sup>2</sup>**

### **STATEMENT BY CLARA POLETTI, CHAIR OF THE BOARD OF REGULATORS (BoR)**

As I write, Europe's energy prices are reaching unprecedented heights, impacting citizens and businesses across Europe. This alarming trend started in 2021, just as Europe was beginning to recover from the pandemic, and has since been at the forefront of the energy regulatory community's preoccupations.

The Agency and the national regulatory authorities (NRAs) have shown that together they stand ready to offer advice and support to decision-makers to help effectively address Europe's high energy prices. Importantly, the Agency was tasked with assessing the benefits and drawbacks of the current wholesale electricity market design, and together with NRAs (through their steady contributions within the Agency's BoR, Working Groups and Task Forces), debated key issues. These issues are captured in the preliminary assessment published in November 2021, including an initial perspective on "alternative market design approaches" currently debated in political circles, which could amount to a significant deviation from the current approach and hence call for careful consideration.

Similarly, numerous Agency deliverables enriched debates relating to the revision of the Trans-European Energy Networks (TEN-E) Regulation. To cite a few: the Agency issued two opinions on the draft Ten-Year Network Development Plans (TYNDPs) proposed by the electricity and gas network operators, which evidenced shortcomings of the TYNDP process that could be remedied by improving infrastructure development governance in line with the European Green Deal. The Projects of Common Interest (PCI) Monitoring Report published in June 2021 also noted the recurrent problem of delayed PCI implementation in the electricity and gas sectors, partly caused by permit granting issues, and the Agency opinions (issued in October 2021) on the draft Union list of PCIs noted the need for further transparency.

On a separate matter, the ACER Framework Guideline on sector-specific rules for cybersecurity aspects of cross-border electricity flows, submitted to the European Commission in July 2021, provided key contributions towards strengthening the cybersecurity of Europe's energy system.

In December 2021, the Agency also issued important recommendations on the reasoned amendments to the Capacity Allocation and Congestion Management (CACM) Regulation, which provides binding rules for implementing and operating an EU-wide single market coupling and capacity calculation in the day-ahead and intraday timeframes. The recommendations propose

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<sup>2</sup> The independent section on regulatory activities as per Article 22(5) (e) of Regulation (EC) No (EC) No 942/2019 received the approval of the BoR at its session held on 1 June 2021.



important amendments to the market coupling governance set-up and assignment of responsibilities, to make them fit for future challenges.

Notwithstanding that the Agency's deliverables cover many areas - be they related to energy infrastructure, electricity or gas - their interlinkages should be underlined, particularly as the energy system undergoes transformation and becomes more integrated. To give one example, one of the key messages of the ACER-CEER position paper entitled Key Regulatory Requirements to Achieve Gas Decarbonisation, which sets out regulators' considerations with regard to the Hydrogen and Decarbonised Gas Package proposed by the European Commission in December 2021, is the need for a more integrated approach to infrastructure development, consistent with the revised TEN-E Regulation.

Despite the new challenges, 2021 also saw numerous positive developments for regulatory cooperation, including the elaboration of two new frameworks: the Agency, NRAs and the competent UK regulatory authorities (the Office of Gas and Electricity Markets and the Utility Regulator for Northern Ireland) jointly developed the Administrative Arrangement, which once in force, will govern their future collaboration to implement the EU-UK Trade and Cooperation Agreement. There is also ongoing collaboration between the Agency and NRAs to develop and implement an efficient, coordinated, comprehensive and transparent compliance monitoring framework to monitor the compliance of individual, regional and European entities with their obligations of cross-border relevance, as the focus shifts to the enforcement of Internal Energy Market rules.

The revamp of the Guidance on the application of REMIT pursuant to Article 16(1) of the REMIT Regulation, culminating in the 6th edition published in July 2021, also marks an important achievement: this ACER Guidance assists NRAs in carrying out their activities under REMIT in a consistent and coordinated way across Europe.

Last but not least, the 10th Market Monitoring Report (produced in cooperation with the NRAs and CEER) for 2020 showed that despite the enduring pandemic, efforts to integrate electricity and gas wholesale markets in Europe continued, yielding tangible results, including the further integration of short-term markets (day-ahead, intraday and balancing) and the emergence of an interconnected EU Internal Gas Market with increasingly liquid and competitive organised gas trading hubs that are easily accessible to market participants and rely on transparent price signals, to the benefit of final consumers.

Let me thus conclude on this positive note: the few deliverables mentioned here, which are by no means exhaustive, attest to the Agency's - and through it, the NRAs' - continued commitment to its core mission of promoting security of energy supply through a well-functioning Internal Energy

Market based on free competition, the optimal development of energy-sector infrastructure and market integrity and transparency, with tangible benefits to European Union consumers.

Ljubljana, XX June 2022

## A. Market Information and Transparency

A well-functioning pan-European energy market demands that energy is traded according to the highest transparency and integrity standards, so that prices reflect the fundamentals of demand and supply. The effective implementation of REMIT is a major pre-requisite for efficient market integration and the security of energy supply. The Agency's work in the field market information and transparency contributes to this goal and is an ongoing activity which involves the promotion of regulatory cooperation and REMIT analytics and information management tasks.

ACER provides guidance to aim at ensuring a coordinated approach under REMIT and that reporting parties have a clear understanding about the details of the information which they are required to report. The collection of wholesale energy market data by the Agency at pan-European level is for the purpose of ACER's assessment and market monitoring to detect and prevent market abuse in EU wholesale energy markets and, through the data sharing with NRAs, for the purpose of their market monitoring to detect and prevent market abuse at regional and national level and for their investigations and enforcement at national level.

In 2021, ACER, in close cooperation with NRAs, provided guidance on the application of REMIT and on data reporting, collected in total more than 2.6 billion number of records or on average more than 7.2 million records a day, performed data quality analysis and provided this information for ACER's market monitoring and shared it with NRAs for their market monitoring, investigation and enforcement tasks. For an effective market monitoring, ACER must aim at high data quality of REMIT data.

The introduction and application of REMIT fees as of 2021 enabled ACER to improve its funding and to cover its costs related to collecting, handling, processing and analysing of information reported under REMIT. Over time, increased funding available to the Agency should enable the Agency to improve the quality of the services provided by the Agency to entities reporting data and, if applicable, to market participants in general.

### A.1.1 Promoting regulatory cooperation and data excellence

#### I. Promoting regulatory cooperation

ACER takes an active role in assisting NRAs and in building a common regulatory culture among NRAs to promote the sound, efficient, and consistent exercise of their regulatory tasks under REMIT at Union level. Since wholesale energy markets encompass both commodity markets and derivatives markets and as price formation in both sectors is interlinked, ACER also cooperates with the European Securities and Markets Authority (ESMA) and national financial market authorities, but also with competition authorities, to ensure that a coordinated

approach is taken on market integrity and transparency at Union level. In addition, ACER cooperates with competent supervisory authorities, international organisations and the administrations of third countries, in particular with those impacting the Union wholesale energy markets, in order to promote the harmonisation of the regulatory market integrity and transparency framework. In 2021, the possibility of promoting regulatory cooperation with competent regulatory authorities outside the Union became even more important due to Brexit, but no administrative arrangement with UK authorities could be reached during 2021.

As of 2021, most of ACER’s REMIT activities were funded by fees. However, the presented tasks in the field of Promoting regulatory cooperation are not considered as being covered by Article 32(1)(b) of Regulation (EU) 2019/942 pursuant to which fees shall be due to ACER for its services related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT. This is why the Agency’s tasks in the field of Promoting regulatory cooperation continue to be financed by the Union budget and/or other funding sources made available.

<b>Task</b>	<b>Assisting NRAs in exercising, at Union level, their regulatory tasks under REMIT performed in the Member States</b>
Priority level	1: Critical
Legal basis	Article 1(2) of Regulation (EU) 2019/942; Articles 7(2) and 9(2) of REMIT
Overview (status)	<p>ACER’s mission is to assist NRAs in exercising, at Union level, their regulatory tasks performed in the Member States. This includes NRAs’ regulatory tasks under REMIT.</p> <p>ACER is already assisting NRAs in exercising their regulatory task of establishing and maintaining national registers of market participants according to Article 9(2) of REMIT ever since REMIT implementation started.</p> <p>ACER is also assisting NRAs in exercising their national market monitoring tasks according to Article 7(2) of REMIT. ACER has a possibility of license sharing of its Business Intelligence Solutions with NRAs. Several NRAs expressed their interest to use this license sharing possibility for the performance of their market monitoring and data analysis tasks at national level. ACER aims at sharing its Business Intelligence Solution with relevant NRAs in 2021 against the NRAs’ coverage of ACER’s costs for the use of these Business Intelligence solutions at national level.</p>
WP objectives for 2021	<p>Specific objective: Provide effective and proactive ICT support to NRAs.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>

Performance indicators and targets (deadlines)	99% Availability of the provided IT solutions to NRAs.
Achievement against target	<p>Providing CEREMP for NRAs' national registers of market participants: 27 NRAs were using CEREMP in 2021 to provide ACER with their national registers of market participants, 24 NRAs were using CEREMP also as their national IT solution for the registration of market participants, On average, CEREMP was available 99.6% to NRAs in 2021.</p> <p>Providing Business Intelligence solutions to NRAs for the exercise of their monitoring and data analysis tasks at national level through the Agency's contractors: 5 NRAs were using ACER's Business Intelligence solution in 2021 in a trial period. ACER made it available 97.5% during this trial period.</p>

<b>Task</b>	<b>Policy cooperation with NRAs and, where necessary, their coordination to aim at ensuring the coordinated and consistent application of REMIT</b>
Priority level	1: Critical
Legal basis	Article 16(1) of REMIT
Overview (status)	The cooperation with NRAs and their coordination on the application of the general definitions of REMIT is an ongoing activity that aims to ensure that NRAs carry out their activities under REMIT in a coordinated and consistent way. This task only covers policy cooperation and does not relate to collection, processing, handling and analysing of information reported to ACER according to Article 8 of REMIT.
WP objectives for 2021	<p>Specific objective: Development of a common understanding on REMIT policy matters with NRAs and promotion of best practices for the application of REMIT.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>Publication of an updated ACER Guidance on the application of REMIT in 2021 as key achievement;</p> <p>Publication of updated REMIT Q&amp;A document as required;</p> <p>Rate of general REMIT stakeholder queries coordinated with NRAs and answered.</p>
Achievement against target	<p>Publication of <a href="#">ACER Guidance to NRAs on the application of REMIT</a> on 22 July 2021;</p> <p>Number of general REMIT stakeholder queries answered: 100</p>

	<p>Number of REMIT stakeholder queries coordinated with NRAs through the REMIT Policy TF and answered in the REMIT Q&amp;A document: 6</p> <p>Publication of <a href="#">REMIT Q&amp;As</a> on 23 July 2021 and on 14 December 2021.</p>
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<b>Task</b>	<b>Policy cooperation with ESMA, competent national financial market authorities and other authorities at Union level, supervisory authorities, international organisations and the administrations of third countries to promote the harmonisation of the regulatory framework</b>
Priority level	1: Critical
Legal basis	Articles 1(3) and 19 of REMIT
Overview (status)	<p>REMIT requires ACER and NRAs to take an active role in cooperating with the Commission services, the European Securities and Markets Authority (ESMA) and supervisory authorities from third countries impacting the wholesale energy market in order to promote the harmonisation of the regulatory market integrity and transparency framework within the Union and beyond. The cooperation is currently focussing on an ad hoc cooperation with ESMA. In 2021, the review of the EU financial market legal framework will require ACER to monitor developments with regard to the potential impact on the REMIT framework more closely. Last, but not least, the close cooperation with other authorities also includes the cooperation with the Commission services.</p> <p>The Agency may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, in particular with those that have an impact on the Union energy wholesale market, in order to promote the harmonisation of the regulatory framework. Memoranda of Understanding are currently in place with the Energy Community Secretariat and FERC. In 2021, Brexit may require the conclusion of further MoUs to promote the harmonisation of the regulatory framework pursuant to Article 19 of REMIT.</p>
WP objectives for 2021	<p>Specific objective: Promote the harmonisation of the regulatory framework within the Union and beyond</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	Implementation of the MoUs in practice through regular exchange of information and/or meetings with the relevant authorities.

Achievement against target	<p>Potential coordinated policy documents: None;</p> <p>Additional Memoranda of Understanding (MoUs): Coordination of an MoU with the Northern Ireland Authority for Energy Regulation in closes coordination with the Commission services (still ongoing in early-2022);</p> <p>Exchange of information and/or meetings on the basis of existing MoUs]: Several virtual meetings were held at technical level between ACER and ESMA in the course of 2021.</p>
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## II. Data excellence

Data and information is a key enabler to our success, supporting our drive to be a forward-looking, risk-based and data-driven EU Agency that operates efficiently. Good quality data and information, handled well and available quickly will allow the Agency to gain deeper insight into the markets and allow us to be more efficient at identifying and tackling risks. The activities related to data excellence provide both internal and external customers with services related to data collection, data quality, and data management in the field of electricity and natural gas.

The presented tasks in the field of data excellence related to data collection, data quality and data management outside the scope of REMIT are not considered as being covered by Article 32(1)(b) of Regulation (EU) 2019/942 pursuant to which fees shall be due to ACER for its services related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT. This is why the Agency’s tasks in the field of data excellence continue to be financed by the Union budget and/or other funding sources made available insofar as they are not related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT.

Task	Information management for the electricity and gas departments
Priority level	1: Critical
Legal basis	Article 3(2) of Regulation (EU) 2019/942
WP objectives for 2021	<p>Setup of a data strategy: Setup the baseline for implementation of a strategy (data governance, policies, requirements);</p> <p>Perform ad hoc data analysis;</p> <p>Develop new data marts and make information and tools available;</p> <p>Implement ACER information security policy for business IT systems.</p>

<p>Performance indicators and targets (deadlines)</p>	<p>Establishment of the ACER data strategy by early 2021 and its implementation according to plan;</p> <p>Make one data mart available for cross-departmental data analysis work by April 2021;</p> <p>Implementation of ACER Information security policy according to plan.</p>
<p>Achievement against target</p>	<p>Data strategy: Setup the baseline for implementation of a strategy (data governance, policies, requirements): ACER data strategy endorsed in early-2022;</p> <p>Develop new data marts and make information and tools available: Aggregated wholesale market traded volumes data mart made available for cross-departmental data analysis work in April 2021. Since then incremental additions are provided on quarterly basis;</p> <p>The implementation of ACER’s information security policy for non-REMIT related business IT systems was postponed to 2022 for resource reasons.</p>

### A.1.2 REMIT Information Management

REMIT analytics and information management and information technology have become an enabler which supports ACER’s and NRAs’ market monitoring activities and case-work according to Article 7(1) and (2) of REMIT to promote wholesale energy market integrity and transparency, but also ACER’s wholesale energy monitoring and reporting activities according to Article 15 of the ARR (‘Market Monitoring Report’) and the Agency’s monitoring of the implementation of network codes to promote market integration.

The REMIT Analytics and Information Management tasks performed by the MIT Department are closely coordinated with and supported by the MSC Department’s market surveillance and conduct activities, in particular concerning the tasks REMIT reporting guidance, data collection, data analysis and the operation and enhancements of the Agency’s REMIT Information Systems where the MSC Department is relying on IT solutions for the performance of its tasks provided by the MIT Department. The Annual Report on the Agency activities under REMIT is a shared task of the MIT Department and the MSC Department.

ACER’s REMIT analytics and information management activities provide the infrastructure fundamental for collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT, hence, as of 2021, were funded by fees pursuant to Article 32(1)(b) of Regulation (EU) 2019/942.



<b>Task</b>	<b>Cooperation with NRAs on collecting, handling, processing and analysing of information collected pursuant to Article 8 of REMIT</b>
Priority level	1: Critical
Legal basis	Article 16(1) of REMIT
Overview (status)	ACER cooperates with NRAs on collecting, handling, processing and analysing of information collected pursuant to Article 8 of REMIT on an ongoing basis.
WP objectives for 2021	Specific objective: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT. Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Performance indicators and targets (deadlines)	% planned vs. delivered projects.
Achievement against target	Joint ACER-NRA projects on collecting, handling, processing and analysing of information: 100% of planned versus delivered joint ACER-NRA projects in 2021; Coordination meetings: 4 ACER REMIT Coordination meetings, 5 REMIT Policy TF meetings and 4 Market Data Standing Committee meetings were held in 2021; Sharing of best practices: Through the aforementioned joined projects and the coordination meetings.

<b>Task</b>	<b>European register of market participants</b>
Priority level	1: Critical
Legal basis	Articles 8 and 9 of REMIT; Article 10(2) of the REMIT Implementing Regulation
Overview (status)	ACER's European register of market participants was launched on 17 March 2015. It is based on the information provided by NRAs on an ongoing basis. The Agency has made publicly available parts of the European register of market participants to facilitate reporting according to Article 8 of REMIT, in particular the market participants registered and their ACER registration and other unique identification codes which are a prerequisite to identify the reporting parties when reporting data to ACER pursuant to Article 8 of REMIT. This is also why Article 10(2) of the REMIT Implementing Regulation requires market participants to identify themselves or to be identified by the third party reporting on their

	<p>behalf shall use the ACER code which the market participant received or the unique market participant code which the market participant provided while registering in accordance with Article 9 of REMIT.</p>
<p>WP objectives for 2021</p>	<p>Specific objective: Enable reporting parties to report data pursuant to Article 8 of REMIT in an efficient, effective and safe manner to the Agency.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>99% Availability of the publicly made available parts of the European register of market participants on the Agency's REMIT portal;</p> <p>Implementation of Brexit consequences according to plan in early 2021.</p>
<p>Achievement against target</p>	<p>Publication of the European register of market participants and continuous updates on the basis of the information provided through the national registers of market participants maintained by NRAs: 99.6% availability of the European register on average in 2021;</p> <p>Implementation of Brexit consequences in the European register of market participants: UK authorities were removed from CEREMP in early January 2021.</p>

<b>Task</b>	<b>Registration and enrolment of reporting parties in compliance with technical and organizational requirements</b>
<p>Priority level</p>	<p>1: Critical</p>
<p>Legal basis</p>	<p>Articles 8 and 12(1) of REMIT, Article 11 of the REMIT Implementing Regulation</p>
<p>Overview (status)</p>	<p>ACER assesses registration applications under REMIT and its Implementing Regulation.</p> <p>ACER's supervision of registered reporting parties involves day-to-day supervision through a risk-based approach with a particular focus on data quality and technical and operational requirements to ensure operational reliability.</p> <p>There are currently 120 reporting parties registered with the Agency as so-called Registered Reporting Mechanisms (RRMs).</p> <p>As of 2021, this task will include the provision of support services for the collection of REMIT fees from registered reporting parties.</p>
<p>WP objectives for 2021</p>	<p>Specific objectives: Ensuring efficient, effective and safe exchange and handling of information.</p>

	Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Performance indicators and targets (deadlines)	<p>Contribution to effective REMIT fee implementation as key achievement;</p> <p>99% of availability of the RRM registration services;</p> <p>Implementation of the RRM compliance monitoring strategy as key achievement;</p> <p>Completeness, Accuracy and Timeliness of data submitted by registered reporting parties measured by the y-o-y improvement of</p> <ul style="list-style-type: none"> <li>- % of failing validation rules</li> <li>- % of reporting parties submitting reports with at least one failing validation rule</li> <li>- % of missing data points</li> <li>- % of records reported on time</li> </ul> <p>The time a reporting party takes to proceed to remedial actions following ACER's supervisory action.</p>
Achievement against target	<p>Contribution to effective REMIT fee implementation as key achievement: 99.8% of planned versus delivered work;</p> <p>99% of availability of the RRM registration services: 99% on average in 2021;</p> <p>Implementation of the RRM compliance monitoring strategy as key achievement: Strategy document adopted in early 2022;</p> <p>Completeness, Accuracy and Timeliness of data submitted by registered reporting parties measured by the y-o-y improvement of</p> <ul style="list-style-type: none"> <li>- % of failing validation rules: 2.3% on average in 2021;</li> <li>- % of reporting parties submitting reports with at least one failing validation rule: 51% on average in 2021;</li> <li>- % of missing data points: 6.33% for trades on average in 2021;</li> <li>- % of delayed reports: 2.82% on average in 2021.</li> </ul> <p>The time a reporting party takes to proceed to remedial actions following ACER's supervisory action: around 7 working days on average.</p>

Task	REMIT reporting guidance
Priority level	1: Critical
Legal basis	Article 7(3), second subparagraph, and Article 8 of REMIT; Articles 3(2), 5(2), 10(3) and 11(1) of the REMIT Implementing Regulation
Overview (status)	The Agency is tasked to provide guidance to reporting parties on data collection (Requirements for registered reporting parties, Manual of Procedures on data collection, Transaction Reporting User Manual, FAQs on data collection). This requires a regular

	<p>update of the guidance in the light of market developments (e.g. in case of new products admitted to trading at organised market places). ACER will review the REMIT rulebook on data collection in light of its experience with data collection and will continue to provide additional guidance as required. This includes providing regular updates to the list of organised market places and to the list of standard contracts. Both lists are published on the Agency's REMIT portal and are updated as required in a timely manner. ACER will also continue monitoring and reviewing the REMIT legal framework, in particular in the context of Brexit, and may propose amendments as appropriate.</p> <p>This is a task the Market Surveillance and Conduct Department contributes to.</p>
<p>WP objectives for 2021</p>	<p>Specific objectives: Continue to contribute to the establishment of a robust regulatory framework under REMIT to provide reporting parties with a clear understanding about the details of the information they are required to report;</p> <p>Follow market developments to provide the most up-to-date guidance and thus reported data that can be used for market monitoring;</p> <p>Regular involvement and ongoing dialogue on the REMIT data collection regime with stakeholders that report data aiming at improvements at EU level;</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Yearly update of the Transaction Reporting User manual as key achievement;</p> <p>Yearly update of the FAQ documents on data collection as key achievement;</p> <p>Percentage of REMIT stakeholder queries on REMIT data collection answered;</p> <p>Quarterly updates of the list of organised market places and the list of standard contracts.</p>
<p>Achievement against target</p>	<p>Review of the <a href="#">Transaction Reporting User Manual</a> published on 30 April 2021;</p> <p>Review of the Manual of Procedures on transaction and fundamental data reporting published on 30 April 2021;</p> <p>Review of the <a href="#">Requirements for Registered Reporting Parties</a> published on 15 January 2021;</p> <p>Provision of additional FAQs on data collection published on 30 April 2021;</p> <p>Published and regularly updated list of organised market places published at least on a quarterly basis in 2021;</p> <p>Published and regularly updated list of standard contracts published at least on a quarterly basis in 2021.</p>

Task	Data collection and data sharing
Priority level	<p>1: Critical (concerning continuous data collection and data sharing);</p> <p>2: Reactive (concerning ad hoc requests according to Article 4(1) of the REMIT Implementing Regulation)</p>
Legal basis	<p>Articles 7(1), 8(1), (3), (4) and (5), Article 10(3) and Article 12 of REMIT; REMIT Implementing Regulation</p>
Overview (status)	<p>The Agency is tasked to collect records of wholesale energy market transactions, including orders to trade from EU market participants at pan-European level. ACER currently collects more than 7.2 million records of transactions on a daily basis on average through 104 registered reporting parties reporting on behalf of more than 15.400 market participants registered with NRAs.</p> <p>The Agency shall establish mechanisms to share information it receives in accordance with Articles 7(1) and 8 of REMIT with NRAs competent financial market authorities of the Member States, national competition authorities, ESMA and other relevant authorities. For the purpose of carrying out their market monitoring of wholesale energy markets at national level according to Article 7(2) of REMIT, NRAs shall have access to relevant information held by the Agency which it has collected in accordance with Article 7(1) of REMIT, subject to Article 10(2) of REMIT. ACER's role as a pan-European central point of data collection and sharing of information is in order to avoid double reporting from market participants to these authorities in cases they have already reported the relevant information to the Agency.</p> <p>The Agency is currently sharing relevant REMIT information with NRAs on an ongoing basis and with other authorities at Union level on an ad hoc request basis. Other authorities from the Member States are asked to refer to the relevant NRA at national level.</p>
WP objectives for 2021	<p>Specific objective: Collecting of information reported by reporting parties; Provide high-quality REMIT data for monitoring purposes of NRAs and other relevant authorities.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>99% Availability of data collection and data sharing services;</p> <p>Market Coupling project implementation according to plan as Key Achievement;</p> <p>Accuracy, Consistency, Completeness, Integrity, and Timeliness of submitted data measured by the y-o-y improvement of:</p> <ul style="list-style-type: none"> <li>- Data time-to-value indicator,</li> <li>- Data transformation error rate.</li> </ul>

	Implementation of Brexit consequences according to plan in early 2021.
Achievement against target	<p>Continuous management of records of wholesale energy market transactions, including orders to trade, derivatives, fundamental data and inside information collected: 97.3% availability of data collection services and 90.8% availability of data sharing services in 2021 on average due to aged IT infrastructure and software solution;</p> <p>Market Coupling project implementation according to plan as Key Achievement: ACER Decision adopted in early 2022;</p> <p>Service Level Agreement with ESMA on the collection of derivatives under EMIR entered into in end-2021;</p> <p>Implementation of Brexit consequences in data collection and data sharing in early January 2021.</p>

<b>Task</b>	<b>Operation and enhancements of the Agency's REMIT Information Systems ensuring operational reliability</b>
Priority level	1: Critical
Legal basis	Articles 4(2), 7, 8, 9, 10 and 12 of REMIT
Overview (status)	<p>ARIS was established in 2014 and launched on 8 January 2015 for the registration of reporting parties and on 7 October 2015 and 7 April 2016 for the collection of trade and fundamental data. The operation of the Agency's REMIT Information Systems particularly includes the operation of the following components:</p> <ul style="list-style-type: none"> <li>- the Centralised European Register of Energy Market Participants (CEREMP);</li> <li>- the Data collection instance (DCI) and Data Sharing (DS) module for collection of trade, fundamental and other data, market monitoring and for data sharing with NRAs and other relevant authorities;</li> <li>- Business Intelligence solutions for data analysis, market monitoring and market surveillance;</li> <li>- Case-Management-Tool (CMT);</li> <li>- Notification Platform;</li> <li>- REMIT Portal.</li> </ul> <p>The Agency shall ensure the confidentiality, integrity and protection of the information received pursuant to Article 4(2) and Articles 8 and 10 of REMIT. The Agency shall take all necessary measures to prevent any misuse of, and unauthorised access to, the information maintained in its systems. In addition, the Agency has to fulfil data protection obligations relating to the processing of personal data under relevant EU data protection legislation.</p>
WP objectives for 2021	Specific objective: Operate the Agency's REMIT Information Systems operationally reliable.

	Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Performance indicators and targets (deadlines)	<p>99% service availability;</p> <p>% of enhancements delivered compared to planned;</p> <p>% budget execution of REMIT IT expenditure;</p> <p>Ticket resolution time;</p> <p>Time from discovery of an information security incident until resolution and until escalation to Director/stakeholders;</p> <p>Implementation of Brexit consequences according to plan in early 2021.</p>
Achievement against target	<p>Maintenance and continuous operations of the Agency's REMIT Information Systems: 97.5% service availability on average in 2021 (due to aged IT infrastructure and software solutions);</p> <p>Enhancements of the Agency's REMIT Information Systems, or components thereof: 73.96% of enhancements delivered compared to planned;</p> <p>Ticket resolution time: The incident resolution time was around 82 days on average in 2021. This also includes the resolutions of some incidents opened in 2019 and 2020;</p> <p>Time from discovery of an information security incident until resolution and until escalation to Director/stakeholders: 148 hours resolution time on average during 2021 for several non-availabilities of parts of ARIS, with prompt escalation to stakeholders;</p> <p>Implementation of Brexit consequences in ARIS: Implemented in early-2021.</p>

Task	Data analysis
Priority level	1: Critical
Legal basis	Articles 7(3) and 8 of REMIT; Article 11 of the REMIT Implementing Regulation
Overview (status)	<p>ACER will continue giving attention to the quality of reported data under REMIT, as a precondition to data-driven monitoring, through action plans and methodologies and will work on the implementation of the data strategy. This task was identified as a continued priority for market monitoring and is decisive for all REMIT data users. This is a task the Market Surveillance and Conduct Department contributes to. Currently, data analysis is performed by using:</p> <ul style="list-style-type: none"> <li>- Standard reports developed using licensed proprietary software and</li> <li>- Ad hoc reports based on data retrieved by querying the ARIS databases.</li> </ul>

<p>WP objectives for 2021</p>	<p>Specific objectives: Perform market data analysis in order to assure data quality, integrity and usability in close co-ordination with NRAs.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Delivery and implementation of REMIT data strategy as key achievement;</p> <p>Continued measurement of % planned vs. delivered data projects;</p> <p>Accuracy, Consistency, Completeness, Integrity, and Timeliness of submitted data measured by the y-o-y improvement of:</p> <ul style="list-style-type: none"> <li>- Ratio of data to errors;</li> <li>- Rate of matched records.</li> </ul> <p>Publication of ACER's assessment of the operation and transparency of different categories of market places and ways of trading and evaluation whether any minimum requirements for organised markets could contribute to enhanced market transparency at least once per year.</p>
<p>Achievement against target</p>	<p>Data processes to support market monitoring and data analysis: REMIT data strategy was adopted in 2021;</p> <p>Ongoing data analysis projects/reports: 100% planned vs. delivered projects in 2021;</p> <p>Accuracy, Consistency, Completeness, Integrity, and Timeliness of submitted data measured by the y-o-y improvement of:</p> <ul style="list-style-type: none"> <li>- Ratio of data to errors: 1.4% on average in 2021 and improving from 2.6% in early-2021 to 0.83% in end-2021;</li> <li>- Rate of matched records: 91.9% on average in 2021 and improving from 80.6% in early-2021 to 94% in end-2021;</li> </ul> <p>Assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market: The assessment was provided in the <a href="#">REMIT Quarterly Q4/2021</a>;</p> <p>Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency: None.</p>

<p><b>Task</b></p>	<p><b>Making available REMIT data for scientific and transparency purposes</b></p>
<p>Priority level</p>	<p>2: Reactive</p>
<p>Legal basis</p>	<p>Articles 7, 8, 9, 10 and 12 of REMIT</p>



<p>Overview (status)</p>	<p>ACER may publish parts of the information it possesses to enhance transparency in wholesale energy markets pursuant to Article 12(2) of REMIT. Transparency has the power to create a level playing field, reduce the scope for anti-competitive practices and more generally, increase market participants' confidence in fair pricing mechanisms. REMIT regulates not only integrity, but also transparency of wholesale energy markets in order to guarantee that the relevant information is available to market operators. The disclosure of the information that is deemed relevant in light of the efficient functioning of the market, affects the possibility for market participants to receive efficient market signals before making their choices. Current experiences indicate that there is still a need to further promote transparency in wholesale energy markets.</p> <p>The Agency is also tasked to make its non-sensitive trade database available for scientific purposes. In the past, this activity was limited to the Agency's cooperation with the European Commission's Joint Research Centre. In 2021 and beyond, the Agency aims at establishing and making available a dataset which will allow cooperating with universities and research institutes at Union level.</p> <p>As of 2021, this task should involve the provision of REMIT information services for reporting parties following the establishment of REMIT fees (e.g. sample transaction data requests for market participants to enable them to verify completeness, accuracy and timeliness of data submission to ACER), depending on available resources.</p>
<p>WP objectives for 2021</p>	<p>Specific objective: Strive for adequate REMIT information services.  Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Continued measurement of % planned vs. delivered projects;  Contribution to at least one ACER publication using REMIT market data;  Engagement in at least one scientific project.</p>
<p>Achievement against target</p>	<p>Making available REMIT data sets to researchers from universities and research institutes for scientific purposes: 1;  Making publicly available parts of the information the Agency possesses, provided that commercially sensitive information on individual market participants or individual transactions or individual market places is not disclosed and cannot be inferred: Through the REMIT Quarterly reports.</p>

<b>Task</b>	<b>Annual Report on the Agency activities under REMIT</b>
Priority level	1: Critical

Legal basis	Article 7(3) of REMIT
Overview (status)	<p>The Agency shall submit at least on an annual basis a Report to the Commission on its activities under REMIT. In such reports, ACER shall assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>In order to streamline the use of human resources, the REMIT Annual Report was replaced by the quarterly reports of the "REMIT Quarterly". In addition, a consistent part of the issues to be dealt with in the report may be included in the Agency's Annual Activity Report and/or the Agency's Market Monitoring Report.</p> <p>This is a shared task of the Market Integrity and Transparency Department and the Market Surveillance and Conduct Department.</p>
WP objectives for 2021	<p>Specific objectives: To assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market.</p> <p>Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>Provide recommendations for potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	Quarterly publications of the REMIT Quarterly.
Achievement against target	<p>Contribution to the Agency's Annual Activity Report was provided;</p> <p>Contribution to the Agency's Market Monitoring Report (MMR): REMIT data was provided for the MMR's gas wholesale chapter;</p> <p>Publication of the REMIT Quarterly reports: 4 REMIT Quarterly reports were published in 2021;</p> <p>Potential recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market: None.</p>

Task	Facilitation of stakeholder involvement
Priority level	1: Critical
Legal basis	Article 14 of the AAR; Article 8 of REMIT; Articles 5(2), 10(3) and 11(1) of the REMIT Implementing Regulation
Overview (status)	The Agency should inform stakeholders on different aspects of the implementation and operation of REMIT data collection. Material updates of ACER's REMIT reporting guidance even require consultation of relevant parties according to Articles 5(2), 10(3) and 11(1) of the REMIT Implementing Regulation. Involvement of stakeholders will ensure wider acceptance of REMIT data collection and the effectiveness of any potential update of REMIT data collection.
WP objectives for 2021	Specific objective: Ongoing dialogue with stakeholder on the REMIT data collection regime aiming at improvements at EU level. Multi-annual objective: Increased integrity and transparency of wholesale energy markets
Performance indicators and targets (deadlines)	99% availability of the REMIT Portal; Number of stakeholders reached through consultations, meetings and webinars.
Achievement against target	REMIT Portal: 99.5% availability of the REMIT Portal on average in 2021; No public consultations, but 1 targeted consultation of relevant parties in 2021; Stakeholder roundtable meetings and webinars: 1 roundtable meeting each with the Associations of Energy Market Participants, Organised Market Places, Registered Reporting Mechanisms and Inside Information Platforms and 10 RRM webinars in 2021; Ad-hoc expert group meetings: 3 meetings in 2021; EMIT Forum on 25, 26 and 28 October 2021.

## B. Market Surveillance and Conduct

In 2017, the Agency started effective and efficient EU-wide market surveillance of wholesale energy markets to detect market manipulation and insider trading on the basis of an agreed market surveillance strategy with NRAs based on collected 'REMIT data'. With this activity the Agency contributes to the trust in wholesale energy market price formation and protects EU consumers from unfair prices as a result of market manipulation and insider trading. This activity has to be carried out in close cooperation with NRAs and other authorities. The

activities performed by the Market Surveillance and Conduct Department includes, among others:

- analysing the available collected and validated REMIT data to detect suspected instances of market abuse;
- contributing to improving the available collected REMIT data;
- preparing detailed assessments with factual analyses including an economic and legal assessment to be notified in a secure way to national authorities for their investigation;
- screening, registering and assessing notifications on suspicious trading instances reported by national authorities, persons professionally arranging transactions, market parties and other entities;
- notifying ESMA and other relevant supervisory authorities on potential cases of market abuse;
- coordinating and cooperating with NRAs on REMIT cases reviews, investigations and enforcement actions;
- taking actions to ensure consistency in the application of REMIT by NRAs;
- establishing and managing investigatory groups;
- providing guidance on the application of REMIT on the market abuse provisions;
- developing and enhancing of specific IT tools that can support its surveillance and conduct tasks; and, a new task for the Agency,
- providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations.

### B.1.1. Market surveillance of trading activity in wholesale energy markets

Task	Market surveillance of trading activity in wholesale energy markets
Priority level	1: Critical
Legal basis	Article 7, 8 and 16(4) of Regulation (EU) 1227/2011
Overview (status)	<p>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, on the basis of data collected in accordance with the REMIT implementing acts, the Agency's surveillance strategy and further development and operation of the Agency's market surveillance solution, including the dissemination to NRAs of suspicious trading activities in a secure way.</p> <p>This task is REMIT fee funded.</p>

<p>WP objectives for 2021</p>	<p>Specific objectives:</p> <p>Screening and analysing of the data collected according to Article 8 of Reg. (EU) 1227/2011.</p> <p>Drafting initial assessments and notifying relevant regulatory authorities of potential abusive behaviour according to Article 16(4) of Reg. (EU) 1227/2011.</p> <p>Increased integrity and transparency of wholesale energy markets. Detection of market abusive practices.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
<p>Performance indicators and targets (deadlines)</p>	<ul style="list-style-type: none"> <li>- 100% of high priority alerts are assessed and disseminated with NRAs in a secure way;</li> <li>- 15 initial assessments drafted and notified to the NRAs.</li> </ul>
<p>Achievement against target</p>	<p>Reporting to NRAs assessed triggered alerts and initial assessments of potential market abuse cases. For an overview of the number assessed and shared alerts, and shared initial assessments shared with NRAs see: <a href="https://www.acer.europa.eu/notify">Notify   www.acer.europa.eu</a></p> <ul style="list-style-type: none"> <li>- 90% of high intensity alerts were assessed and disseminated with NRAs;</li> <li>- 11 initial assessments were drafted and notified to the NRAs.</li> </ul>

### B.1.2. Case cooperation on market abuse prohibitions and reporting obligations

Task	Case cooperation with NRAs on market abuse prohibitions and breaches of reporting obligations (REMIT cases)
<p>Priority level</p>	<p>1: Critical</p>
<p>Legal basis</p>	<p>Article 16 of Regulation (EU) 1227/2011</p>
<p>Overview (status)</p>	<p>This task includes all activities performed by ACER related to ensuring coordination and consistency in the application of REMIT by NRAs to cases of market abuse (Articles 3 and 5) and related to information disclosure, reporting, registration, and monitoring obligations (Articles 4, 8, 9, and 15).</p> <p>It includes the following activities: case coordination; case consistency; development, consultation and issuance of ACER Guidance; statutory meetings involving the discussion of REMIT cases.</p> <p>This task is REMIT fee funded.</p> <p>In 2019, the Agency had the responsibility to follow 218 potential cases. Due to severe human resource constrains the Agency was only able to proactively follow 32% of the portfolio of existing cases.</p>

	<p>The Agency published in 2019 a new Guidance note on the application of Article 5 of REMIT on the prohibition of market manipulation regarding the practice of ‘layering and spoofing’.</p> <p>In 2019, the Agency prepared and organised 5 large spectrum statutory meetings with NRAs on REMIT cases involving more than 30 participants.</p>
<p>WP objectives for 2021</p>	<p>Specific objectives: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.</p> <p>Aim to ensure that NRAs review, investigate and enforce REMIT cases in a coordinated and consistent way.</p> <p>Aim to ensure that REMIT cases with a predominant cross-border component are not deprioritised vis-a-vis the remaining REMIT cases.</p> <p>Ensure a proper and good quality of the Agency’s guidance on the application of REMIT definitions of market abuse.</p> <p>Multi-annual objective: Ensure integrity and transparency of wholesale energy markets across the EU.</p>
<p>Performance indicators and targets (deadlines)</p>	<ul style="list-style-type: none"> <li>- % of REMIT cases in stock pro-actively followed by the Agency: &gt; 25%;</li> <li>- Number of Agency interactions on REMIT cases to ensure a coordinated and consistent approach: &gt; 600 (documents and requests sent)/year;</li> <li>- Number of investigatory groups under management: 0/year;</li> <li>- Issued or updated ACER guidance to NRAs on the application of market abuse provisions (Scope, Insider Trading, Market Manipulation); and</li> <li>- Number of large scale meetings (&gt;50% of the target group) organised and chaired on market conduct topics: &gt; 4 times 30 people/meeting.</li> </ul>
<p>Achievement against target</p>	<p>29% of the potential cases of REMIT breach were pro-actively followed by the Agency (based on prioritisation rules)</p> <p>More than 1.200 interactions on potential cases on market abuse under REMIT comprising:</p> <ul style="list-style-type: none"> <li>• Notifications on REMIT cases by ACER and triage and review of received Notifications from NRAs (and PPATs).</li> <li>• Cooperation events between ACER and NRAs and among NRAs on REMIT cases.</li> <li>• Coordination meetings with NRAs on the consistent application of market abuse provisions in REMIT (e.g. MM SC).</li> <li>• Processing of requests and updates from NRAs.</li> <li>• Reviews by ACER of potential REMIT breach assessments by NRAs (closing and consistency notes).</li> </ul> <p>As planned, no cross border investigatory groups were created due to lack of resources.</p>

	<p>Publication of the 6<sup>th</sup> edition of the ACER Guidance (which constitutes a major revamping of the existing ACER Guidance – around 80 improved pages of text).</p> <p>Five large scale meetings were organised and chaired on market conduct topics.</p>
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Task	Case cooperation with ESMA, competent national financial market authorities and with supervisory authorities, international organisations and the administrations of third countries
Priority level	2: Reactive
Legal basis	Articles 1(3), 10, 16 and 19 of Regulation (EU) No 1227/2011
Overview (status)	<p>This task includes all activities performed by ACER related to REMIT cases cooperation with ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries.</p> <p>It encompasses the notifications and meetings on REMIT cases with other supervisory authorities (manly ESMA and financial regulatory authorities).</p> <p>In 2019, the Agency triaged and reviewed the coordination needs on 116 REMIT cases and notified ESMA and the national financial market authorities whenever necessary.</p> <p>In 2019, the Agency organised and chaired one large spectrum meeting involving ESMA and the competent national financial market authorities.</p> <p>This task is REMIT fee funded.</p>
WP objectives for 2021	<p>Specific objectives: The cooperation with ESMA, competent national financial market authorities and other relevant authorities aims to ensure that REMIT, MAR and other related regulations/legislations are applied in a coordinated way by the concerned relevant authorities. Also, to ensure a consistent approach is the application of REMIT and MAR provisions.</p> <p>It also aims at disseminating best practices among public authorities.</p> <p>Multi-annual objective: Ensure cooperation between public authorities dealing with related matters. Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- % of notifications sent/received by ACER on cases that need referral: &gt; 85%;</li> <li>- Number of meetings with ESMA: 1/year;</li> <li>- Number of meetings with financial national authorities:0/year; and</li> </ul>

	- Number of meetings with other entities: 0/year.
Achievement against target	<p>ACER did all mandatory notifications to ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries.</p> <p>Together with ESMA, ACER organised a large coordination meeting (the Energy trading Enforcement Forum - ETEF) involving ESMA, competent national financial market authorities, NRAs and ACER.</p>

### B.1.3. Development and enhancement of applied surveillance and conduct IT tools

Task	Development and enhancement of applied surveillance and conduct IT tools
Priority level	1: Critical
Legal basis	Article 7, 8, 16, 11, 12 and 17 of Regulation (EU) 1227/2011
Overview (status)	<p>This task includes the following main activities:</p> <ul style="list-style-type: none"> <li>- The development and enhancements of the Agency's main surveillance tool for market surveillance;</li> <li>- Development of new alerts for detecting potential market abuse;</li> <li>- Enhancements of existing alerts for improved detection of potential market abuse;</li> <li>- The development and enhancements of the Agency's Notification Platform (NP) and Case Management Tool (CMT); and</li> <li>- The training of staff, NRAs and other users for the use of the tools.</li> </ul> <p>The Agency has customised the surveillance tool and adapted it for use in the EU wholesale energy markets.</p> <p>The Agency has implemented nine bespoke alerts to screen REMIT data, which have been put in production since 2017. Enhancement of existing alerts contributes to a more efficient and effective market surveillance while the development of additional alerts will contribute to a more comprehensive market surveillance. The implementation of several improvements to this IT tool could further automate some of the current manual work.</p> <p>Hence, successfully tested and fully implemented IT tool enhancements allow the Agency to deliver in a more efficient way on market surveillance of trading activity in wholesale energy markets and cooperation with NRAs on market conduct activities.</p> <p>This task is REMIT fee funded.</p>



<p>WP objectives for 2021</p>	<p>Specific objective and multi-annual objective: enhance and develop detailed business requirements, testing and training for the Agency’s REMIT data screening tool, the Notification Platform and the Case Management Tool.</p>
<p>Performance indicators and targets (deadlines)</p>	<ul style="list-style-type: none"> <li>- New alerts developed and implemented: 2/year</li> <li>- Alert enhancements delivered (on existing alerts): 50/year</li> <li>- Releases of main surveillance tool with 5 requirements delivered per release: 4/year</li> <li>- Development new in-house surveillance viewers: 2/year</li> <li>- Number of releases (new or maintenance) of the CMT/NP: 1/year</li> <li>- Number of releases (new or maintenance) of the CMT BI: 1/year</li> </ul>
<p>Achievement against target</p>	<p>Implementable detailed business requirements to enhance existing IT tools – business requirements for alert development, alert enhancement and SMARTS releases were provided.</p> <p>Development and implementation of new alerts – 2 alerts were implemented.</p> <p>Enhancement of existing alerts – 21 alert enhancements implemented.</p> <p>Delivery of surveillance tool enhancements.</p> <p>In 2021 5 SMARTS releases were deployed and 52 items were delivered in 2021:</p> <ul style="list-style-type: none"> <li>• 3.4.0 on 26/02/2021 (10 items)</li> <li>• 4.0.0 on 31/05/2021 (14 items)</li> <li>• 4.1.0 on 05/08/2021 (16 items)</li> <li>• 4.1.1 on 05/11/2021 (2 items)</li> <li>• 4.2.0 on 18/11/2021 (10 items)</li> </ul> <p>In 2021, one release of the CMT and 1 release of the CMT BI took place.</p> <p>Development of in-house surveillance tools – 3 Power BI viewers were developed.</p> <p>User testing of new deploys of the tools – all deployments were duly tested.</p> <p>Business support to the IT teams.</p> <p>In 2021, 3 trainings were provided to NRAs on the use of the CMT.</p>

**B.1.4. Support on REMIT breach investigations upon request from NRAs**

<p><b>Task</b></p>	<p><b>Support on REMIT breach investigations upon request from NRAs</b></p>
<p>Priority level</p>	<p>2: Reactive</p>

Legal basis	Article 6(8) of Regulation (EU) 2019/942
Overview (status)	<p>Specific objectives: the Agency may provide operational assistance to NRAs on their REMIT cases upon their request, a new task for the Agency following the entering into force of Regulation (EU) 2019/942. In accordance with Article 33(10) of Regulation (EU) 2019/942, the European Commission ('EC') is to assess the financial and human resources available to ACER in order to allow it to fulfil its role under Regulation (EU) 2019/942.</p> <p>This task includes 4 main activities:</p> <ul style="list-style-type: none"> <li>• Support on investigation coordination and strategy</li> <li>• Support on information gathering</li> <li>• Support on information assessment</li> <li>• Support on final reports/assessments</li> </ul> <p>This task is Union contribution financed.</p>
WP objectives for 2021	<p>Specific objectives: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.</p> <p>Ensuring that NRAs carry out their tasks under REMIT in a coordinated and consistent way.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>For 2021 no KPI is planned as the Agency lacks the funding for appropriate HR. This task is therefore fully deprioritised and each request for support from NRAs on their cases will be not be acted on.</p>
Achievement against target	<p>For 2021 no KPI was planned as the Agency lacks the funding for appropriate HR. This task was therefore fully deprioritised and none of these types of support were provided in 2021:</p> <ul style="list-style-type: none"> <li>• Support by providing case-specific training;</li> <li>• Support by organising dedicated workshops to brainstorm about the case merits and/or investigatory strategy with the NRAs;</li> <li>• Support by producing an opinion on the investigatory strategy;</li> <li>• Direct support by allocating ACER staff to the NRA investigation;</li> <li>• Support in the identification of the evidence to be collected;</li> <li>• Support in the process of gathering evidence;</li> <li>• Support in the provision of ARIS data that goes beyond the scope of the current MoU on data sharing;</li> <li>• Support in designing specific investigatory steps for information gathering;</li> <li>• Support in analysing items of evidence collected by the NRA or extracted from ARIS during the investigation and producing a note on the findings for the NRA;</li> </ul>

	<ul style="list-style-type: none"> <li>• Specific support in helping the NRA understand a specific item of the collected evidence;</li> <li>• Support in producing a gap analysis between the evidence collected at that stage by the NRA and the evidence required to prove the existence of market abuse;</li> <li>• Support in assessing the argumentation provided by market participants in defence of the behaviour deemed by the NRA as a breach of REMIT;</li> <li>• Support by providing recommendations to the NRA on the best practices that can benefit the reports/assessments that the NRA needs to produce based on the specific collected evidence;</li> <li>• Support by providing feedback and suggestions on the NRA's draft reports/assessments produced during the investigation process;</li> <li>• Support by providing an opinion on the case merits based on the draft reports/assessments provided by the NRA;</li> <li>• Support in drafting the Investigatory Report in order to produce the best possible report with the available evidence for the case.</li> </ul>
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## C. Internal Electricity Market

The Agency continued to support the implementation of the adopted Network Codes and Guidelines, as well as of the Electricity Regulation, to monitor their effective implementation and impact on the functioning of the Internal Electricity Market and to assess the need for amendments of the existing Network Codes and Guidelines. With the adoption of the “Clean Energy for all Europeans” legislation, the Agency was assigned new tasks and responsibilities in the areas of cybersecurity, tariff methodologies and use of congestion income.

### I. Establishment of Network Codes

#### Development of Framework Guidelines

<b>Task</b>	<b>Submit to the Commission non-binding framework guidelines setting out clear and objective principles for the development of network codes – Sector-specific rules for cyber security aspects of cross-border electricity flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management</b>
Priority level	2: Reactive – upon request from the European Commission
Legal basis	Article 59, paragraph 2(e) of Regulation (EU) 2019/943
Overview (status)	Regulation (EU) 2019/943 provides for the establishment of a network code on sector-specific rules for cyber security aspects of cross-border electricity flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

	<p>The Framework Guideline aims at setting out clear and objective principles for the development of a network code on sector-specific rules for cybersecurity aspects of cross-border electricity flows, pursuant to Article 59, paragraph 2(e) of Regulation (EU) 2019/943.</p> <p>The Framework Guideline acts as the basis for the development of a proposal for the network code on sector-specific rules for cybersecurity aspects of cross-border electricity flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management by a specific drafting committee for the cooperation of ENTSO-E and EU DSO entity.</p>
WP objectives for 2021	Specific objective: to contribute to addressing cybersecurity issues in the energy sector.
AWG input	The Electricity Working Group was informed about the progress made regarding the drafting of the Framework Guideline.
Performance indicators and targets (deadlines)	<p>Conducted a public consultation and considered the input received from NRAs and stakeholders.</p> <p>Timely delivery of the Framework Guideline, submitted to the European Commission in accordance with Article 59(6).</p>
Achievement against target	<p>ACER submitted the Framework Guideline to the Commission:</p> <p><a href="#">Framework Guideline on sector-specific rules for cybersecurity aspects of cross-border electricity flows.</a></p>

## II. Network Codes implementation, monitoring and amendments

### Implementation of Network Codes: Adoption of terms and conditions or methodologies

Task	Assistance to NRAs in their regional-wide decisions on the terms and conditions or methodologies pursuant to Network Codes and Guidelines
Priority level	2: Reactive - if there is a referral by NRAs for an Agency's decision
Legal basis	Articles 5 and 6 of Regulation (EU) 2019/942
Overview (status)	<p>The Network Codes and Guidelines establish numerous obligations for TSOs and NEMOs to develop proposals for terms and conditions or methodologies, which need to be approved by a group of NRAs (i.e. regional terms and conditions or methodologies). There are 28 terms and conditions or methodologies that need to be developed by TSOs and approved and NRAs of specific regions, where the number of regions established for different purposes varies between 5 and 10. In many cases, the terms and conditions or methodologies have already been adopted, but may need to be amended.</p>

	<p>As these approval procedures need to be coordinated, the Agency will facilitate such coordination within the Agency's working groups' structures.</p> <p>The Agency can also be requested to provide opinions and recommendations pursuant to the adopted Network Codes and Guidelines.</p> <p>The Agency can be requested to issue a decision at the request of NRAs or when the latter are not able to reach consensus.</p> <p>Finally, the Agency is entitled to decide directly on the regional terms and conditions or methodologies when these have an impact beyond the concerned region.</p>
<p>WP objectives for 2021</p>	<p>Specific objective: the Agency will provide a framework for the cooperation among NRAs and will strive to facilitate the reaching of an agreement among the involved NRAs on whether to require amendments, amend, approve or reject the proposed terms and conditions or methodologies.</p> <p>The Agency will monitor cooperation of NRAs in order to plan Agency's resources for the cases where these proposals are referred to the Agency for a decision.</p> <p>Multi-annual objective: contribute to the completion and well-functioning of the IEM.</p>
<p>AWG input</p>	<p>The Electricity Working Group was regularly informed about the progress made in the coordinated decisions of NRAs on the proposed terms and conditions or methodologies.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Coordinated NRAs decisions on the proposed terms and conditions or methodologies within the deadlines specified by the relevant Network Codes and Guidelines.</p> <p>Timely delivery of any ACER's opinion or recommendation or decision on this matter.</p>
<p>Achievement against target</p>	<p>Framework for the coordination of NRAs - agreement and coordinated decisions of NRAs on the proposed terms and conditions or methodologies.</p> <p><a href="#">ACER Decision 01-2021 on the Request of the Nordic System Operation Region's NRAs to Extend the Period for Reaching an Agreement on the Proposal for a Regional Coordination Centre</a></p> <p><a href="#">ACER Decision 02-2021 on the Amendment of the Fallback Procedures of the Core Capacity Calculation Region</a></p> <p><a href="#">ACER Decision 03-2021 on Nordic MACZT</a></p> <p><a href="#">ACER Decision 10-2021 on the Baltic Capacity Calculation Region Methodology for Market-Based Allocation</a></p> <p><a href="#">ACER Decision 11-2021 on the Core Capacity Calculation Region Methodology for Market-Based Allocation</a></p>

	<a href="#"><u>ACER Decision 14-2021 on the Long-Term Capacity Calculation Methodology of the Core Capacity Calculation Region</u></a>
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Task	EU-wide Decisions on the terms and conditions or methodologies pursuant to Network Codes and Guidelines
Priority level	1: Critical
Legal basis	Articles 5 and 6 of Regulation (EU) 2019/942
Overview (status)	<p>The Network Codes and Guidelines establish numerous obligations for TSOs and other entities to develop proposals for terms and conditions or methodologies. Some of these methodologies are developed by all TSOs or all NEMOs and ACER is tasked to make a decision on them. Other methodologies are developed by a group of TSOs in specific regions and approved by competent NRAs (i.e. regional terms and conditions or methodologies). There are 28 terms and conditions or methodologies that need to be developed by TSOs and approved and NRAs of specific regions, where the number of regions established for different purposes varies between 5 and 10. ACER is tasked to make a decision on the regional terms and conditions or methodologies when:</p> <ul style="list-style-type: none"> <li>(a) the proposal from TSOs or NEMOs is referred to ACER by competent NRAs</li> <li>(b) the competent NRAs have not been able to reach an agreement within the legal deadline.</li> <li>(c) the terms and conditions or methodologies have an impact beyond the concerned region.</li> </ul> <p>Finally, many of these methodologies have already been adopted, but may require amendments, approval of which may also fall within the competence of the Agency.</p>
WP objectives for 2021	<p>Specific objective: When ACER becomes competent for the proposals from TSOs or NEMOs it needs to adopt a decision on the proposal within the legal deadline. The decision requires a favourable opinion of Board of Regulators.</p> <p>Multi-annual objective: contribute to the completion and well-functioning of the IEM.</p>
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group is consulted on the draft decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of Agency’s decisions on the terms and conditions or methodologies.

Achievement against target	<p>Decision on the terms and conditions or methodologies proposed by TSOs and NEMOs.</p> <p><a href="#">ACER Decision 04-2021 on the Determination of Capacity Calculation Regions</a></p> <p><a href="#">ACER Decision 07-2021 on the Amendment of the Methodology for Coordinating Operational Security Analysis</a></p> <p><a href="#">ACER Decision 08-2021 on the Definition of System Operation Regions (SOR)</a> and <a href="#">ACER Decision 13-2021 Withdrawing Decision 08-2021 on the Definition of System Operation Regions</a></p> <p><a href="#">ACER Decision 12-2021 on the Methodology for Sharing Firmness and Remuneration Costs of Long-Term Transmission Rights</a></p> <p><a href="#">ACER Decision 15-2021 on the Harmonised Allocation Rules for Long-term Transmission Rights</a></p> <p><a href="#">ACER Decision 16-2021 on the Congestion Income Distribution Methodology</a></p>
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### III. Implementation of Network Codes: Monitoring and reporting on implementation

Task	Facilitating the implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies
Priority level	1: Critical
Legal basis	Article 32(1) of Regulation (EU) 2019/943 and Article 5(1)(d) of the Regulation (EU) 2019/942.
Overview (status)	<p>Overseeing projects for implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies.</p> <p>Facilitating resolution of implementation problems by providing (informal) opinions, recommendations as well as guidance.</p> <p>Informing and supporting European Commission and NRAs in executing their tasks with regard to monitoring the compliance of TSOs and NEMOs.</p>
WP objectives for 2021	<p>Specific objective: Ensure timely and efficient finalisation of projects designed to implement the specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies.</p> <p>Monitor the progress made in the implementation projects.</p> <p>Facilitate resolution of problems.</p>

	Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.
AWG input	The Electricity Working Group will be informed on the specific problems and delays in the implementation projects.
Performance indicators and targets (deadlines)	Timely completion of projects for the implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies.
Achievement against target	<p>In 2021 ACER actively participated in several implementation projects of pan-European, provided informal guidance where needed and facilitated resolution of problems and disagreements:</p> <ol style="list-style-type: none"> <li>1. European Platform for Automatic Frequency Restoration Reserves (PICASSO);</li> <li>2. European Platform for Manual Frequency Restoration Reserves (MARI);</li> <li>3. European Platform for Imbalance Netting (IGCC);</li> <li>4. Core CCR day-ahead and intraday capacity calculation methodology;</li> <li>5. Interim Coupling Project for Coupling the MRC and 4MMC projects;</li> <li>6. Core CCR day-ahead coupling project;</li> <li>7. Single day-ahead and single intraday coupling development and extensions.</li> </ol>

<b>Task</b>	<b>Reporting on the implementation of the Network Codes or Guidelines</b>
Priority level	1: Critical
Legal basis	Article 32 of Regulation (EU) 2019/943 and Article 5(1)(e) of the Regulation (EU) 2019/942.
Overview (status)	Implementation monitoring report on issues that were not implemented in a timely manner and the practical and legal problems encountered during the implementation including the recommendations for improvements.
WP objectives for 2021	<p>Specific objective: Deliver the implementation monitoring reports and providing practical recommendations. Engage with ENTSO-E, TSOs and NRAs in this process, for data collection and information exchange.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.</p>
AWG input	The Electricity Working Group will be consulted on the implementation monitoring reports.



Performance indicators and targets (deadlines)	Timely delivery of implementation monitoring reports.
Achievement against target	<p>Updating on the state of play concerning the implementation of the Network Codes and Guidelines.</p> <p>In 2021, ACER published the following implementation monitoring reports:</p> <p><a href="#">ACER Monitoring of the Implementation of the Grid Connection Network Codes - Updated Analysis</a></p> <p><a href="#">ACER Implementation Monitoring Report of the Network Code on Emergency and Restoration</a></p>

#### IV. Implementation of Network Codes: Facilitating involvement of stakeholders

Task	Ensuring a proper involvement of stakeholders in the NC implementation and monitoring of Network Codes and Guidelines
Priority level	1. Critical
Legal basis	Article 11 of Regulation (EU) 2015/1222 and equivalent Articles in other Network Codes and Guidelines.
Overview (status)	<p>Facilitate the involvement of stakeholders in the implementation of the Network Codes and Guidelines.</p> <p>Organise the European Stakeholder Committees.</p>
WP objectives for 2021	<p>Ensure the stakeholders are informed and are able to provide inputs to the implementation process for the Network Codes and Guidelines.</p> <p>Multi-annual objective: Contribute to the completion and well functioning of the IEM.</p>
AWG input	Electricity Working Group will be regularly informed about the possible concerns and inputs from stakeholders. Electricity Working Group representatives are invited to European Stakeholder Committee meetings.
Performance indicators and targets (deadlines)	Stakeholders support and satisfaction with the implementation process.

Achievement against target	<p>Organisation of the European Stakeholder Committee meetings.</p> <ul style="list-style-type: none"> <li>- 4 MESC meetings<sup>3</sup> + 2 EBSG meetings<sup>4</sup></li> <li>- 4 SO ESC meetings<sup>5</sup></li> <li>- 5 GC ESC meetings<sup>6</sup></li> </ul>
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## V. Amendments of the existing Network Codes and Guidelines

Task	Review of the requests for amendments to the adopted Network Codes from interested persons and, follow up on joint Functionality platform notifications
Priority level	1: Critical
Legal basis	Article 60 of Regulation (EU) 2019/943, as well as the consultation requirements from Article 14 of Regulation (EU) 2019/942.
Overview (status)	<p>Collect proposals for amendments and issue Recommendations for amendments to the legal texts, where necessary.</p> <p>Propose, on own initiative and in coordination with the European Commission, revisions to improve the quality of the legislative texts.</p> <p>Follow up on stakeholders' notifications and, where necessary propose amendments based on Article 60 of Regulation (EU) 2019/943, as an outcome of the notifications received.</p>
WP objectives for 2021	<p>Specific objective: create a framework to enable the Agency to collect proposals for amendments and ensure stakeholder involvement to the process. IT needs to be able to cater stakeholders' proposals.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group is consulted on the draft Recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	<p>Timely identification of the needs to amend legal texts and issuing of Recommendations for amendments.</p> <p>For the amendments, as established by Article 60 of Regulation (EU) 2019/942, no specific deadlines are foreseen.</p>

<sup>3</sup>[European Stakeholder Committees \(entsoe.eu\)](http://entsoe.eu)

<sup>4</sup>[European Stakeholder Committees \(entsoe.eu\)](http://entsoe.eu)

<sup>5</sup>[European Stakeholder Committees \(entsoe.eu\)](http://entsoe.eu)

<sup>6</sup>[European Stakeholder Committees \(entsoe.eu\)](http://entsoe.eu)

Achievement against target	<p>Evaluating and processing amendment proposals.</p> <p>Facilitation of the stakeholder involvement, as required by the adopted Network Codes and Guidelines.</p> <p><a href="#">ACER recommendation</a> on reasoned amendment to the CACM regulation 1222/2015 was sent by the end of December 2021. This recommendation provided reasoned amendments to the European commission to the CACM regulation on MCO governance, DA and ID capacity calculation and the bidding zone review process.</p> <p>Based on an invitation from the European Commission in 2021 ACER started scoping Framework Guideline on Demand Response pursuant to Article 59.1(e) of the Electricity Regulation. By the end of 2021, ACER informed the European Commission about the <a href="#">results of the scoping</a>.</p>
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## VI. Tariff Methodologies

Task	Best practice report on the transmission and distribution tariff methodologies
Priority level	1: Critical
Legal basis	Article 18(9) of Regulation (EU) 2019/943.
Overview (status)	ACER shall provide and update at least every two years a best practice report on transmission and distribution tariff methodologies. An ACER report providing a status review of NRA practices regarding transmission tariffs was published in December 2019. In 2021, ACER continues its work to identify best practices on transmission and distribution tariff methodologies and issue its next report by 2022.
WP objectives for 2021	<p>The best practice report shall address at least:</p> <ul style="list-style-type: none"> <li>(a) the ratio of tariffs applied to producers and tariffs applied to final customers;</li> <li>(b) the costs to be recovered by tariffs;</li> <li>(c) time-differentiated network tariffs;</li> <li>(d) locational signals;</li> <li>(e) the relationship between transmission tariffs and distribution tariffs;</li> <li>(f) methods to ensure transparency in the setting and structure of tariffs;</li> <li>(g) groups of network users subject to tariffs including, where applicable, the characteristics of those groups, forms of consumption, and any tariff exemptions;</li> <li>(h) losses in high, medium and low-voltage grids.</li> </ul>

AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group is consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the Report.
Achievement against target	<a href="#">ACER issued a report on transmission tariffs</a> in December 2019 and a separate <a href="#">report on distribution tariffs</a> in February 2021. These two reports provide a status review of European countries' transmission and distribution tariff methodologies, contribute to identifying best tariff practices, as well as pursue the objectives to increase transparency and comparability in tariff-setting. The next ACER report on network tariffs is planned for 2022.

## VII. Use of Congestion Income

Task	Use of revenues shall be subject to a methodology approved by the Agency
Priority level	1. Critical
Legal basis	Article 19(4) of Regulation 2019/943
Overview (status)	<p>New task</p> <p>According to Article 19(4) of Regulation 2019/943, ACER shall decide on the methodology on the use of congestion revenues proposed by the transmission system operators within six months of receiving it. According to the law the proposed methodology shall be submitted to ACER by 5 July 2020.</p> <p>According to Article 19(5) of Regulation 2019/943, by 1 March each year, the NRAs shall inform ACER and shall publish a report on congestion income. As such, ACER will monitor the use of congestion revenues and its compliance with the methodology.</p>
WP objectives for 2021	ACER may request transmission system operators to amend or update the methodology referred to in the first subparagraph. ACER shall decide on the amended or updated methodology not later than six months after its submission.
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.

Performance indicators and targets (deadlines)	Timely delivery of the decision. The activity is expected to start in July 2020 and finish in January 2021
Achievement against target	Following the <a href="#">ACER decision on the Methodology for the Use of Congestion Income</a> and the ACER <a href="#">Recommendation on NRAs' activities and reporting on the use of congestion income</a> (both documents were issued in December 2020), ACER has carried out a monitoring activity in 2021, resulting in an internal ACER report on the use of the 2020 congestion income.

## D. Internal Gas Market

By 2021, the Network Codes implementation process in gas was well under way, most Network Codes were implemented in most Member States. Experience showed nonetheless that additional attention was needed for particular topics and particular Member States that were lagging behind. For this reason the regular work in terms of follow-up tasks and implementation monitoring continued.

In 2021 the Agency engaged as well in forward looking activities in preparation of the Hydrogen and Gas Decarbonisation Package by the European Commission. In a joint effort between ACER and CEER, the regulatory community prepared and published several position papers on key regulatory requirements for gas decarbonisation, sector integration and hydrogen network regulation.

### I. Network Codes, implementation, monitoring and amendments

#### Implementation of Network Codes: Decisions, assistance to NRAs, advocacy

Task	Agency decisions under Art 6(10) of Regulation (EU) 2019/942
Priority level	2: Reactive to NRAs requests
Legal basis	Art 6(10) of Regulation (EU) 2019/942
Overview (status)	<p>The Agency shall adopt individual decisions on regulatory issues having effects on cross-border trade or cross-border system security which require a joint decision by at least two regulatory authorities under one of the following legal acts:</p> <ul style="list-style-type: none"> <li>(a) a legislative act of the Union adopted under the ordinary legislative procedure;</li> <li>(b) network codes and guidelines adopted before 4 July 2019 and subsequent revisions of those network codes and guidelines; or</li> </ul>

	(c) network codes and guidelines adopted as implementing acts pursuant to Article 5 of Regulation (EU) No 182/2011.
WP objectives for 2021	Specific objective: implement the network codes, improve national designs, where necessary. Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.
AWG input	According to Article 24(2) of Regulation 2019/942, the Gas Working Group is consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of a decision.
Achievement against target	Decision No A-004-2019 of the Board of Appeal of ACER of 6 August 2019 was appealed in the General Court of Luxembourg, Protecting an appealed BoA Decision. The case was closed on 16 March 2022. ( <a href="https://eur-lex.europa.eu/curia/doclist/curia/doclist.do">CURIA - Documents (europa.eu)</a> )

<b>Task</b>	<b>Assistance to the NRAs and key stakeholders in relation to the NC implementation through the Functionality process and individual requests</b>
Priority level	1 or 3, depending on the issue
Legal basis	Art 5 (1) of Regulation (EU) 2019/942
Overview (status)	Through the Gas Network Codes Functionality Platform, stakeholders can notify the Agency and ENTSOG of the issues concerning Gas Network Codes. The Functionality Platform gives an overview of all notified issues as well as their status and scheduled events, like public consultations or workshops.
WP objectives for 2021	Specific objective: implementation of network codes and monitoring of implementation via cases. Multi-annual objective: Contribute to the completion and well functioning of the IEM.
AWG input	The AWG was informed about these activities.
Performance indicators and targets (deadlines)	Promote state of the art regulation and good communication between regulators, TSOs and stakeholders about regulatory issues.

Achievement against target	Closure of two stakeholder issues ( <a href="#">Gas-Func 2.0 - All issues (gasncfunc.eu)</a> ) Progress on two more complex issues opened earlier on the Functionality Platform relating to offering greater flexibility in capacity auctions and on streamlining of balancing data exchange formats ( <a href="#">Gas-Func 2.0 - View issue (gasncfunc.eu)</a> ; <a href="#">Gas-Func 2.0 - View issue (gasncfunc.eu)</a> )
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Task	Support the voluntary regional frameworks as needed
Priority level	3: Necessary to meet legal obligation with intensity that can vary
Legal basis	Article 22 of Regulation (EU) 2019/942
Overview (status)	The Agency will specifically support the GRI SSE region in order to improve the catching up of the region with the rest of the EU in terms of network codes implementation and gas market design.
WP objectives for 2021	Specific objective: implementation of the network codes Multi-annual objective: Contribute to the completion and well functioning of the IEM.
AWG input	The Gas Working Group will be informed about these activities, if relevant.
Performance indicators and targets (deadlines)	Promote state of the art regulation.
Achievement against target	Mainly regional meetings took place to ensure effective knowledge transfer and support both from more experienced NRAs and from the Agency to NRAs. Meetings took place in online form due to Covid-19 restrictions.

## Reporting and monitoring

Task	Reporting obligations as set out in the Network Code on Gas Transmission Tariff structures under Article 13(3) of NC TAR (Multiplier Report) and carry on the work on best practices and concrete recommendations on allowed revenues and benchmarking
Priority level	1: Critical
Legal basis	Article 13(3) of Regulation 2017/460 (NC TAR). 33 <sup>rd</sup> Madrid Forum Conclusions (for the allowed revenues part).
Overview (status)	By 1 April 2021 the Agency should issue a recommendation, in accordance with Regulation (EC) No 713/2009, recast by

	<p>Regulation (EU) 2019/942, regarding the maximum level of multipliers.</p> <p>At the request of the Madrid Forum, the Agency was called to come forward with guidance based on best practices and concrete recommendations on allowed revenues and benchmarking to improve the implementation of the Tariff Network Code.</p>
WP objectives for 2021	Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.
AWG input	<p>According to Article 24(2) of Regulation 2019/942, the Gas Working Group is consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.</p> <p>The Gas Working Group was informed about the Madrid Forum activities.</p>
Performance indicators and targets (deadlines)	<p>Timely delivery of the multiplier recommendation.</p> <p>Delivery of best practices and recommendations on allowed revenues</p>
Achievement against target	<p>The <a href="#">recommendation on the level of multipliers</a> was published.</p> <p>The tendering for a consultancy study on allowed revenues and recommendations started in 2021. The study will focus on the decommissioning of gas networks and their repurposing to hydrogen. The study will be finalised in October 2022.</p>

<b>Task</b>	<b>Implementation Monitoring Reporting obligations and data automation for Balancing and reporting for Tariffs under Article 5(1)(e) of Regulation (EU) 2019/942</b>
Priority level	3: Necessary to meet legal obligation
Legal basis	<p>Article 5(1)(e) of Regulation (EU) 2019/942</p> <p>Article 9 of Regulation (EC) No 715/2009</p> <p>Article 27 of Regulation 2017/460 (NC TAR)</p>
Overview (status)	Implementation reports in the field of balancing on implementation to be able to measure balancing market performance. Continue reporting on tariff and check whether the implementation is on track.
WP objectives for 2021	<p>Specific objectives:</p> <p>Implement the network code and provide update on implementation.</p> <p>Provide practical recommendations in the implementation report.</p>



	Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.
AWG input	The Gas Working Group was informed about these activities.
Performance indicators and targets (deadlines)	Timely delivery of implementation monitoring reports and the automated tool.
Achievement against target	<p>Two Balancing reports were issued. The automated ZEN assessment tool supported the monitoring report.</p> <ul style="list-style-type: none"> <li>• <a href="#">ACER Balancing Monitoring Report 2019-20.pdf (europa.eu)</a></li> <li>• <a href="#">ACER/ENTSOG Recommendations on suspected misconduct at EU balancing zones (europa.eu)</a></li> </ul> <p>5 ACER tariff reports under Article 27 of the NC TAR were published:</p> <ul style="list-style-type: none"> <li>• <a href="#">Agency report - analysis of the consultation document for Hungary.pdf (europa.eu)</a></li> <li>• <a href="#">Agency Report - 2nd Analysis of the Consultation Document for Slovenia.pdf (europa.eu)</a></li> <li>• <a href="#">Agency report - 2n analysis of the consultation document for Lithuania.pdf (europa.eu)</a></li> <li>• <a href="#">Microsoft Word - PL Yamal Format analysis final (europa.eu)</a></li> <li>• <a href="#">Microsoft Word - PL National Format analysis final (europa.eu)</a></li> </ul>

Task	Reporting obligation as set out in CMP Guidelines (monitoring of Congestion at interconnection points)
Priority level	3: Necessary to meet legal obligation
Legal basis	Point 2.2.2.1.2 in Annex I to the Commission's Decision of 24 August 2012 ('CMP Guidelines').
Overview (status)	Reports on Congestion at interconnection points are to be prepared with a view to the previous ACER recommendations
WP objectives for 2021	Specific requirements: Report on congestion at interconnection points according to the criteria set in the CMP Guidelines.

	Data consistency and quality, to be addressed with ENTSOG where relevant. Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.
AWG input	The Gas Working Group was informed about these activities and information was collected for the report.
Performance indicators and targets (deadlines)	Timely delivery of the Congestion Report.
Achievement against target	The report on Congestion at interconnection points was published by the legal deadline: <a href="#">8th ACER Report on Congestion in the EU Gas Markets and How It Is Managed.pdf (europa.eu)</a>

## II. Tasks initiated by other public organisations

### Amendments of existing Network Codes and Guidelines

Task	Review of the requests for amendments to the adopted Network Codes
Priority level	1: Critical
Legal basis	Article 7 of Regulation (EC) No 715/2009, as well as the consultation requirements from Article 14 of Regulation (EU) 2019/942.
Overview (status)	Collect/propose amendments to the legal text, where necessary in coordination with the Commission and with a focus on the change needs in the secondary legislation in 2021.
WP objectives for 2021	Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.
AWG input	According to Article 24(2) of Regulation 2019/942, the Gas Working Group is consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Revised articles, public consultations preceding amendments, using the solutions given to the cases notified on the joint Functionality Platform while also proposing other amendments that can improve the functioning of the internal gas market. For the amendments, as established by Article 7 of Regulation (EC) No 715/2009, no specific deadlines are foreseen.

Achievement against target	Since the Commission did not initiate a Network Code amendment process and instead focused on legislative proposals, no such amendments were collected.
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## E. Electricity and Gas Internal Market Monitoring

The Agency’s Market Monitoring report continued to be its flagship publication, providing transparency and insight into the functioning of the EU energy market in an independent way.

Market monitoring is becoming increasingly sophisticated, as the relevant developments in the European electricity and gas markets are followed more closely. Since 2017, the Market Monitoring Report is produced in different volumes, published at different times (as soon as they are ready), thus making its structure more flexible and moving the publication of the monitoring results closer to the time of the monitored developments. The market monitoring report is enriched with additional indicators to measure the effectiveness of the various Gas and Electricity Network Codes and Guidelines, e.g. with GTM indicators, some of which based on sanitised REMIT data, or with indicators related to the performance of electricity TSOs in the area of cross-zonal capacity calculation. Moreover, specific monitoring involving an intensive and complex data collection process is performed to assess the margin available for electricity cross-zonal trade in light of the minimum (70%) capacity target required by the CEP. Finally, with the adoption of the “Clean Energy for all Europeans” legislation, the market monitoring report should include the monitoring of state interventions preventing prices from reflecting actual scarcity, as well as the monitoring of the performance of Member States in the area of electricity security of supply.

Task	10 <sup>th</sup> Market Monitoring Report
Priority level	1: Critical
Legal basis	Article 15 of Regulation (EU) No 2019/942 Article 5 of Regulation (EU) No 2019/942; Article 9(1) of Regulation (EC) No 714/2009; Article 9(1) of Regulation (EC) No 715/2009; Network Codes and Guidelines Article 7(3) of Regulation (EU) No 1227/2011
Overview (status)	In line with previous editions, the MMR will provide an in-depth analysis of barriers to market integration and provide recommendations to the European Parliament and the Commission on how to remove them. The Agency’s market monitoring teams for gas and electricity will coordinate the coverage of the MMR with the Directorate-General

	<p>for Energy of the European Commission in order to avoid duplication of work. The Agency will cooperate and coordinate with the Council of European Energy Regulators (CEER).</p> <p>The Agency will also cooperate with the Energy Community Secretariat (ENC) regarding the inclusion of selected metrics for the Contracting Parties countries in some volumes of the MMR. The Energy Community Secretariat will coordinate data collection and support the analysis.</p>
WP objectives for 2021	Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning by creating market and data transparency through economic analysis and issuing of recommendations. Leverage of the MMR by European policy makers in the legislative process.
AWG input	According to Article 30(4) of Regulation 2019/942, the Electricity Working Group and the Gas Working Group is involved and provide their input for the two Wholesale chapters.
Performance indicators and targets (deadlines)	<p>Timely completion of the Annual Market Monitoring Report.</p> <p>Expected completion date: November 2021 (parts delivered earlier).</p> <p>Positive feedback and uptake of conclusions and recommendations by the European Parliament and the European Commission. Reference to the MMR and use of its analysis by stakeholders. Possibility of a survey following the publication and presentation of the report.</p>
Achievement against target	<p>The Annual Market Monitoring Report and its volumes were delivered:</p> <p><a href="#">ACER Market Monitoring Report 2020 – Electricity Wholesale Market Volume.pdf (europa.eu)</a></p> <p><a href="#">ACER Market Monitoring Report 2020 - Gas Wholesale Markets Volume.pdf (europa.eu)</a></p> <p><a href="#">ACER Market Monitoring Report 2020 – Energy Retail and Consumer Protection Volume.pdf (europa.eu)</a></p> <p>Specific reports:</p> <p><a href="#">ACER releases its second 70% target report on the minimum margin available for cross-zonal electricity trade in the EU   www.acer.europa.eu</a></p> <p><a href="#">DNV Final Report 18 August 2021 Rev2.0.pdf (europa.eu)</a></p>

## F. Infrastructure and Security of Supply

### I. Guidelines for Trans-European Energy Infrastructure – Electricity and Gas

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

In relation to this area, the Agency worked in 2021 towards the following deliverables:

Task	Annual consolidated report on progress of projects of common interest and (if appropriate) recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation
Priority level	1: Critical
Legal basis	Article 5(5) of Regulation (EU) No 347/2013
Overview (status)	The consolidated reports follow the submission by project promoters of annual reports for each project of common interest to the competent authority, either to the Agency or, for projects falling under the categories set out in Annex II.3 and 4 of Regulation (EU) No 347/2013, to the respective Group.
WP objectives for 2021	Specific objective: assess the progress of projects of common interest and, if appropriate, provide recommendations to facilitate their implementation and overcome difficulties. Multi-annual objective: contribute to the infrastructure challenge.
AWG input	According to Article 30(4) of Regulation 2019/942, the Electricity Working Group and the Gas Working Group are consulted and provide their input. According to Article 24(2) of Regulation 2019/942, the Electricity Working Group and the Gas Working Group are consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the report. Upon the receipt of the submissions from project promoters, the Agency will deliver its consolidated report within three months from the day of receipt. The work will be performed by Agency's staff in close cooperation with INEA with respect to its financial monitoring duties.
Achievement against target	The annual consolidated report on the progress of electricity and gas PCIs was issued in June 2021. The report Appendixes provide project specific information on <a href="#">electricity PCIs</a> as well as on <a href="#">gas PCIs</a> .

<b>Task</b>	<b>Updated Unit Investment Cost (UIC) Report</b>
Priority level	1: Critical
Legal basis	Article 11(7) of the Regulation (EU) No 347/2013.
Overview (status)	By 16 May 2015, NRAs cooperating in the Agency's framework shall establish and make publicly available a set of indicators and corresponding reference values for the comparison of unit investment costs for comparable gas and electricity projects of the infrastructure categories. Those values may be used by the ENTSOs for CBA of subsequent TYNDPs. Therefore, the values from the 2015 UIC report should be updated in order to remain relevant for TYNDPs beyond 2021.
WP objectives for 2021	The availability of an updated UIC report is needed in order to enable the ENTSOs to properly develop subsequent TYNDPs and the Agency and NRAs to accurately monitor and assess infrastructure projects. UIC reference values dating back from 2015 are becoming outdated. An update of the UIC Report after 6 years from its first publication is needed.
AWG input	Review the draft UIC report.
Performance indicators and targets (deadlines)	Timely delivery of the updated UIC report in 2021.
Achievement against target	The work on updated UIC Report has not started due to the fact that a revised TEN-E Regulation requires ACER to provide the UIC indicators in 2023.

<b>Task</b>	<b>Opinion(s) on ENTSO-E's and/or ENTSOG's methodologies for cost-benefit analysis, if updated</b>
Priority level	1: Critical
Legal basis	Article 11(6) of Regulation (EU) No 347/2013
Overview (status)	The CBA methodologies shall be updated and improved regularly.
WP objectives for 2021	Specific objective: updated and improved CBA methodology(ies). Multi-annual objective: contribute to the infrastructure challenge.
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity and Gas Working Groups are consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.

Performance indicators and targets (deadlines)	Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.
Achievement against target	In March 2021, ENTSO-E submitted the draft CBA 3.0 to the Commission. The draft has not been approved by the Commission.

<b>Task</b>	<b>Opinions on the draft regional lists of proposed projects of common interest, in particular on the consistent application of the criteria and the cost-benefit analysis across regions</b>
Priority level	1: Critical
Legal basis	Point 12 of Annex III.2, Regulation (EU) 347/2013. Article 22 of Regulation (EU) No 2019/942.
Overview (status)	The Agency shall provide an opinion on the draft regional lists, in particular on the consistent application of the criteria and the cost-benefit analysis across regions. The opinion of the Agency is a biennial activity, in line with the schedule of the adoption of the PCI lists.
WP objectives for 2021	Specific objective: deliver the opinion within three months from the date of receipt of the draft PCI list. Multi-annual objective: contribute to the infrastructure challenge.
AWG Input	According to Article 24(2) of Regulation 2019/942, the Electricity and Gas Working Groups are consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion within three months from the date of receipt of the draft PCI list from the Commission.
Achievement against target	The Agency issued its <a href="#">Opinion on the draft Regional lists of proposed electricity PCIs</a> as well as its <a href="#">Opinion on the draft Regional lists of proposed gas PCIs</a> on 29 October 2021.

## II. Electricity TSO Cooperation

The tasks related to the Agency's work on electricity TSO cooperation, pursuant to Article 4 of Regulation (EC) No 2019/943, consist in: formulating opinions on draft statutes, list of members and draft rules of procedure of ENTSO-E; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other

ENTSO-E’s relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSO-E: and monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency worked in 2021 towards the following deliverables:

<p><b>Tasks</b></p>	<p><b>Opinions on ENTSO-E’s annual work programme 2022 and ENTSO-E’s annual report 2020 (Priority level - 3);</b></p> <p><b>Opinions on potential updates to ENTSO-E’s common network operation tools and common incidents classification scale (Priority level: 3)</b></p> <p><b>Opinion on the ENTSO-E electricity Union-wide TYNDP 2020 (Priority level 1): (the activity is expected to start Q4 2020 and finish in Q1 2021)</b></p> <p><b>Opinion on the electricity national 10-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national 10-year network development plans or the Union-wide network development plan (Priority level: 3) (the activity is expected to start Q4 2020 and finish in Q1 2021)</b></p> <p><b>Opinion on ENTSO-E’s recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators (Priority level: 3)</b></p> <p><b>Annual monitoring report on the implementation and management of the inter-TSO compensation fund (Priority level: 3)</b></p> <p><b>Internal Monitoring Report on G-charge (Priority level: 3)</b></p> <p><b>Opinions on ENTSO-E’s annual Summer and Winter supply outlooks (Priority level: 3)</b></p> <p><b>Opinion on ENTSO-E’s research and development plan (Priority level: 3)</b></p>
<p><b>Priority levels</b></p>	<p>See above</p>
<p><b>Legal basis</b></p>	<p>For Opinion on the electricity national 10-year network development plans: Article 48(2) of Regulation (EU) 2019/943</p> <p>For Work Programme and TYNDP: Article 4(3) and Article 4(5) Regulation (EU) 2019/942</p> <p>For ITC and G-charge:</p> <p>Point 1.(4) of Annex Part A, Commission Regulation (EU) No 838/2010 and</p> <p>Annex Part B, Commission Regulation (EU) No 838/2010</p> <p>For all other deliverables: Article 4(3) Regulation (EU) 2019/942.</p>



<p>Overview (status)</p>	<p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund. Opinions on ENTSO-E's annual work programme and ENTSO-E's annual report, on ENTSO-E's annual Summer and Winter supply outlooks, on ENTSO-E's research and development plan, on the electricity Union-wide TYNDP 2020, on the electricity national ten-year network development plans.</p> <p>Activities about opinions on ENTSO-E documents to be carried out upon submission of the relevant documents by ENTSO-E.</p>
<p>WP objectives for 2021</p>	<p>Specific objective: Perform the monitoring tasks and delivering the report and the opinions mentioned above.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
<p>AWG input</p>	<p>According to Article 24(2) of Regulation 2019/942, the Electricity Working Groups are consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators. According to Article 30(4) of Regulation 2019/942, the Electricity Working Groups are consulted and provide their input on the Opinion on the electricity national 10-year network development plans to assess their consistency with the Union-wide network development plan, annual monitoring report on the implementation and management of the inter-TSO compensation fund, Internal Monitoring Report on G-charge.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely delivery and quality of the documents.</p> <p>Opinion on ENTSO-E's Work Programme and TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant.</p> <p>Opinion on ENTSO-E's other documents: after receipt of the document by ENTSO-E.</p>
<p>Achievement against target</p>	<p>The Agency adopted and published the following deliverables envisaged in its 2021 annual work programme:</p> <ul style="list-style-type: none"> <li>• <a href="#">Opinion on the electricity projects in the draft ENTSO-E Ten-year Network Development Plan</a> - May 2021;</li> <li>• <a href="#">Opinion on the methodological aspects of the ENTSO-E draft Ten-year Network Development Plan 2020</a> – May 2021;</li> <li>• <a href="#">Opinion on the electricity national development plans</a> - July 2021;</li> <li>• Report on the implementation of the ITC mechanism in 2020 - November 2021;</li> <li>• The results of the monitoring of G-charges carried out by the Agency for years 2020-2021 is provided in the 2022 ACER Practice report on tariff methodologies in Europe.</li> </ul>

Besides the above mentioned deliverables, the Agency also published a [Position paper on incentivising smart investments to improve the efficient use of electricity transmission assets](#), which was not initially planned in the programming document.

### III. Gas TSO Cooperation

The tasks related to the Agency’s work on gas TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in: formulating opinions on draft statutes, list of members and draft rules of procedure of ENTSOG; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSOG’s relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOG; and monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, in 2021 the Agency worked on the following deliverables:

<b>Tasks</b>	<p><b>Opinion on the implementation of the Union-wide gas infrastructure 10-Year Network Development Plan and investments to create new interconnector capacity (priority level – 1)</b></p> <p><b>Opinion on the national 10-Year Network Development Plans to assess their consistency with the Union-wide 10-Year Network Development Plans (if appropriate) recommendations to amend the national 10-year network development plans or the Union-wide network development plan (priority level - 3)</b></p> <p><b>Opinions on ENTSOG’s annual work programme 2022 and ENTSOG’s annual report 2020 (priority level – 3);</b></p> <p><b>Opinions on potential updates to ENTSOG’s common network operation tools and common incidents classification scale (priority level - 3)</b></p> <p><b>Opinion on ENTSOG’s recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators (priority level - 3);</b></p> <p><b>Opinions on ENTSOG’s annual Summer and Winter supply outlooks (priority level - 3)</b></p> <p><b>Opinion on ENTSOG’s research and development plan (priority level - 3)</b></p>
Priority levels	See above
Legal basis	<p>For all deliverables: Article 2(c) Regulation (EC) 2019/942 and Article 8(3) Regulation (EC) 715/2009.</p> <p>For Work Programme and TYNDP: Article 4(5) Regulation (EU) 2019/942 and Article 9(2) Regulation (EC) 715/2009.</p>
Overview (status)	Opinions on submitted documents have been regularly delivered during the previous years. Pursuant to Article 4 Regulation (EU) 2019/942, the Agency shall issue opinions on these documents if it finds they do not contribute to the objectives or do not comply with the regulations, and may issue opinions in other instances.

<p>WP objectives for 2021</p>	<p>Specific objective: upon receipt of ENTSOG's TYNDP, the Agency will deliver its opinion within the stated deadline.</p> <p>Other opinions may be provided upon receipt from ENTSOG of the relevant documents, within a reasonable time (usually two to three months).</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
<p>AWG input</p>	<p>According to Article 24(2) of Regulation 2019/942, the Gas Working Group is consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely delivery of the reports and opinions.</p> <p>Specifically for the Opinions on ENTSOG's Work Programme and TYNDP: within two months after receipt of the document by ENTSOG if considered non-compliant.</p>
<p>Achievement against target</p>	<p>The Agency adopted and published the following deliverables envisaged in its 2021 annual work programme:</p> <p><a href="#">Opinion on ENTSOG's 2020 draft European-wide ten-year network development plan (TYNDP)</a> on 3 May 2021;</p> <p><a href="#">Opinion on ENTSOG's annual Summer supply outlook</a> on 27 July 2021;</p> <p><a href="#">Opinion on ENTSOG's annual Winter supply outlook 2021/2022</a> on 16 December 2021;</p> <p>No objections letter sent to ENTSOG and Commission on ENTSOG's draft annual work programme 2022 on 16 December 2021;</p> <p>No objections letter sent to ENTSOG and Commission on ENTSOG's annual report 2020 on 19 July 2021.</p>

Besides the above mentioned deliverables, the Agency also published the following:

[ACER-CEER White Paper on Rules to Prevent Methane Leakage in the Energy Sector](#);

[Note on repurposing natural gas infrastructure to pure hydrogen](#);

[Decision on a request by NRAs to extend period to reach an agreement for an INC Capacity Project between AT and CZ](#).

#### IV. Tasks to safeguard the security of gas supply

The tasks assigned to the Agency under Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply refer to taking decisions on CBCA, to issuing opinions on exemption requests, to issuing opinions on the elements of coordinated decisions, to the participation in consultations as pertaining to the establishment of permanent bi-directional capacity at interconnection points, as well as to participation in the Gas Coordination Group.

In relation to this area, in 2021 the Agency worked on the following deliverables:

<p><b>Task</b></p>	<p><b>Opinions and on the elements of coordinated decisions on proposals to enable permanent physical capacity to transport gas in both directions for permanent bi-directional capacity concerning the reverse direction (“physical reverse flow capacity”)</b></p> <p><b>Decisions on cross-border cost allocation on proposals to enable physical reverse flow capacity if the regulatory authorities concerned could not reach an agreement on the cost allocation within six month from the receipt of the joint proposal of the transmission system operators</b></p> <p><b>Opinions on requests for an exemption from the obligation to enable permanent bi-directional capacity (if the Agency decides to issue an opinion)</b></p>
<p>Priority level</p>	<p>1: Critical: Opinions on the elements of coordinated decisions</p> <p>2: Reactive - Decisions on CBCA</p> <p>3: Necessary to meet legal obligation - Opinions on proposals or exemption requests</p>
<p>Legal basis</p>	<p>Regulation (EU) No 2017/1938</p>
<p>Overview (status)</p>	<p>New tasks assigned to the Agency by Regulation (EU) No 2017/1938.</p>
<p>WP objectives for 2021</p>	<p>Specific objectives:</p> <p>For decisions on CBCA: deliver the decision on CBCA within three months from the day of receipt of the decision from the Commission (with a possible extension of two months in case additional information is needed).</p> <p>For opinions on consultation documents: to be provided if appropriate, within four months from the date of receipt of the consultation document.</p> <p>For opinions on the elements of coordinated decisions: deliver the decision within three months from the date of receipt of the coordinated decision.</p> <p>Multi-annual objective: contribute to the measures to safeguard the security of gas supply.</p>
<p>AWG input</p>	<p>According to Article 24(2) of Regulation 2019/942, the Gas Working Group is consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely delivery of the decisions and opinions.</p>

Achievement against target	No Opinions or decisions were issued in 2021. ACER received decisions on two cases (RF on SI-AT and HU-AT borders) in November 2021, with a target date of issuing the opinions in February 2022. The work on the Opinions started in November 2021.
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## V. Tasks related to DSOs

Tasks	Issuing a decision for DSO to provide any relevant information necessary for carrying out monitoring
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/942 (Art. 3 (2))
Overview (status)	New task
WP objectives for 2021	As per recital 14, in order to ensure that ACER has the information it needs to carry out its tasks, ACER should be able to request and to receive that information from the EU DSO entity.
AWG input	Informal involvement of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the decision.
Achievement against target	No decision was issued in 2021 as the EU DSO entity was still in the process of being established in the course of 2021.

Tasks	Consider issuing an opinion to the EU DSO entity on its tasks, including on the EU DSO entity draft annual work programme and other relevant documents, taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal market for electricity
Priority level	3: Necessary to meet legal obligation
Legal basis	Regulation (EU) 2019/942 (Art. 4)
Overview (status)	New task
WP objectives for 2021	Monitoring the execution of tasks of the EU DSO entity

AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group or the Gas Working Group, as relevant, are consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion, recommendation or decision.
Achievement against target	No opinion was issued in 2021 as the EU DSO entity was still in the process of being established in the course of 2021.

<b>Tasks</b>	<b>Supporting DSOs in establishing the EU DSO entity, including supporting the DSOs in adopting and publishing their statutes and rules of procedure</b>
Priority level	3: Necessary to meet legal obligation
Legal basis	Regulation (EU) 2019/943 (Art. 53 (5))
Overview (status)	New task
WP objectives for 2021	The EU DSO entity will be established in 2021 following ACER's opinion and a positive opinion by the Commission.
AWG input	The Electricity Working Group was informed consulted about these activities.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Achievement against target	After the seminal ACER Opinion on the EU DSO Entity statutes issued in 2020, no further opinion was issued in 2021 as the EU DSO entity was still in the process of being established in the course of 2021.

## VI. Tasks related to Regional Coordination Centres

<b>Tasks</b>	<b>Issuing a decision for the RCCs to provide any relevant information necessary for carrying out monitoring</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/942 (Art. 3 (2))

Overview (status)	New task
WP objectives for 2021	As per recital 14, in order to ensure that ACER has the information it needs to carry out its tasks, ACER should be able to request and to receive that information from the EU DSO entity.
AWG input	The Electricity Working Group was consulted about these activities.
Performance indicators and targets (deadlines)	Timely delivery of the decision.
Achievement against target	No decision was issued in 2021 as the RCCs will only enter into operation in 2022 (by 1 July 2022).

<b>Tasks</b>	<b>Issuing opinions and recommendations to the regional coordination centres (RCCs)</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/942 (Art.7 (2) d) and Regulation (EU) 2019/943 (Arts. 36 (3) and 37 (2))
Overview (status)	New task
WP objectives for 2021	To monitor and analyse the performance of regional coordination centres in an efficient and expeditious manner.
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group was consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion and recommendation.
Achievement against target	No opinions or decisions were issued in 2021 as the RCCs will only enter into operation in 2022 (by 1 July 2022).

<b>Tasks</b>	<b>Monitoring the implementation of the tasks and cooperation between TSOs and ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Article 46) and Regulation (EU) 2019/942 (Art. 7 (2) b)
Overview (status)	New task
WP objectives for 2021	Monitoring the implementation of the tasks of the regional coordination centres and cooperation between TSOs and ENTSO-E
AWG input	The Electricity Working Group was consulted about these activities.
Performance indicators and targets (deadlines)	Timely monitoring of tasks.
Achievement against target	No monitoring was conducted in 2021 as the RCCs will only enter into operation in 2022 (by 1 July 2022).

<b>Tasks</b>	<b>Monitoring and analysing the performance of Regional Coordination Centres with the NRAs and ENTSO-E, through submitted data resulting from their continuous monitoring</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/942 (Art. 7 (1))
Overview (status)	New task
WP objectives for 2021	To monitor and analyse the performance of regional coordination centres
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group or the Gas Working Group, as relevant, are consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion and recommendation.



Achievement against target	No monitoring or analysis was conducted in 2021 as the RCCs will only enter into operation in 2022 (by 1 July 2022).
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## VII. Tasks related to Resource Adequacy

<b>Tasks</b>	<b>Amending or approving technical parameters developed by ENTSO-E for an efficient participation of cross-border capacities in capacity mechanisms and other technical features of capacity mechanisms</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 26)
Overview (status)	New task
WP objectives for 2021	To amend or approve technical parameters as developed by ENTSO-E
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable.
Achievement against target	As the methodology was adopted in late 2020, no amendment was introduced in 2021.

<b>Tasks</b>	<b>Amending or approving a draft methodology for the European resource adequacy assessment based on set principles by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 23)
Overview (status)	This task is to be completed in 2020. Task potentially continued through further amendments in 2021, if required.
WP objectives for 2021	To amend or approve a draft European resource adequacy methodology.

AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group is consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Achievement against target	As the methodology was adopted in late 2020, no amendment was introduced in 2021.

<b>Tasks</b>	<b>Amending or approving draft methodologies for calculating: the value of lost load; the "cost of new entry" for generation, or demand response; and the reliability standard expressed as "expected energy not served" and the "loss of load expectation"</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 23)
Overview (status)	This task is to be completed in 2020. Task potentially continued through further amendments in 2021, if deemed necessary.
WP objectives for 2021	To amend or approve the pertaining methodology.
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group is consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Achievement against target	As the methodology was adopted in late 2020, no amendment was introduced in 2021.

### VIII. Tasks related to Risk preparedness

<b>Tasks</b>	<b>Coordinating national actions related to risk preparedness with regulatory oversight over the RCC (Regional Coordination Centres)</b>
Priority level	1: Critical

Legal basis	Regulation (EU) 2019/941 (Art. 12)
Overview (status)	New task
WP objectives for 2021	To ensure that electricity crises with a cross-border impact are properly prevented or managed.
AWG input	The Electricity Working Group was informed about these activities.
Performance indicators and targets (deadlines)	Timely delivery of the technical assistance.
Achievement against target	In 2021, the Commission did not request ACER to provide technical assistance to Member States with a view to facilitating an agreement on regional and bilateral measures to be included in the risk-preparedness plan.

<b>Tasks</b>	<b>Amending or approving changes of a proposal for a methodology for assessing short-term adequacy - seasonal adequacy, week-ahead to intraday adequacy submitted by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/941 (Art. 8)
Overview (status)	This task is to be completed in 2020. Task potentially reinitiated in 2021, if required.
WP objectives for 2021	To amend or approve the short-term and seasonal adequacy methodology
AWG input	According to Article 24(2) of Regulation 2019/942, the Electricity Working Group is consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Achievement against target	No amendment was introduced in 2021.

<b>Tasks</b>	<b>Amending or approving changes to the methodology for identifying the most relevant electricity crisis scenarios in a regional context submitted by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/941 (Art. 5)
Overview (status)	New task
WP objectives for 2021	Amending or approving changes to the methodology for identifying electricity crisis scenarios in a regional context.
AWG input	The Electricity Working Group is informed about these activities and is subsequently consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely approval of the changes to the methodology.
Achievement against target	No amendment introduced in 2021.

<b>Tasks</b>	<b>Monitoring the security of supply measures and reporting regularly to the ECG</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/941 (Art. 18)
Overview (status)	New task
WP objectives for 2021	To ensure the security of electricity supply.
AWG input	The Electricity Working Group was informed about these activities.
Performance indicators and targets (deadlines)	Timely reporting to the ECG.
Achievement against target	ACER issued the results of its monitoring of security of supply measures as part of the <a href="#">wholesale electricity market monitoring report</a> (chapter 6). ACER reported to the ECG on 18 June 2021

	and 25 November 2021); ad-hoc email communications also took place.
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**IX. Tasks which are Subject to Specific Conditions**

**Tasks initiated by others and Opinions and Recommendations on the Agency’s own Initiative**

The following task foreseen in the Programming Document 2021 were not executed since ACER did not receive any related request or submission in 2021:

Decisions on investment requests including on cross-border cost allocation

“Peer reviews”, as submitted to the Agency pursuant to Article 6(5) of Regulation (EU) No 2019/942;

Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942;

Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions;

Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission;

Recommendations to assist NRAs and market players in sharing good practices, with regard to the implementation of the Network Codes and Guidelines, where necessary.

## PART II (a): MANAGEMENT

### 2.1 ADMINISTRATIVE BOARD

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

#### DECISIONS AND OPINIONS

The Administrative Board met 4 times in the course of 2021. In particular, the Administrative Board was convened in ordinary session on 28 January, 16 June 2021, 7 October 2021 and 16 December 2021.

It adopted the following 16 decisions:

Number	Subject Matter	Adoption
1	Internal Rules of Procedure for the Functioning of the Working Groups	28 January 2021
2	establishing the Retail Working Group - ACER	
3	appointment of two Members of the Administrative Board as reporting officers for the assessment of the annual performance of the Director for the reference period 1 January 2020 to 31 December 2020	
4	adopting the draft Single Programming Document for the years 2022-2024 and the provisional draft estimate of revenue and expenditure of ACER for the financial year 2022 including a draft Establishment Plan	
5	appointment of one Member of the Board of Regulators of the European Union Agency for the Cooperation of Energy Regulators	

6	appointment of one Member and one Alternate Member of the Board of Regulators of the European Union Agency for the Cooperation of Energy Regulators	*	4 March 2021
7	appointment of one Member and one Alternate Member of the Board of Regulators of the European Union Agency for the Cooperation of Energy Regulators	*	19 May 2021
8	Rules on the reimbursement of expenses and compensation of costs incurred by Members and Alternates of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators participating to the activities of the Administrative Board	**	7 June 2021
9	Rules for the Reimbursement of Expenses and Setting Indemnities - Board of Appeal		16 June 2021
10	Appointment of Members and Alternates - Board of Appeal	**	30 September 2021
11	Appointment of one Member of the Board of Regulators	*	10 December 2021
12	Appointment of two Members and one Alternate of the Board of Regulators	*	
13	Amending Decision No 19-2020 - Budget & Establishment Plans - Financial Year 2021		16 December 2021
14	Budget & Establishment Plan of the Agency - Financial Year 2022		
15	adopting the Anti-Fraud Strategy of the European Union Agency for the Cooperation of Energy Regulators for the period 2022-2024		
16	adopting the Anti-Fraud Plan of the European Union Agency for the Cooperation of Energy Regulators for the period 2022-2024		

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

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

The AB also adopted one opinion in the course of the year 2021:

Number	Subject Matter	Adoption
1	on the final accounts for the financial year 2020	** 16 June 2021

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

## RISK AND CONTROL ISSUES DISCUSSED

The AB was adopted the Anti-Fraud Strategy 2022-2024 and of the Action Plan containing the objectives and mitigating measures to address the risks identified through the risk assessment exercise performed by the Agency.

### 2.2 MAJOR DEVELOPMENTS

2021 was again marked by the **Covid19 pandemic**. Teleworking was the predominant operational mode in order to safeguard the health of staff, however the Agency also strived to introduce hybrid methods of work in order to ensure some “togetherness” time whenever the situation permitted it. Staff presence at the office was limited in line with the safety measures available, in full respect of the measures adopted by the Slovenian government.

The Agency’s Continuity Management Group (CMG), which included the Senior Management as well as selected staff members, continued to meet on a regular basis throughout the year, taking decisions and providing guidance to the Agency’s staff on the working arrangements, related safety measures, as well as HR and IT issues to be addressed.

While the pandemic and the related altered working methods continued to put a strain on the Agency’s resources, rendering, inter alia, recruitment procedures and onboarding of new staff members more difficult, measures to ensure business continuity allowed the Agency to continue delivering to the extent possible the tasks foreseen in its work programme.

2021 was also the first year in which the Agency collected **fees as a new source for the funding of REMIT related services**. The collection of fees, which constituted a new operational challenge for the Agency, proceeded smoothly and contributed to put the Agency’s REMIT activities on a more stable financial footing.

The Agency has taken a number of steps in the area of **digitalisation**. A number of IT tools have been developed to improve efficiency and use of resources, by shortening the processing time, minimising human error and improving transparency. Further efficiency gains were achieved by adopting shared services provided by the European Commission, such as ARES (Document Management) and Sysper (HR management). All these systems were designed with security and privacy concerns in mind and ensure higher standard and compatibility throughout the EU bodies. Data between the Agency and the Commission is transferred via a secure network (S-TESTA), avoiding the risk of unintentional disclosure.

In addition to automating the all budget and financial processes, the tools provide up-to-date, real-time information on the state of play of transactions, budget consumption, etc. ensuring business continuity of the operations and institutional memory (in cases of long-term absence or departure).



Sysper automates all HR-related requests (including parental and part-time leave requests), streamlines the appraisal and reclassification audit trail, facilitates the presentation of statistical data at all levels and standardises management of staff data such as rights and entitlements, personal files and career management for the Agency’s staff. ARES is the document management system in use in the Commission services: its deployment and use brought additional benefits to streamline data, document management and to integrate data and archives within the system of the European Institutions. In cooperation with CERT-EU the Agency orders and conducts regular vulnerability scans of core ICT systems to assess security and data protection issues and implements mitigation techniques to address them.

## 2.3 BUDGETARY AND FINANCIAL MANAGEMENT

### Revenue 2021

During the financial year 2021 the operations of the Agency were funded mainly from two sources of revenue: collected fees and the contribution from the general budget of the Union.

	2021	2020
Revenue	EUR '000	EUR '000
Subsidy from the EU general budget	14,819	17,297
Others	25	3
Fees and charges	8,760	-
<b>TOTAL REVENUE</b>	<b>23,604</b>	<b>17,300</b>

Initial approved appropriations for the financial year 2021 amounted to EUR 23,642,735 including contribution from EFTA states of EUR 384,372 and assigned revenue from previous year surpluses of EUR 198,348. In December 2021, the Agency amended its budget in order to align the level of planned fees and charges to the actual collection thus decreasing its budget by EUR 52,500. Recovery of undue payments occurred during 2021, and amounting to EUR 24,771 brought the total revenue for the year to EUR 23,603,506.

### Fees revenue 2021

As from the year 2021 the Agency is collecting fees from RRM’s based on Commission Decision (EU) 2020/2152 by applying the approved fees model to the transactions reported by each RRM. The estimation of the fees to be collected in any year is estimated based on the eligible costs that are to be incurred with handling, processing and analysing of the collected fees. There are mainly two categories of costs covered from the collected fees, namely the cost of staff involved in these activities within the MIT and MSC departments and the costs related to the REMIT IT system that supports the data collection and processing.

The costs budgeted to be covered and those actually covered by fees under these categories are presented in the table below.

<b>REMIT IT</b>	<b>2021 budgeted costs to be covered by fees</b>	<b>2021 actual costs covered by fees</b>
Infrastructure, hardware licenses, deployment, service desk and operations	1,530,000	1.737.276
Software maintenance, development, testing and software licenses	1,250,000	1,493,991
Surveillance and BI tools customisation, licenses and consultancy	900,000	1,150,000
Studies, technical writing, coordination, QA and information security	800,000	799,802
Business enhancements and development of surveillance and conduct tools - MSCD	150,075	149,650
Expert consultation MIT and MSC	700,000	433,410
Other related operational costs	57,250	4,076
	<b>5,387,325</b>	<b>6,466,971</b>
<b>Staff costs</b>		
Temporary Agents	2,093,457	2,020,963
Contract Agents	729,330	466,901
Seconded National Experts	87,500	51,246
	<b>2,910,287</b>	<b>2,539,111</b>
<b>Overheads</b>	<b>526,389</b>	<b>464,185</b>
<b>TOTAL 2021</b>	<b>8,824,001</b>	<b>8.771.500</b>

## Budget implementation 2021

The Agency's final adopted budget by Title is presented below:

Heading	Commitment Appropriations	Commitment Appropriations	Variation
Fund source - C1	2021	2020	2021/2020
Title 1 - Expenditure relating to staff and resources	11,684,506	10,148,347	15.14%
Title 2 - Agency's building and associated costs	4,138,861	3,355,501	23.35%
Title 3 - Operational expenditure	7,766,868	3,793,535	104.74%
<b>Total 2021 budget</b>	<b>23,590,235</b>	<b>17,297,383</b>	<b>36.38%</b>

The increase in the appropriations of 2021 within Title 1 as compared to 2020 of 15.14% mainly related to funds allocated to cover the increase in the number of staff and related annual indexation of remuneration.

Title 2 has seen a significant increase of 23.35% in 2021 as compared to 2020 mainly related to the legal expenses incurred in defending the appeals against the Agency’s decision in the Electricity operational area and the related translations of those decisions. In the course of 2021 the Agency issued 16 decisions in the field of electricity and gas to be applied by the Member States. The Agency’s independent Board of Appeal registered 10 cases during the year in which the Agency’s decisions have been contested.

The sudden increase seen in 2021 within Title 3 as compared to 2020 of 104.74% mainly related to a higher budget allocation derived from fees for the REMIT project, especially the upgrade of the IT infrastructure.

The implementation in terms of final adopted budget appropriations used for commitments was 94.06%, for payments it reached 65.96% and 28.10% payment appropriations were carried over to 2022.

Title	Final adopted budget (commitm. appropr.)	Assigned revenue (commitm. appropr.)	Carry-over of commit. appropr. from 2020	Total commit. appropr. available	Commitments made	Carry-over of commitment appropr. to 2022	Cancelled commit. appropr.
	1	2	3	4=1+2+3	5	6	7=4-5-6
1	11,685	3	0	11,687	11,211	0	476
2	4,139	25	0	4,164	3,622	10	531
3	7,767	0	0	7,767	7,370	0	397
<b>Total</b>	<b>23,590</b>	<b>27</b>	<b>0</b>	<b>23,618</b>	<b>22,203</b>	<b>10</b>	<b>1,404</b>

Due to the COVID-19 crisis, significant savings were identified under the allocated appropriations for missions and events.

Four lots of budgetary transfers within and between headings were approved in the course of 2021, with an amount of EUR 2,123,386.00 transferred between several budget lines.

At the end of the financial year an amount of EUR 6,628,165.28 was automatically carried forward into 2022 in order to honour the commitment of the Agency that remained open at 31 December 2021. Detailed information per budget line is presented under Annex II.

During the 2021 financial year the Agency did pay EUR 303.88 late payments interest to one supplier.

Commitments amounting to EUR 3,078,941.59 were carried forward from the financial year 2020 into 2021. Their implementation rate at 31 December 2021 was 95.57%.

The budget implementation by source of funding is presented in the table below:

Fund source C1 - current year appropriations	Appropriations	Committed	% Committed	Paid	% Paid	Balance Commitment	Balance payments
	(1)	(2)	(2/1)	(3)	(3/1)	(1-2)	(2-3)
TITLE 1 - Expenditure relating to staff and resources	11,684,506.00	11,210,692.73	95.94%	10,791,522.12	92.36%	473,813.27	419,170.61
TITLE 2 - Agency's building and associated costs	4,138,861.00	3,607,365.01	87.16%	2,294,787.79	55.44%	531,495.99	1,312,577.22
TITLE 3 - Operational expenditure	7,766,868.00	7,370,307.72	94.89%	2,473,890.27	31.85%	396,560.28	4,896,417.45
<b>Total</b>	<b>23,590,235.00</b>	<b>22,188,365.46</b>	<b>94.06%</b>	<b>15,560,200.18</b>	<b>65.96%</b>	<b>1,401,869.54</b>	<b>6,628,165.28</b>
<b>Fund source C4 - recovered appropriations</b>							
	(1)	(2)	(2/1)	(3)	(3/1)	(1-2)	(2-3)
TITLE 1 - Expenditure relating to staff and resources	-	-	-	-	-	-	-
TITLE 2 - Agency's building and associated costs	24,723.54	15,000.00	60.67%	6,417.77	25.96%	9,723.54	8,582.23
TITLE 3 - Operational expenditure	47.11	-	-	-	-	47.11	-
<b>Total</b>	<b>24,770.65</b>	<b>15,000.00</b>	<b>60.56%</b>	<b>6,417.77</b>	<b>25.91%</b>	<b>9,770.65</b>	<b>8,582.23</b>
<b>Fund source C5 - recovered appropriations previous year</b>							
	(1)	(2)	(2/1)	(3)	(3/1)	(1-2)	(2-3)
TITLE 1 - Expenditure relating to staff and resources	2,515.27	-	-	-	-	2,515.27	-
TITLE 2 - Agency's building and associated costs	-	-	-	-	-	-	-
TITLE 3 - Operational expenditure	-	-	-	-	-	-	-
<b>Total</b>	<b>2,515.27</b>	<b>0.00</b>	<b>0.00%</b>	<b>0.00</b>	<b>0.00%</b>	<b>2,515.27</b>	<b>0.00</b>
<b>Fund source C8 - carried over appropriations</b>							
	(1)	(2)	(2/1)	(3)	(3/1)	(1-2)	(2-3)
TITLE 1 - Expenditure relating to staff and resources	262,590.97	203,664.50	77.56%	203,664.50	77.56%	58,926.47	0.00
TITLE 2 - Agency's building and associated costs	1,283,445.29	1,234,289.69	96.17%	1,234,289.69	96.17%	48,815.62	0.00
TITLE 3 - Operational expenditure	1,532,905.33	1,504,534.28	98.15%	1,504,534.28	98.15%	28,371.05	0.00
<b>Total</b>	<b>3,078,941.59</b>	<b>2,942,488.47</b>	<b>95.57%</b>	<b>2,942,488.47</b>	<b>95.57%</b>	<b>136,113.14</b>	<b>0.00</b>

The Agency did not reach its targets for the implementation of its budget of the current year appropriations being short on the commitment appropriations 94.06% as compared to a target of 95% and 65.96% on payment appropriations as compared to the 75% target. The year 2021 was the first year in which the Agency collected fees from the Registered Reporting Mechanisms (RRMs) for the services it provides for the collection, handling and analysing of data reported by the energy market participants. Being the first year of fees collection, and with no prior experience in this domain, the Agency was cautious in contracting its resources and delayed the start of several operational projects planned to be covered by fees until the settlement of the first fees instalment, namely 30 April 2021. The impact was reflected in a slightly lower implementation of the commitment appropriations, a high level of carry-overs from the commitments open balances at year-end and lower implementation rate of payment appropriations. After the positive experience of the first year collection, the Agency is in a better position to implement its procurement plan without any delays and bring the level of

carry-overs to the annual target of 25% or even lower. The 95% of the funds carried over from the previous year has been reached to the level of 95.57%.

During the year regular ex-post controls of the underlying financial transactions were performed. No critical or important findings resulted from this exercise indicating high effectiveness of applied internal controls to the financial workflows.

**Procurement procedures – 2021**

Type of procedure	Number of procedures
Negotiated – value below € 1,000	18
Negotiated – very low value	41
Negotiated – low value – direct contract	0
Negotiated – low value – FWC	4
Negotiated – middle value – direct contract	2
Negotiated – middle value – FWC	1
Negotiated – point 11.1(e) of Annex I FR	0
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	10
Open – FWC (concluded in 2021)	5
Specific contracts, following FWC	29
Order forms, following FWC	122
<b>TOTAL</b>	<b>232</b>

A total number of 232 procurement procedures of different type were concluded in 2021.

% of procurement procedure types used (e.g. open/negotiated etc.):

31% of negotiated and 68% of open and contracts/orders resulting in concluded open procedures.

A split per type of procedures (administrative and operational) can be found under Annex VI.

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

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

The below table details the delegated tasks by function.

<b>Authorising officer by sub-delegation function and grade</b>	<b>Authorisation of:</b>	<b>Limit amount</b>
Head of Department – Corporate Services, grade AD 12	Individual and provisional commitments Legal commitments Payments orders Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations	EUR 750,000
Team Leader - Planning, Reporting and Horizontal Policies, grade AD 10	Individual and provisional commitments Legal commitments Payments orders Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations	EUR 300,000
Team leader – Budget, Finance and Procurement	Payments orders Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations	EUR 500,000
Financial Officer, grade AD 5	Payment orders Recovery orders Technical and accounting adjustments	EUR 20,000
Budget Assistant, grade AST 3	Payment orders Recovery orders Technical and accounting adjustments	EUR 20,000
Financial Assistant, grade AST 3	Payment orders Recovery orders Technical and accounting adjustments	EUR 20,000

The access rights of all financial actors to the financial systems, including those of the authorising officers by delegation, are checked annually against the issued delegations and

nominations. No irregularities were identified. The delegations and nominations for the financial year 2021 were signed in December 2020.

## 2.5 HUMAN RESOURCES MANAGEMENT

In 2021, the Agency carried out different selection procedures to cover its vacancies in term of new positions for 2021 and turnover of staff. At the end of 2021, the vacant posts consisted of three Temporary Staff positions, four Contract Staff positions and one SNE position. In addition to the 2021 selection procedure, the agency is launching various positions to fill the new posts received for 2022.

The Agency succeeded in recruiting the planned newcomers in 2021 by including conditional clauses in the contract of employment to address the lack of medical checks before employment due to the COVID-19 situation. Several newcomers were sent to undergo the pre-recruitment medical visit in November and December 2021, in agreement with the European Commission services.

At the end of 2021, almost one quarter (23.4%) of the Agency's workforce was covered through the traineeship programme and interim agency workers. This temporary solution, only partially covering the needs of the Agency, will be rebalanced in the future years with the adopted increase of the FTE allocated to the agency by the budgetary authorities.

During 2021, the Agency continued to face the COVID-19 situation in Slovenia and manage the business continuity of its operations. A Continuity Management Group (CMG), composed by the senior management of the Agency and responsible for HR, IT and security, was established in March 2021 and has been operational ever since. The agency began implementing its strategy on the new ways of working as from fall 2021, with a gradual return to the office, but the Covid-19 situation in Slovenia rapidly deteriorated again and the Agency returned to remote working until the beginning of 2022.

In the course of 2021, several action plans were finalised and implemented. The following plans related to staff management were consolidated:

- SES – Staff Engagement Survey and actions as indicated by the working group: on 15 July 2021, the Senior Management (SM) adopted an Action Plan 2021; the plan is based on the short list of actions proposed by the SES Working Group.
- Action plan from the working group on the new ways of working.
- Equality and Diversity action plan, stemming from the creation of an ad-hoc working group and its analysis of the action needed to better foster diversity management at the agency.

Various initiatives were initiated and implemented in 2021, such as a) a structural system of exit interviews; aimed to collect feedback and improve staff' career and experience in the agency, b) a buddy-mentoring scheme, aimed to support young colleagues in their career at the agency and life in Ljubljana, c) an external legal support system for staff.

Moreover, an ambitious plan of rescaling of different HR areas was implemented in 2021, culminating, with the consultancy of Deloitte (FWC of the Commission on HR services), with an intense effort in the following areas:

- Implementation of a 360 degree feedback exercise, by conducting a survey for staff and preparing reports and an analysis based on the results, including an overall assessment of the agency;
- Implementation and integration of the agency's competencies framework, with the revision of the standardised aspirational competencies for each agency's job profile (vacant or filled), including the identification of competencies needed for a determined task, in line with the agency work programme, aimed to guide managers in the allocation of current resources and in drafting job descriptions and selection notices;
- Improvement of professional development (to be initiated in 2022), with the implementation of the 'ACER academy', a new training programme which will include a matrix of different learning and development activities for staff, according to their role and career in the agency and a catalogue of pre-determined learning and development activities and their path of implementation;
- Development of analysis and strategy for efficiency gains (to be initiated in 2022), with a comparative analysis of the workload distribution, organisational structure and tasks allocation to teams, common practices from similar organisational by providing suggestions on how to organise the work of the agency better, taking into consideration the new hybrid way of working (remote and on site).

The Agency kept on working very closely with its Staff Committee, to ensure greater cooperation of staff, increased transparency in the decision making process and a more effective use of the resources available. The collaborative internal projects were related to staff engagement, the revision of the appraisal and reclassification process, the lessons learned on the COVID-19 situation, the increase of staff professional development, diversity and inclusion in the Agency.

The Agency is committed to increase and boost its communication to staff, increasing the initiatives to make the workforce more cohesive (HR coffees and days, organised by the



HRM Team). The intranet has also been updated significantly to the benefit of a better communication to the workforce.

**Implementing rules**

No new implementing rules were adopted in 2021

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

**Flexi leave days / Grade**

CONTRACT TYPE	CATEGORY	GRADE	No. OF DAYS
TA	AD	11	4.5
TA	AD	10	4
TA	AD	9	3
TA	AD	8	14.5
TA	AD	7	5.5
TA	AD	6	9
TA	AD	5	11
TA	AST	6	3.5
TA	AST	5	8.5
TA	AST	4	1.5
TA	AST	3	3.5
CA	FGIV	17	1
CA	FGIV	16	4.5
CA	FGIV	15	0
CA	FGIV	14	1.5
CA	FGIV	13	2.5
CA	FGIII	8	0
CA	FGIII	9	1.5
CA	FGII	2	0
SNE	SNE		2
<b>TOTAL</b>			<b>81.5</b>

### Compensatory special leave / Grade

CONTRACT TYPE	CATEGORY	GRADE	No. OF DAYS
TA	AD	12	0
TA	AD	11	0
TA	AD	10	0
TA	AD	8	0
TA	AD	7	0
TA	AD	5	0
CA	FGIV	16	0
<b>TOTAL</b>			<b>0</b>

For information on the follow-up to HR-related Internal audits see section 2.8.1.

## 2.6 STRATEGY FOR EFFICIENCY GAINS

The Agency recognises the need to streamline its structure and internal organisation to become a more modern and agile organisation, and, in 2021, it already implemented different activities and concentrate efforts to this extent. The Agency's aim is to maintain and enhance the efficiency of its operations, while seeking to support activities in peak demand for extra resources for short or extended periods. The Agency has increased its efforts in identifying priority tasks and reprioritising its actions. It is pursuing a culture of continuous improvement and elasticity in the organisational chart of the agency, with the implementation of structural changes aimed to increase the cooperation within the teams and departments.

A process for internal mobility is in place since 2020, aiming to assess the needs and the resources on a regular and ad-hoc basis. In 2021, this resulted in a re-design of the organisational structure and the movement of the electricity infrastructure team to the newly redefined Gas Department (now Infrastructure, Gas and Retail Department).

As a decentralised agency, ACER is regularly re-assessing, optimising and streamlining its support functions and administrative processes. This is done by various means: knowledge sharing and introduction of best practices from other agencies, review, documentation and automation of certain processes, centralisation of certain support functions. One indicative example is the management of the Covid-19 situation in 2021, whereby the agency benefited from its active participation in the EUAN Advisory Group on Return to Office strategy, taking advantage from the experience of other institutions in sharing knowledge and common practices, aimed to implement a sound management of the situation.

Moreover, in 2021, the agency availed itself of the support of external consultants to better foster internal processes and seek for additional efficiency gains. Through the work package dedicated to (workload) analysis and strategy, in 2022 ACER will be able to complete the development of a sound talent management strategy by outlining the current state of ACER, identifying critical gaps/issues, and recommending solutions for organisational (re-)structuring and task allocation that ensure quality, efficiency and effectiveness of the Agency's work.

The organisational analysis which is being conducted in 2022 entails the following:

- a) Definition of an organisational structure in order to address the management of the Agency's tasks vis-à-vis the limited resources, and to ensure that work can be performed with maximum quality, efficiency and effectiveness,
- b) provision of analysis and strategy for efficiency gains including a comparative analysis of workload distribution in all entities of the organisation's current state baseline (number of FTEs per unit, spread of contracts and grades), efficiency metrics on organisation level (span of control, organisational layers and structure), Agency's performance (HR related processes) and operating model, analysis of gap between the current and desired future state (possible options for organisational design and restructure).

Moreover, a number of tools have been developed to improve efficiency and the use of resources; the tools complement each other and are managed in view of ensuring efficient use of resources (the tools have shortened the processing time, minimised human error and improved transparency). In addition to automating the processes, the tools provide up-to-date, real-time information on the state of play of transactions, budget consumption, etc. and ensure business continuity of the operations and institutional memory (in cases of long-term absence or departure).

The Covid-19 crisis and the related increase in teleworking for business continuity needs has also brought about an ongoing reassessment and readjustment of the Agency's IT needs.

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

### **2.7.1 INTERNAL AUDIT SERVICE (IAS)**

In 2020, the Internal Audit Service (IAS) conducted a full risk assessment covering all processes, which resulted in a new IAS Strategic Audit Plan for the Agency (SIAP) covering the period 2021-2023.

Based on the SIAP, the IAS performed an audit on Planning, budgeting and monitoring in 2021. The objective of the audit was to assess the adequacy of the design and the effectiveness and efficiency of the management and control systems put in place by the Agency for the planning, budgeting and monitoring processes. The Final Audit Report was

received on 17/01/2022 and it contains one (1) very important recommendation on the Implementation of Activity Based Budgeting, functional time recording and workload assessment and one (1) important recommendation on Procurement planning, monitoring and reporting. An Action Plan was defined and accepted by IAS, and its implementation will start in 2022.

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

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

#### **AUDIT OF THE 2020 ANNUAL ACCOUNTS**

In February 2021 the European Court of Auditors (ECA) audited the 2020 annual accounts of the Agency. The audit included analytical audit procedures, direct testing of transactions and an assessment of the key controls of the Agency's supervisory and control systems, aiming to confirm the legality and regularity of the transactions underlying the Agency's accounts.

#### **OPINION ON THE RELIABILITY OF THE ACCOUNTS**

According to ECA, the Agency's annual accounts accurately depicted, in all material respects, its financial position at 31 December 2020, the results of its operations and its cash flow for the year, in accordance with the provisions of its financial regulation and the accounting rules adopted by the Commission's accounting officer.

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

In the opinion of ECA, the revenue underlying the accounts for the year ended 31 December 2020 is legal and regular in all material respects.

The payments underlying the accounts for the year ended 31 December 2020 are legal and regular in all material respects, apart from a total amount of EUR 752 654 that represent 3.71% of all payments made by the Agency in 2020. For these a qualified opinion on the legality and regularity of payments underlying the accounts was issued by ECA.

#### **AUDIT OF THE 2021 ANNUAL ACCOUNTS**

ECA audited the Agency's 2021 annual accounts in the period December 2021 - February 2022. As part of the process, ECA issues its preliminary findings to which the Agency has the opportunity to reply. Once the replies are analysed by ECA and agreed upon they will be included in their annual report expected to be published towards the end of 2022.

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

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

#### **2.8.1 RECOMMENDATIONS ISSUED BY THE IAS**

##### **FOLLOW-UP ON EARLIER RECOMMENDATIONS**

In 2021, the Agency continued to implement activities defined in action plans from previously conducted IAS audits:

1. In 2017, the IAS performed an audit on the HRM function of the Agency. The objective of the audit was to assess the adequacy of the design and the effectiveness of the internal control system related to human resources management in the Agency. The audit resulted in five recommendations: one critical, two very important and two important; one critical recommendation was later downgraded to very important and one very important recommendation was later downgraded to important. The action plan has been fully implemented in 2020 and closed by the IAS in 2021.

2. Following the IAS audit on IT Security in the Agency and Information Security in the “REMIT” domain in 2018, the IAS provided eight important recommendations in the area of the management and control systems put in place by the Agency for its IT security arrangements across the entire Agency and for the information security related to the ‘REMIT’ domain. Two important recommendations were fully implemented and closed by the IAS in 2020, four important recommendations were fully implemented and closed by the IAS in 2021, in line with the Action Plan approved by the IAS. One important recommendation was fully implemented and closed by the IAS in 2022. One remaining important recommendation has been significantly delayed due to delayed delivery of our contractor’s - stemming from COVID-19 negative impact on their timelines for delivery of tasks in conjunction with reprioritization of work in order to deal with the Agency Remit Information System (ARIS) issues which were the result of previous years of underfunding - but has also been fully implemented and reported to the IAS in 2022 and is expected to be closed.

3. Following the IAS audit on the Implementation of REMIT in 2020, the final audit report contained six recommendations: two very important and four important. Two very important and three important recommendations were fully implemented and reported to the IAS in 2021, in line with the Action Plan approved by the IAS, and closed by the IAS in 2022. One remaining important recommendation is to be implemented in 2022, in line with the Action Plan approved by the IAS.

## FOLLOW-UP THE IAS STRATEGIC INTERNAL AUDIT PLAN

In 2020, the IAS conducted a full risk assessment covering all processes (administrative, financial, operational and IT) which resulted in a new IAS Strategic Audit Plan for the Agency (SIAP) covering the period 2021-2023.

The following high-risk processes were identified during the full risk assessment:

1. Decision-making process under Article 2(d) of Regulation (EU) 2019/942
2. Planning, budgeting and monitoring
3. Stakeholder management and external communication
4. Appeal process (reserve audit topic)

### 2.8.2 OBSERVATIONS ISSUED BY THE ECA

The observations of ECA, the Agencies replies and the actions taken by the Agency in 2021 in order to address these findings are detailed below:

#### **ECA observation:**

In its audit report for the 2019 financial year, the ECA concluded that several specific contracts under a framework contract for IT services were irregular, because no competitive procurement procedure had been carried out. Specifically, certain ordered items and services were not covered by the price lists of the bids submitted for the contract. Payments made in 2020 for out-of-price list items under this framework contract amounted to €752 654 (3.71 % of the total payment appropriations available in 2020).

#### **Agency's reply:**

The Agency acknowledged the Court's findings for the higher usage of goods and services from the 'out of price list' under the 20 million euros contract. It notes at the outset that the nature of the services under this contract does not enable an all-inclusive list of services and contracts. Following the ECA preliminary observations on 2019 ACER accounts, received in May 2020, the Agency analysed in detail the out of price list purchases in all ongoing specific contracts, and prepared an action plan to monitor the status of the orders. The implementation of the action plan is regularly monitored by the management of the Agency. The Agency is committed to minimise the use of the out of price list to the extent possible (with the aim to bring it below 10% of the value of each specific contract), taking into account the continuity of its operational activities.

#### **Agency actions in 2021:**

The Agency follows an internal action plan to monitor the status of the out of price list orders (i.e. already ordered or planned) with the aim to limit the ordering of out-of-price list

products/service to the extent possible. All orders potentially including out-of-price list products/services are checked against the action plan. The implementation of the action plan was regularly monitored by the management of the Agency and the Administrative Board of the Agency.

**ECA observation:**

The ECA draws attention to the fact that, unlike other institutions (such as the European Commission), the Agency did not adopt internal rules to address the continuity of delegations in cases where delegating or delegated authorising officers leave their posts. The role of authorising officer is different in agencies and institutions. Institutions themselves perform the role of authorising officer; they delegate the associated responsibilities to members of their staff. Directors-General and Secretaries-General of institutions are authorising officers by delegation only. In agencies, though, the role of authorising officer is attributed personally to the Executive Director, who implements the budget under his/her own responsibility. This means that, in the absence of specific rules stating otherwise, the replacement of an Executive Director entails changes in the management of delegations. The new Executive Director took office on 1.1.2020. However, only on 18.12.2020 he issued retroactively a confirmation of the delegations of two staff members. This meant that for almost one year, the members of the staff in question authorised operations based on the delegations issued by the previous Executive Director. This constitutes a significant internal control weakness: it resulted in budgetary commitments, legal commitments and payment operations being approved without a valid delegation from the Executive Director to the staff members who approved them (Article 41 of the Agency's Financial Regulation).

**Agency's reply:**

The Agency considered that the power of acting as authorising officer and the duty to implement the budget are intrinsically tied to the function of the Director. Consequently, the Agency was acting in good faith, in line with the general administrative law principle. Thus, during the period January – December 2020, no action was deemed required to maintain the validity of the delegation acts, issued by his predecessor. The Agency welcomes the recommendations of the Court to adopt implementing rules similar to those of the Commission and has taken action in that direction.

**Agency action in 2021:**

On 22 December 2021 the Agency adopted the internal rules on the delegation of authorising powers for the purpose of budget implementation, thus implementing the Court recommendation.

## Other observations that do not call the Court's opinion into question

### ECA observation:

The Agency has had high levels of carry-overs for several years. In 2020, carryovers of committed appropriations were high for two budget titles: Title II (building and associated costs) and Title III (operating expenditure). For Title II, carry-overs were €1.5 million, or 44 % of the total amount of the Title (€0.8 million, or 31 %, in 2019). For Title III, carry-overs were €1.4 million, or 36 % of the total amount of the Title (€1.9 million, or 46 %, in 2019). The carry-overs are mainly accounted for by IT hardware and consultancy services. They are only partially explained by the nature of the Agency's core activities: these include the maintenance, operation, support and development of the REMIT IT systems, tasks which span several months and can extend beyond the end of the year. However, a significant part (19 %) of Title II carry-overs to 2021 were committed in December 2020; this was only partially justified (e.g. for the purchase of IT development services ordered in December 2020, the Agency consumed €67 895 from the budget for financial year 2020 while it should have used the budget for 2021). This indicates a structural issue. To resolve it, the Agency should further improve its budget planning and its implementation cycles.

### Agency's reply:

The Agency acknowledges the level of carry-overs as being a total of 18.93% of its total appropriations and would like to bring to the Court's attention the fact that a significant shortage of financial resources has been covered via a budget amendment only in the last month of the year. During the audited period the Agency faced an unprecedented high level of appeals against its decisions that required a high level of legal counselling and translations. In accordance with Articles 12 and 13 of the Financial Regulation applicable to the general budget of the Union and the Commission's Guidance on Commitments and Payments, the Agency carried over, as an exception to the principle of annuality, administrative payment appropriations that were duly contracted in the year 2020, in order to cover the open obligations identified at the end of the year. Over the years the Agency kept reducing its rate of funds carried over from 40.05% in 2016, to 24.19% in 2017, to 20.27% in 2018 and 18.65% in 2019, aiming to keep it below 25% in the future years as well.

### ECA observation:

In the 2019 financial year, observations were raised about an irregular recruitment procedure at ACER. In 2020, we audited recruitment procedures again, and found some weaknesses in the internal controls. These weaknesses affected the candidate evaluation process, but did not call into question the audited procedures' legality or regularity. Five candidates were erroneously deemed to be eligible, and were consequently admitted to the selection



procedure. However, this did not affect the outcome of the procedure, because these candidates did not reach the necessary threshold to be invited to interview. In another case, a candidate was invited to interview even though their application did not specify their knowledge of languages, as required in the vacancy notice. In the two audited selection procedures, no detailed scoring method was set out; this led to an inconsistent attribution of scores by individual selection committee members for some candidates. In a further procedure, two of the selection committee members did not complete the declarations of potential conflict of interest properly. This did not ensure a complete and reliable audit trail, indicating weaknesses in the internal controls of the Agency. Such weaknesses may expose the Agency to high reputational and financial risks, especially in cases of appeals and litigation by unsuccessful candidates. ACER should significantly improve its selection and recruitment procedures, and rigorously apply the controls in place to ensure full compliance with the principles of equal treatment and with the applicable rules and regulations.

**Agency's reply:**

Even though the errors identified in the audited recruitment procedures did not affect their final results, the Agency has thoroughly revised its checks and controls and has adopted several measures of improvement, such as: preliminary eligibility checks; eligibility of all applicants evaluated and confirmed by the selection committee (SC); double checks by Human Resources Management (HRM) of the final pre-scoring table; each applicant is required to declare under his/her own responsibility to meet the eligibility criteria; applicants' eligibility against the language requirements will be assessed at the time of the written examination and oral interview; SC members agree on the scoring methodology and definition of points per selection criterion before given access to applications. The methodology and scoring matrix may be shared with the applicants; a note on the agreed methodology will be kept in the selection file; the performance summary of each candidate will be recorded in the evaluation grid to justify the overall scoring. The feedback may be shared with the candidates; interviews will be recorded in line with the recommendations of ECA; SC members should continue to deliberate jointly on each candidate; the Conflict of Interest declaration has been revised. HRM is actively looking for an IT solution to avoid further errors during the process.

All observations and the Agency's replies can be found in ECA's publicly available report ([Annual report on EU agencies for the financial year 2020 \(europa.eu\)](https://eca.europa.eu/Annual-report-on-EU-agencies-for-the-financial-year-2020)).

## FOLLOW-UP ON EARLIER RECOMMENDATIONS

### Previous years' observations from ECA

#### ECA observation:

The Agency may consider introducing differentiated budget appropriations to better reflect the multiannual nature of operations.

#### Agency's reply:

During 2020 and for the implementation of the Commission's decision on fees, the Agency has obtained external expert advice confirming that with the imposed universal budgeting model the introduction of differentiated budget appropriations would not be possible, as under the mentioned model, the yearly surplus needs to be returned to the general budget of the Union and cannot be retained by the Agency to cover for scheduled payments in the upcoming years.

#### ECA observation:

ACER carried out a recruitment procedure to fill a post. But it calculated the evaluation scores incorrectly, which led to a candidate being selected unduly. This contravenes the principle of equal treatment, and shows a failure to apply effective internal controls.

#### Agency's reply:

The Agency acknowledges the clerical mistakes, which occurred in the audited procedure. The Agency recorded the non-compliance in its register of procedural incidents, will report it in the Consolidated Annual Activity Report for 2020 and already took measures to prevent such incidents in the future (by reinforcing the HRM team; organising information session on the rules of procedures; revising the current rules and procedures). The Selection Committee invited more than eight candidates to the written examination and the oral interview mostly due to the low participation rate of invited candidates in past procedures. Considering that the acceptance rate of job offers varies between 50 and 100% and that the reserve lists are often intended for the recruitment of several candidates and are renewed for several years in a row, it is often more cost efficient to invite more than eight applicants to the interview stage to have a reserve list with high quality candidates that will not be exhausted immediately. The Agency agrees that such decisions should be documented in advance.

#### ECA observation:

We found evidence suggesting that the Agency had been using interim workers to make up for a lack of directly employed staff members. All but one of the interim workers working at

ACER were performing long-term tasks. ACER should assign permanent and ongoing tasks to directly employed members of staff, not interim workers.

**Agency's reply:**

The Agency has taken full consideration of the requirements stated in the European and Slovenian legislation, related to temporary agency workers (interim workers). Given the budgetary and human resources constraints, the Agency considers that the tasks related to FG II contract staff could be performed by interim staff, as per the nature of profiles set in the Agency's framework contract. The Agency acknowledged that temporary agency workers should not be assigned if the user undertaking (in this case the Agency) has a permanent need for a specific job position. The Slovenian legal regulations offer no interpretation what is to be considered as "temporary" assignment. The Ministry of Labour and the Labour Inspectorate of Slovenia provided only opinion and certain flexibility in the interpretation of some aspects of the legislation. As a general approach, at the time of availing itself of temporary agency workers, the Agency always considers the temporary nature of the assignments.

**ECA observation:**

The Agency had high rate of carry-overs which were only partially justified. This is indicative of a structural issue. To resolve it, the Agency should further improve its budget planning and its implementation cycles.

**Agency's reply:**

The Agency notes that in line with Art.12 (6) of ACER Financial Regulation, carry forward, is a legitimate way to implement the budget and to apply budget principles. The Agency also points out that its level of carry forwards, being 18,15% of the overall 2019 budget, represents the strong commitment of the Agency to bring down the level of carry forward in comparison to the previous years. The fact that the Agency's budget has been underfunded during the past years, is negatively affecting its overall planning. To that effect, planned purchases have to be postponed due to the lack of funding and are awaiting savings from other areas of operation. After the last budget review of the year, the Agency managed to bundle in a transfer the necessary funds to cover the needs of additional IT equipment and consultancy that were on hold during the year. Given the short period until year-end, the goods/services ordered could no longer be delivered nor paid in 2019, therefore the related open commitment balances were carried forward into 2020.

**ECA observation:**

ACER did not comply with internal control principle 12 of its own internal control framework, under which the Agency must record deviations from the rules and procedures in its register of exceptions. This undermines the transparency and the effectiveness of the Agency's internal control systems.

**Agency's reply:**

When a deviation from established processes and procedures takes place without prior authorisation given by the Agency, a procedural incident occurs. In such cases, justifying, analysing and documenting the event and the circumstances triggering it occur ex-post and aims at identifying appropriate measures to be taken in order to avoid similar cases from occurring in the future. The Agency has registered the procedural incident identified by the Court early in 2020, after all the analysis of facts and remedies have been carried out and shared with the new Director, who took office on 1 January 2020.

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

Not applicable.

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

The Agency duly informed the discharge authority on progress achieved in the fields requested in the discharge report 2019 and acted upon the recommendations received.

**Performance**

*The Discharge Authority called upon the Agency to continue to develop its synergies and increase cooperation and the exchange of good practices with other Union agencies with a view to improving efficiency (human resources, building management, IT services and security).*

The Agency remains an active member of the Performance Development Network (PDN) of Agencies. It is chairing the Working Group on Accredited European Schools and the Working Group on Diversity and Inclusion. ACER regularly re-assesses, optimises and streamlines its support functions and administrative processes. Knowledge sharing and introduction of best practices from other agencies is a key aspect of this process. It also participates in inter-institutional procurement procedures. The Agency actively participates in the ICTAC (Information Communication Technology Advisory Committee) to streamline and align information and communication technology projects with other EUAs, exchange ideas about

current and future IT needs and also on ideas of future “shared services”. The Agency participates in the EU Agencies’ Advisory group on Covid19 contributing, sharing, but also exchanging a number of practical aspects and arrangements in terms of the impact of the pandemic on all the operations of the Agency. Reflecting the Agency’s approach to environmental challenges it also participates in the Greening Network initiative of the European agencies where environmental issues are discussed and experiences shared, including how to increase environmental awareness and responsibility as well present issues related to EMAS implementation.

*The Discharge Authority also stressed the importance of increasing the digitalisation of the Agency in terms of internal operations and management procedures.*

In this respect, the Agency has taken a number of steps in the area of digitalisation, to further ensure efficiency gains. To that end, a number of IT tools have been developed to improve efficiency and use of resources, by shortening the processing time, minimising human error and improving transparency. Further efficiency gains were achieved by adopting shared services provided by the European Commission, such as ARES (Document Management) and Sysper (HR management). All these systems were designed with security and privacy concerns in mind and ensure higher standard and compatibility throughout the EU bodies. Data between the Agency and the Commission is transferred via a secure network (S-TESTA), avoiding the risk of unintentional disclosure.

In addition to automating the all budget and financial processes, the tools provide up-to-date, real-time information on the state of play of transactions, budget consumption, etc. ensuring business continuity of the operations and institutional memory (in cases of long-term absence or departure).

Sysper automates all HR-related requests (including parental and part-time leave requests), streamlines the appraisal and reclassification audit trail, facilitates the presentation of statistical data at all levels and standardises management of staff data such as rights and entitlements, personal files and career management for the Agency’s staff. ARES is the document management system in use in the Commission services: its deployment, in 2019, brought additional benefits to streamline data, document management and to integrate data and archives within the system of the European Institutions. In cooperation with CERT-EU the Agency orders and conducts regular vulnerability scans of core ICT systems to assess security and data protection issues and implements mitigation techniques to address them.

## **Staff policy**

*The Discharge Authority reiterated its concern about the lack of gender balance at the Agency's senior management level (five men and one woman) and on the administrative board (11 men and 7 women).*

Given the long-term contracts of the Agency's senior management members (excluding the Director, who is not selected by the Agency and has a fixed-term mandate), the Agency is currently not in a position to alter in the short term the existing gender balance of its senior management. The Agency however took good note of the comment: it strives to ensure that no gender discrimination occurs in its selection procedures, which are fully based on experience and merit. The current gender composition of the Agency's staff, including of its senior management, is the result of the gender composition of the candidates applying for positions at the Agency and of their performance in the selection procedures.

The Agency' Staff Committee has set up a working group dedicated to diversity and inclusion. The aim of the group is to identify best practices and actions fostering diversity and discuss their possible implementation at ACER. An action plan is currently being implemented by the agency, which also signed the EU Agencies Network (EUAN) charter on diversity and inclusion.

*The Discharge Authority noted with concern that the Agency had been using interim workers to perform long-term tasks to make up for shortages for directly employed staff members.*

The Agency noted that given the structural lack of human resources across the whole agency, the interim service contract provides various types of support to the extent necessary to fulfil ACER's mandate. Without the use of interim staff, including for the support on longer term tasks, the Agency would not be able to deliver on its mission.

*The Discharge Authority also encouraged the Agency to pursue the development of a long-term human resources policy framework which addresses work-life balance, lifelong guidance and career development, gender balance, teleworking, geographical balance and the recruitment and integration of persons with disabilities.*

The Agency has in place such policies, which encompass work/life balance, career developments, equality and diversity action plans to better foster and celebrate diversity in its workforce. The Agency is putting even more emphasis on learning and development efforts, both via on-the-job training and via external training, supported by the necessary funding.

## **Sustainability**

*The Discharge Authority regretted that the Agency has not set CO2 reduction targets; welcomed however the efforts made by the Agency to create an environmentally friendly framework and all the measures taken by the Agency to reduce its carbon footprint, its energy consumption and to develop a paperless workflow.*

The Agency noted that it is aligning its internal processes to good practices, such as the Eco-Management and Audit Scheme (EMAS) standards, with a view to reduce the environmental impact of its operations. It drafted a greening action plan for 2021 and 2022 by defining concrete actions to reduce its carbon footprint. Given that the Agency is renting the building and the building is protected by the cultural heritage of the host country, the Agency has limited possibilities to introduce transformative changes that would impact the reduction of its carbon footprint on the buildings front. However, the Agency has undertaken negotiations with the building's landlord, leading from 2021 onwards to the electricity provided to the Agency being produced 100% from renewable energy sources.

The Agency also contributes and participates in the Greening Network initiative of the European agencies to further assess potential possibilities to become more environmental friendly and expressed its interest to participate in the Interinstitutional Framework Contract for "Consultancy in environmental management systems and offsetting of greenhouse gas emissions". With the help of this Framework Contract, the Agency intends to identify its carbon footprint and incorporate the results in the greening action plan.

In addition, by employing the procurement and other electronic tools of the Commission, namely the e-invoicing, e-tendering and e-submissions, as well ARES, the Agency maintains a paperless workflow for its procurement procedures as well as its financial transactions. The Agency is looking into employing qualified electronic signatures to further reduce the usage of paper.

The Agency also took greening aspects into consideration in the Data Centre renewal project. By adopting cloud services via the SIDE II and Cloud II framework contracts, the computing footprint in the Agency's main data centre will be reduced, thus also having a significant impact on power and cooling requirements needed.

## **Procurement**

*The Discharge Authority regretted that the Court issued a qualified opinion based on two irregular procurement procedures, for which the Agency had failed to carry out appropriate competitive procurement procedures which means that all associated payments are irregular; it was extremely worried that irregular payments which have been made under the contracts*

*arising from those irregular procurement procedures represent 6.3% of all payments made by the Agency in 2019.*

The Agency addressed this issue as described under 2.8.2 OBSERVATIONS ISSUED BY THE ECA.

### ***Prevention and management of conflicts of interest and transparency***

*The Discharge Authority noted with concern the finding of the Court that the recruitment procedures were not duly applied to the selection process, resulting in the failure by the Agency to comply with the principle of equal treatment and apply effective internal controls.*

As addressed in the audit findings, the Agency has been working on improving its recruitment procedures. This involves a number of different steps, ranging from ensuring a truly diverse field of candidates, to quality checks and more in-depth interviewing approaches, all aiming at giving clear guidelines for all agency staff involved.

### ***Internal controls***

*The Discharge Authority noted with concern that the Court found that the register of exceptions was not properly filled in; it recommended that the Agency registers all exceptions and non-compliant events in the register, and that they are duly taken into account in the annual assessment of the internal control framework.*

Following the occurrence of a procedural incident, the Agency undertook an ex-post analysis aiming to identify appropriate measures to be taken in order to avoid similar cases from occurring in the future. The Agency registered the procedural incident, identified by the Court early in 2020, after all the analysis of facts and remedies were carried out and shared with the new Director, who took office on 1 January 2020. The Agency has also registered procedural incidents related to the pandemic situation and the virtual way of working.

*The Discharge Authority also called on the Agency to report to the discharge authority on the developments of the ongoing actions for IT governance and market surveillance under REMIT.*

Following the IAS audit on IT Security in the Agency and Information Security in the “REMIT” domain in 2018, the IAS provided recommendations in the area of the management and control systems put in place by the Agency for its IT security arrangements across the entire Agency and for the information security related to the ‘REMIT’ domain. Two important recommendations have been implemented and closed by the IAS in 2020 and four important recommendations have been implemented and closed by the IAS in 2021, in line with the Action Plan. Two remaining important recommendations were partially implemented and were reported to the IAS in 2021.



Following the IAS audit on the Implementation of REMIT in 2020, the Agency established an Action Plan, due to begin in 2021, to address all the recommendations, which was approved by the Internal Audit Service. The measures already undertaken and planned address the weaknesses indemnified as important through (1) monitoring and definition of KPIs for the REMIT activities, (2) activity planning and resource allocation for REMIT issues, (3) data governance for the Agency's REMIT information system, (4) stakeholders' management and communication, (5) set-up of the market monitoring process, (6) update of the procedural framework for the implementation of REMIT.

## FOLLOW-UP ON EARLIER RECOMMENDATIONS

The Agency followed up on previous recommendations of the Discharge Authority related to the potential sharing of resources on overlapping tasks among other Union agencies with similar activities, further pursue digitalisation, report on harassment cases,

Some issue inevitably recurred (e.g. gender balance, procurement procedures, internal control standards) and are being addressed as explained in the section above.

## 2.10 ENVIRONEMENT MANAGEMENT

With the adoption of its [Greening Action Plan 2021-2022](#) in January 2021, the Agency pledges to reduce its own carbon footprint. The Agency's goal to become greener and more digital is of particular importance for an EU Agency that plays a pivotal role in the delivery of Europe's ambition to be climate neutral by 2050.

The Agency adopted its first Greening Action Plan identifying 17 concrete actions that aim to reduce its carbon footprint in the course of 2021 and 2022, with a strong cross-departmental effort. This commitment shows the Agency's readiness to implement concrete greening actions, and to support the efforts of its staff and members embracing innovation and sustainable ways of working. The Greening Action Plan details the current state of play, as well as the planned actions of the Agency factoring in the available resources.

The actions of the Agency fall into six thematic domains, inspired by the European Commission's *Feasibility and Scoping Study for the Commission to Become Climate Neutral by 2030*:

- Design sustainable buildings and working space;
- Optimise energy consumption and systems for buildings;
- Reconsider air travel and promote sustainable travel modes;
- Reduce commuting emissions for transport and mobility;
- Reduce Greenhouse Gas emissions from purchase and consumption;

- Manage and communicate for other sources of emissions.

For additional information see Annex VII.

## 2.11 ASSESSMENT BY MANAGEMENT

In 2021, the Agency continued to implement effective policies, management tools, and monitoring and control procedures, aiming to ensure the achievement of its objectives by employing its human and financial resources efficiently.

Ex-ante and ex-post control procedures, with a commitment to improve the efficiency and effectiveness of organisational processes, continued to be implemented

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

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

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

Revised guidelines on financial circuits and segregation of duties at the Agency were adopted in 2019. The guidelines define specific roles and responsibilities for all those taking part in the financial circuit. In December 2021 the Agency also adopted internal rules on the delegation of authorising powers for the purpose of budget implementation.

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

Controls and supervisory checks performed in 2021 provided no evidence of significant or repetitive errors in reporting by Agency departments, budget execution, human resources management or KPI implementation. Monitoring reviews showed no instances of inadequate

or ineffective controls that could expose the Agency to key risks. The Agency is implementing the recommendations of the Court of Auditors and the Internal Audit Service to further upgrade its supervisory capabilities.

Based on the results achieved in 2021 (both financial and operational) and the additional assurance provided by external and internal audits, it can be concluded that the control environment established by the Agency works as intended and provides reasonable assurance of achievement of objectives and the legality and regularity of activities and transactions.

On 29 November 2021 **the Agency's Director attended discharge the hearing** at the CONT committee of the European Parliament to explain the measures that the Agency planned to take to address the issues raised within the discharge procedure.

## **PART II (b): EXTERNAL EVALUATIONS**

Article 45 of the Agency's founding regulation states the following:

By 5 July 2024, and every five years thereafter, the Commission, with the assistance of an independent external expert, shall carry out an evaluation to assess ACER's performance in relation to its objectives, mandate and tasks. The evaluation shall in particular address the possible need to modify ACER's mandate, and the financial implications of any such modification.

Where the Commission considers that the continued existence of ACER is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed after carrying out an appropriate consultation of stakeholders and of the Board of Regulators.

The Commission shall submit the evaluation findings referred to in paragraph 1 together with its conclusions to the European Parliament, to the Council and to ACER's Board of Regulators.

The findings of the evaluation should be made public.

By 31 October 2025, and at least every five years thereafter, the Commission shall submit to the European Parliament and the Council a report evaluating this Regulation and, in particular, ACER's tasks involving individual decisions. That report shall, as appropriate, take into account the results of the assessment pursuant to Article 69(1) of Regulation (EU) 2019/943.

The Commission, where appropriate, shall submit a legislative proposal together with its report.

## PART III: ASSESSMENT OF EFFECTIVENESS OF INTERNAL CONTROL SYSTEMS

### 3.1 EFFECTIVENESS OF INTERNAL CONTROL

The internal control system designed provides reasonable assurance of achieving effectiveness, efficiency and economy of operations, reliability of reporting, safeguarding of assets and information and prevention, detection, correction and follow-up of fraud and irregularities.

The established internal control system is based on segregation of duties, the risk management and control strategy, avoidance of conflicts of interest, appropriate audit trails and data integrity in data systems, and established procedures for monitoring performance and for follow-up of identified internal control weaknesses and threats.

Financial management and control is rooted in such core processes as procurement (from the assessment of needs to the selection of suppliers to the award decision), financial operations (all processes establishing the financial commitment to payment, contract monitoring and recoveries with ad hoc procedures in place are 100% verified through ex ante verification) and supervisory measures (including ex post controls and audits), which form the basis for achieving sound financial management.

Legality and regularity is audited independently by the ECA.

ACER exercises the following internal controls:

- Preventive controls – designed to keep errors or irregularities from occurring. Many of these controls are based on the concept of segregation of duties. The Agency is committed to further develop this type of controls, recognising the resources available.
- Detective controls – designed to identify errors or irregularities that already exist. They are implemented to ensure that the preventive controls are working efficiently. When procedural errors are identified they are recorded in the Register of procedural incidents of the Agency.
- Monitoring controls – designed to ensure that internal controls continue to operate effectively over time. When implemented, the Agency is able to identify and correct problems on a timely basis, and produce more accurate financial and other information and statements of periodic evaluation of internal controls, follow-up of irregularities identified and supervisory reviews of the different risks and mitigating measures.

The Agency adopted its revised Internal Control Framework in December 2018<sup>7</sup>. There are seventeen internal control principles that are structured in five components, which form the Agency’s internal control system as of January 2019, namely:

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

The implementation of the principles is monitored via indicators that help to assess the level of compliance and effectiveness of the internal control measures. The result of the assessment made in 2021 is the following:

Overall Assessment of Internal Control System		
Internal control Component	Present and functioning	Explanation/Conclusion
<b>CONTROL ENVIRONMENT</b> <b>Principle 1-5</b>	CATEGORY 2 - The component is present and functioning well but some improvements are needed.	<p><b>P1 We demonstrate a commitment to integrity and ethical values:</b> A welcome pack, including a Code of good administrative behaviour, is distributed to all newly recruited staff, including ethical matters. All the material on awareness raising initiatives in ACER on ethics, integrity and conflict of interest and/or fraud is available to all Staff on the Intranet. The Agency also re-appointed the Ethics Correspondent in November 2020 for a period of two years. In 2021 a training on Ethics and Integrity was organized for newcomers via EU Learn.</p> <p>The staff engagement survey is conducted every two years, so there are no results to be presented in 2021.</p> <p>Staff meetings with the Director are organised at least once a month. In 2021, due to the teleworking regime, all meetings were organised online. The aim was to keep staff informed throughout the year on the developments in the Agency; acknowledging that there are various channels available to ensure this.</p> <p><b>P2 Management exercises oversight of the development and performance of internal control:</b> The declaration of Assurance of the Director is present in the CAAR. The reporting on the status of follow-up to IAS recommendations is done regularly, it is a standing point in the agenda of the meetings of the Administrative Board and is reported on in the CAAR.</p> <p>On 31/01/2022, there is one open and significantly delayed recommendation (“Steering the Contractor’s operational management”) from the 2018 “IT Security in ACER and Information Security in the “REMIT” domain”</p>

<sup>7</sup> Decision No. 17/2018 of the Administrative Board of the Agency for the Cooperation of Energy Regulators 13 December 2018 on the adoption of the Internal Control Framework of the Agency for the Cooperation of Energy Regulators.

		<p>IAS audit, leaving two partially mitigated risks. The actions for this recommendation are, however, implemented and reported in March 2022.</p> <p><b>P3 Management establishes structures, reporting lines and appropriate responsibilities in the pursuit of objectives:</b> The Agency defined Rules of Procedure for its bodies in previous years, and adopted the revised Rules of Procedure for Working Groups in 2021. The Agency has defined its process architecture and is currently developing Standard Operating Procedures and other Quality Management documentation. Quality management procedures and workflows for process definition and improvement were defined and an intranet page on Quality Management is regularly updated. The Agency has updated Guidelines on financial circuits and segregation of duties. Deputising arrangements have been successfully implemented according to the Administrative Board decision 15-2015 on laying down the policy and procedure for deputising in SYSPER 2 in 2020, when Sysper was available to ACER staff.</p> <p><b>P4 We demonstrate a commitment to attracting, developing and retaining competent individuals in alignment with objectives:</b> A staff engagement survey was not conducted in 2021. Results from 2020 were the following: overall participation was 82.5% (compared to 76% in the last survey). 43% of staff agree that the learning opportunities they get help them maintain their professional knowledge and skills updated, and 59% of staff agree that working in the Agency helps them to develop professionally, placing the average at 51%, which is below the target of 75%. The Competency Framework of the Agency is in place. Establishment plan fulfilled at 95.77%. 100% of selection notices advertised on at least 2 media channels (target: 90%).</p> <p><b>P5 We hold individuals accountable for their internal control responsibilities in the pursuit of objectives:</b> Appraisal reports were concluded according to the applicable rules and standards, reclassification decisions were taken by the Director, on the basis of proposals made by each Head of Department, following consultation with the Staff Committee and recommendations made by a Joint Reclassification Committee (JRC).</p>
<p><b>RISK ASSESSMENT</b> <b>Principle 6-9</b></p>	<p>CATEGORY 2 - The component is present and functioning well but some improvements are needed.</p>	<p><b>P6 We define objectives with sufficient clarity to enable the identification and assessment of risks relating to the achievements of objectives:</b> In June 2021 a mid-term risk management exercise was performed. A new risk management review was launched in October 2021 in preparation for drafting the Programming Document.</p> <p>A staff engagement survey was not conducted in 2021<sup>8</sup>. Results from 2020 were: 76% of staff agreed they had a clear understanding of their work-related objectives, and 74% of staff agreed they feel that their work contributes</p>

<sup>8</sup> The survey is typically launched every second year.

		<p>to the achievement of ACER’s objectives, placing the average at 75%, above the target of 70%.</p> <p>The execution of commitment appropriations was 94.06% and execution of payment appropriations was 65.96%, due to longer transition period offered for the settlement of fees due for the year. The collection of fees spread between 30 April when the first instalment was due to 30 September when the second instalment payments were received. Procurement procedures especially for REMIT were started in the second half of the year when the fees collection rate became known.</p> <p>The cancellation of payment appropriations was 4.43%.</p> <p><b>P7 We identify risks related to the achievement of objectives across the organisation and assess risks as a basis for determining how the risks should be managed:</b> A risk management exercise is conducted at least once a year as part of the AWP process. In June 2021 a mid-term risk management exercise was performed. A new risk management review launched in October 2021. Risks are followed-up in the AAR.</p> <p><b>P8 We consider the potential for fraud in assessing risks related to the achievement of objectives:</b> Fraud risk assessment is performed annually. A new Anti-Fraud Strategy was adopted in 2021. The Guidelines on Management of CoI concerning staff involved in selection, recruitment or reclassification procedures were adopted in 2018 and being applied in all selection procedures.</p> <p><b>P9 We identify and assess changes that could significantly impact the internal control system:</b> The preparation of the AWP includes an assessment of risks that could have an impact on the internal control system. Assessment of risks is done also on an ad-hoc basis, as necessary.</p>
<p><b>CONTROL ACTIVITIES</b> <b>Principle 10-12</b></p>	<p>CATEGORY 2 - The component is present and functioning well but some improvements are needed.</p>	<p><b>P10 We select and develop control activities that contribute to the mitigation of risks to the achievement of objectives:</b> Business continuity arrangements identified in the ACER Business Continuity Plan were tested regularly during 2021. In addition, the BIA and the BC Strategy were reviewed with points approved by the Management. The standard cycle of BC was re-established.</p> <p>One of the measures taken to maintain business continuity during the COVID-19 pandemic was the establishment of the Continuity Management Group (CMG) to guarantee a proper chain of decision-making in the pandemic setting. The 4 eyes principle was ensured in all financial workflows. The segregation of duties among financial actors is clearly defined in the Guidelines on financial circuits and segregation of duties. Ex-ante legal checks are performed on all procurement procedures in line with the Procurement Guidelines for Project Managers. Delegations and nominations of financial actors are in place for every budgetary year.</p>

		<p><b>P11 We select and develop general control activities over technology to support the achievement of objectives:</b> The ICT Strategy is older than three years. The delay was mitigated by the fact that the Steering Committee met regularly during this period of time and provided oversight and strategic direction in the ICT domain. Furthermore, a new horizontal cluster was formed – the IT Strategy and Planning cluster. Therefore, the effectiveness of the principle is not affected. There were 3 information security incidents identified in 2021. The number of incidents increased over the beginning of the pandemic. This was in part expected due to an increased number of attacks against all EU Institutions and Agencies.</p> <p><b>P12 We deploy control activities through corporate policies that establish what is expected and through procedures that put policies in action:</b> Exceptions and incidents reported were reviewed and registered and reported in the CAAR. In 2021, one exception and 11 incidents (mostly related to pandemic circumstances) were registered in the Registers.</p>
<p><b>INFORMATION AND COMMUNICATION</b> <b>Principle 13-15</b></p>	<p>CATEGORY 1 - The component is present and functioning well.</p>	<p>All targets achieved.</p> <p><b>P13 We obtain or generate and use relevant quality information to support the functioning of internal control:</b> A Share Point tool is used for collecting information regarding KPI and PI monitoring and reporting which provides input towards the progress reports. Also, Business Intelligence tools are used to provide accurate data to support management decisions.</p> <p><b>P14 We communicate information internally, including objectives and responsibilities for internal control, necessary to support the function of internal control:</b> The whistleblowing policy together with other fraud awareness information are published on the Anti-Fraud intranet page. The Agency has developed a SOP for cooperation with OLAF and follow-up on investigations. All Internal Control related information and training material is also being published on the intranet page accessible to all staff.</p> <p><b>P15 We communicate with external parties about matters affecting the functioning of internal control:</b> Changes and developments in the internal control system are communicated and reported in the CAAR.</p>
<p><b>MONITORING ACTIVITIES</b> <b>Principle 16-17</b></p>	<p>CATEGORY 2 - The component is present and functioning well but some improvements are needed.</p>	<p><b>P16 We select, develop and perform ongoing and/or separate assessments to ascertain whether the components of internal control are present and functioning:</b> The audit Action Plans are being implemented and regularly reported to the Administrative Board (AB) and annually reported in the CAAR. IC is being assessed quarterly and reported to the AB and annually in the CAAR and discharge authority.</p> <p><b>P17 We assess and communicate internal control deficiencies in a timely manner to those parties responsible for corrective action, including senior management as appropriate:</b> The results of the</p>



		<p>continuous and specific assessments have been properly disclosed in the CAAR. Almost all actions of the IAS Action plan are being implemented according to the deadlines, except a few, where new deadlines for implementation have been agreed. On 31 January 2022, there is one significantly delayed recommendation that was still open<sup>9</sup>, but has been fully implemented and reported to the IAS in 2022 and is expected to be closed.</p>
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## OVERALL MANAGEMENT OF RISK

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

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

As a result of the exercise, the management identified risks considered to be both likely and with a potentially significant impact on Agency activities. The identified risks concerned the implementation of REMIT due to staffing issues and potentially inadequate IT tools. The activities subject to critical risks concerned the operation of the Centralised European register of energy market participants (CEREMP) and the Agency’s REMIT Information System (ARIS) and the market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation.

In 2021 a mid-year risk review was performed in June to re-assess the risks originally foreseen during the planning exercise. Risks related to the surge in legal appeals against Agency decisions were identified as a critical risk. As appeals are highly time consuming and require resources, which the Legal Services Team is lacking, efficient use is made of external legal counsel to ensure that the Departments could also here continue to rely on external legal counsel.

The Agency also notifies its risk assessment to the European Commission and participates in peer reviews of the Performance Development Network of Agencies.

<sup>9</sup> Based on the IAS audit on IT Security in the Agency and Information Security in the “REMIT” domain in 2018

As in previous years, the Agency's management monitored the achievement of the Work Programme objectives through the Agency's KPIs using the Agency's 'traffic light' system (see Annex I). Most KPIs usually remain the same from year to year to ensure consistency in comparisons, but the targets to be achieved in the year in question are set on an annual basis. The KPIs were discussed on a quarterly basis at coordination and management meetings. Specific attention was paid to objectives for which related KPIs identified delays or underperformance, and measures were identified to address such issues. The KPIs will be modified for the following years on the basis of recommendation received from the IAS particularly in the REMIT field.

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

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

2021 marked the end of the period of validity of the Anti-Fraud Strategy 2019-2021. In November 2021 the Agency analysed the implementation of the strategy, resulting in an Implementation Report. The main findings were:

- Actions in the Action Plan that are of regular nature were implemented by the Agency according to the timelines, i.e. raising awareness on fraud prevention and detection (through courses and intranet pages), applying ex-ante and ex-post controls also as fraud prevention and detection measures, conducting risk assessment exercises, reporting on the implementation of the strategy through the CAAR, etc.
- The Standard Operating Procedure "Cooperation with OLAF and follow-up on OLAF Recommendations" was approved on 19/09/2019
- The area of information security has been subject to the implementation of a series of measures in accordance with the Audit Action Plan.

Based on these findings and the fraud risk assessment carried out within the general risk assessment exercise, the Agency drafted a new Anti-Fraud Strategy for the period 2022-2024 and an accompanying Action Plan containing a set of objectives and mitigating measures in order

to address the risks identified. The strategy was adopted by the Administrative Board in December 2021<sup>10</sup>.

The **Prevention of Psychological & Sexual Harassment** is regulated by Decision AB N°06/2017 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 16 March 2017 on the Agency for the Cooperation of Energy Regulators' policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment. The Director appointed a Confidential Counsellor in June 2021. A Manual of Procedures of the ACER's network of Confidential Counsellors is defined and an awareness raising on-line training was organized in June 2021 for all staff members. There were no reported cases of harassment in 2021.

In 2021 the Agency continued to implement its comprehensive **policy for the prevention and management of conflicts of interest**, including provisions related to staff (with stricter requirements for management), its boards, working groups and task forces. The Agency thus collected the annual declarations of interest of its management staff (Director and Heads of Department), of AB members and alternates, of BoR members and alternates, and of members and alternates of the Board of Appeal (BoA), as well as of the chairs and vice-chairs of the Agency's working groups and of the convenors of the Agency's task forces. The declarations were reviewed in accordance with the policy and published on the Agency's website together with the CVs of the persons in question. No cases of potential conflict of interest were identified in 2021.

The Agency continues to implement the Decision on outside activities and assignments and **on occupational activities after leaving the Service**. Under Article 16 of the Staff Regulations, after leaving the service, staff members continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. Any former staff member who intends to engage in an occupational activity within two years of leaving the service must inform his/her former institution accordingly so that it can take an appropriate decision in this respect and, where necessary, forbid an activity or grant approval subject to appropriate restrictions.

The outgoing Director left the Agency at the end of 2019 and notified the Agency on his future employment, in line with existing requirements. In the course of 2020 and early 2021 the Agency and its Administrative Board dealt with the post-employment activities related to the Director.

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<sup>10</sup> DECISION No 15/2021 OF THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS of 16 December 2021 adopting the Anti-Fraud Strategy of the European Union Agency for the Cooperation of Energy Regulators for the period 2022-2024 and repealing Decision 06/2019 of the Administrative Board of the Agency

The following restrictions were imposed:

- for a period of two years after leaving the service, obligation not to deal with files, cases or matters – including related or subsequent case and/or court proceedings – related to the work carried out during the last three years of service with the Agency, and whenever it might entail relying upon information received in the line of duty and that have not been made public;
- for a period of two years, abstaining from lobbying or engaging in advocacy vis-à-vis staff of the Agency, directly or on behalf of third parties, on matters for which he has been responsible during the last three years of service with the Agency;
- for a period of two years after leaving the service, duty to inform the Agency in case of intention to engage in any other additional occupational activity, whether gainful or not,
- abstaining from having professional contacts, whether direct or indirect, with former colleagues at the Agency;
- without time-limits, in accordance with Article 17 of the Staff Regulations, statutory obligation to refrain from: i) any unauthorised disclosure of information received during the period of service with the Agency, unless that information has already been made public or is accessible to the public; and ii) exploiting insights of confidential nature in policy, strategy or internal processes acquired in the line of service and that have not yet been made public or are not commonly available in the public domain.

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

No restrictions were imposed following the notifications received on occupational activities to be pursued by staff members leaving the Agency.

### 3.2 CONCLUSIONS OF ASSESSMENT OF INTERNAL CONTROL SYSTEMS

<p><b>OVERALL ASSESSMENT</b>  Are all components operating together in an integrated manner?</p>	<p><b>CATEGORY 2 - The internal control system is present and functioning but some improvements are needed.</b></p>
<p><b>Is the overall internal control system effective?</b>  Category 1. Minor- Yes  Category 2. Moderate- Yes  Category 3. Major- Partially  Category 4. Critical- No</p>	<p style="text-align: center;"><b>Yes</b></p> <p><b>Based on the table on Overall Assessment of Internal Control System, presented in 3.1, the overall assessment is categorised into Category 2, where the internal control system is present and functioning well but some improvements are needed. It has therefore been concluded that the overall internal control system of the Agency is effective.</b></p>

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

*I, the undersigned,*

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

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

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

*Ljubljana, 16 June 2022*



*Olga BORISSOVA*

*Head of Department - Corporate Services*

## PART IV: MANAGEMENT ASSURANCE

### 4.1 REVIEW OF THE ELEMENTS SUPPORTING ASSURANCE

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

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

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

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

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

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

Apart from the exceptions and procedural incidents described in the following section, in 2021, no significant weaknesses requiring special attention, resources or actions were found. Based on the facts presented in the preceding sections, and in the light of the opinion expressed by the European Court of Auditors on the reliability of the accounts and the legality and regularity of the transactions underlying the accounts, it is safe to say that the Agency has established a working environment where risks are appropriately managed and where the internal control system works effectively and contributes to the achievement of the objectives.

This conclusion takes account of the Agency's concerted efforts to maintain a high level of effectiveness in its internal control environment, which entails constant assessment and strengthening of existing controls (considering cost-effectiveness and estimated added value against the additional cost incurred by the Agency) to maintain full compliance with the

requirements of Internal Control Framework of the Agency and to ensure it will continue to achieve the objectives in its Work Programmes in years to come.

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

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

In 2021, there was one (1) exception and 11 procedural incidents registered in the Registers, namely:

- Exception no. ACER/01/2021 related to an order form received from a contractor on 15/12/2021.
- Procedural incident no. ACER/2021/01 related to Measures put in place for Trainees due to COVID-19 pandemic: teleworking, the flexibility, exceptional extension of traineeship
- Procedural incident no. ACER/2021/02 related to recruiting a candidate with place of work Brussels for the first 7.5 months of the contract.
- Procedural incident no. ACER/2021/03 related to remote written tests and interviews using Skype for Business due to the COVID-19 pandemics.
- Procedural incident no. ACER/2021/04 related to conditional employment and remote on-boarding.
- Procedural incident no. ACER/2021/05 related to extension of the decision on teleworking to Interim staff of the Agency.
- Procedural incident no. ACER/2021/06 related to irregular use of Irregular use of a contract for postal services.
- Procedural incident no. ACER/2021/07 related to payment of the AB indemnities.
- Procedural incident no. ACER/2021/08 related to payment of the BoA indemnities.
- Procedural incident no. ACER/2021/09 related to failure to record an individual commitment before a legal commitment.
- Procedural incident no. ACER/2021/10 related to two language training requests not formally captured within the language training commitment for the year.
- Procedural incident no. ACER/2021/11 related to irregular use of Irregular use of a contract for postal services.



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

In 2021, the Agency received no critical recommendations from internal or external auditors. Furthermore, as provided in Part III above, most recommendations from previous years were implemented as planned, reported in a timely manner and most of them were approved by the relevant authority within 2021.

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

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

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

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

The authorising officer's declaration of assurance in the 2020 Annual Activity Report did not contain any reservations.

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

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

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

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

## 4.2 RESERVATIONS

By applying the commonly used practice, a materiality threshold is applied by the Authorising Office when deciding whether a reservation shall be made or not. The current threshold is set so as to include budgetary implications with an effect larger than 2.5% of the balance sheet value. This translates into EUR 168,000 for the financial year 2021.

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

## PART V: DECLARATION OF ASSURANCE

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

*In my capacity as authorising officer,*

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

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

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

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

*Ljubljana 16 June 2022*

*Christian Pilgaard Zinglensen (signature needed)*







Director






## Annexes

### ANNEX I: CORE BUSINESS STATISTICS - REPORTING ON KPIS





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

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


#### Human Resources Management

Task	Staff engagement /satisfaction
Objectives and deadlines (indicative)	Continue to develop an effective and efficient organisation in full compliance with the EU regulatory framework
<b>KPI 1</b>	<b>95% of completion of the Establishment Plan</b>
2021 result	Establishment plan fulfilled at 95.77 %. 
<b>KPI 2</b>	<b>Staff engagement survey (review to be performed every 2 years): 2/3 of staff satisfied or highly satisfied with the employment conditions at the Agency</b>
2021 result	Staff engagement survey was carried out in 2020, next one is planned in 2023. 
<b>KPI 3</b>	<b>100% of the eligible Agency's staff subject to performance appraisal undergo evaluation in the yearly exercise, in line with the established competency framework</b>
2021 result	100% of statutory staff was appraised with the 2021 exercise. 


## Budget Implementation and Audit

Task	Budget Implementation and Audit
Objectives	To achieve a high level of budget implementation for both commitment and payment appropriations.  To receive a positive opinion from the European Court of Auditors and implement its recommendations.
<b>KPI 4</b>	<b>At least 95% execution of commitment appropriations</b>
2021 result	Commitments implementation rate at the end of Q4 = 94.06% Target not achieved due to longer transition period offered for the settlement of fees due for the year. The collection of fees spread between 30 April when the first instalment was due to 30 September when the second instalment payments were received. Procurement procedures especially for REMIT were started in the second half of the year when the fees collection rate became known. 
<b>KPI 5</b>	<b>Minimum 75% execution of payment appropriations.</b>
2021 result	Payments implementation rate at the end of Q4 = 65.96% Target not achieved due to longer transition period offered for the settlement of fees due for the year. The collection of fees spread between 30 April when the first instalment was due to 30 September when the second instalment payments were received. Procurement procedures especially for REMIT were started in the second half of the year when the fees collection rate became known. 
<b>KPI 6</b>	<b>Cancellation of payment appropriations below 5%.</b>
2021 result	At the end of December 4.43% of the payment appropriations carried forward from 2020 have been cancelled. 
<b>KPI 7</b>	<b>Non-qualified opinion received from ECA and 75% of its recommendations implemented in line with the Agency's Action Plan.</b>
2021 result	Qualified opinion received from ECA for payments made for out of price list ordered items on contracts signed before the observation was received from ECA in 2020. 

**Internal Electricity Market and Infrastructure (Network Codes, Opinions, Recommendations, Decisions and Reports)**


Task	Timely adoption of the Agency Acts in the Electricity sector foreseen in the Work Programme and in the regulations relevant for the Agency
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation, as well as adoption of Electricity-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.  Various deadlines (depending on the act in question and the legal requirements).
<b>KPI 8</b>	<b>90% of opinions, reviews, recommendations and reports delivered on time.</b>
2021 result	All the tasks have been completed on time, with the publication (end of December) of the ACER's recommendation on CACM 2.0, which eventually concretised more than one year of intense work with NRAs, TSOs, NEMOs, the EC and stakeholders. 

**Internal Gas Market and Infrastructure and Security of Supply (Network Codes, Opinions, Recommendations, Decisions and Reports)**

Task	Timely adoption of the Agency Acts in the Gas sector foreseen in the Work Programme and in the regulations relevant for the Agency
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation, as well as adoption of Gas-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.  Various deadlines (depending on the act in question and the legal requirements).
<b>KPI 9</b>	<b>90% of opinions, reviews, recommendations and reports delivered on time.</b>
2021 result	<p>Q1</p> <ul style="list-style-type: none"> <li>- ACER/CEER report on pure H2 NW regulation - published on 9 Feb</li> <li>- P2G Regulation White Paper - published on 11 Feb</li> <li>- Tariff consultation HU - published on 15 Mar</li> </ul> <p>Q2</p> <ul style="list-style-type: none"> <li>- Tariff consultation (LT)</li> <li>- Congestion Report</li> <li>- Allowed revenue (tbc)</li> <li>- 2021 PCI Monitoring report</li> </ul> <p>Q3</p> <ul style="list-style-type: none"> <li>- MMR Gas wholesale - for info - published on 14 July</li> </ul> 



	<ul style="list-style-type: none"> <li>- Opinion on the Electricity National Development Plans - published on 19 July</li> <li>- ACER/CEER white paper on methane emissions - published on 22 July</li> <li>- BAL Implementation monitoring report 2021 - published on 20 July</li> <li>- Repurposing NG infra to pure H2 note - published on 26 July</li> </ul> <p>Q4</p> <ul style="list-style-type: none"> <li>- Tariff consultation (PL National) - published on 21 December</li> <li>- Tariff consultation (PL Transit) - published on 21 December</li> <li>- Tariff consultation (SI) - published on 19 November</li> <li>- Incremental capacity 2019-2021 summary report (optional) - published on 5 November</li> <li>- MMR Retail and Consumer protection - final - published on 9 November</li> <li>- ACER-ECS Summary Note on public consultation access to capacity - published on 10 November</li> <li>- ACER-CEER Position paper on H2 and gas decarbonisation - published on 20 December</li> </ul>
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### **Electricity and Gas Internal Market Monitoring**


Tasks	Annual Market Monitoring Report
Objectives and deadlines (indicative)	Objective: timely preparation of a high quality Annual Market Monitoring Report (and of its constituent volumes, published separately). More specifically: the report is to provide in-depth analysis of barriers to IEM integration and give recommendations to the European Parliament and Commission on how to remove them.  Expected completion date: November.
<b>KPI 10</b>	<b>Positive feedback on the report based on an online survey (70% satisfied or very satisfied).</b>
2021 result	All the E-related deliverables (70% report and electricity wholesale chapter, including a new section on barriers to price formation and barriers to entry) were issued on time. 

### **Market Integrity and Transparency**






Task	REMIT Analytics and Information Management
Objectives and deadlines (indicative)	To collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.  To operate the Agency's REMIT Information Systems operationally reliable.

<b>KPI 11</b>	<b>Key achievements (e.g. key projects) as well as continued measurement of % planned vs. delivered projects.</b>
2021 result	This indicator gives 98.5 % as an average value for 2021. Though some projects have been re-prioritised and re-scheduled during 2021 the planned activities were mainly delivered successfully. 
<b>KPI 12</b>	<b>Accuracy, Consistency, Completeness, Integrity and Timeliness of information, measured by the yoy % change of composite indicator of data quality metrics;</b> <b>AND</b> <b>99% of service availability, measured as an average availability of individual REMIT information management services.</b>
2021 result	The composite indicator for Accuracy, Consistency, Completeness, Integrity and Timeliness of information gives a value of 94.5 % for 2021. The yoy % change will only be evaluated for 2022 as 2021 was the first year of monitoring this KPI.  The REMIT Information services were on average available 97.5 % of the time required. The target of 99% was not achieved in 2021, mainly due to issues accumulated in the past. 

### Market Surveillance and Conduct

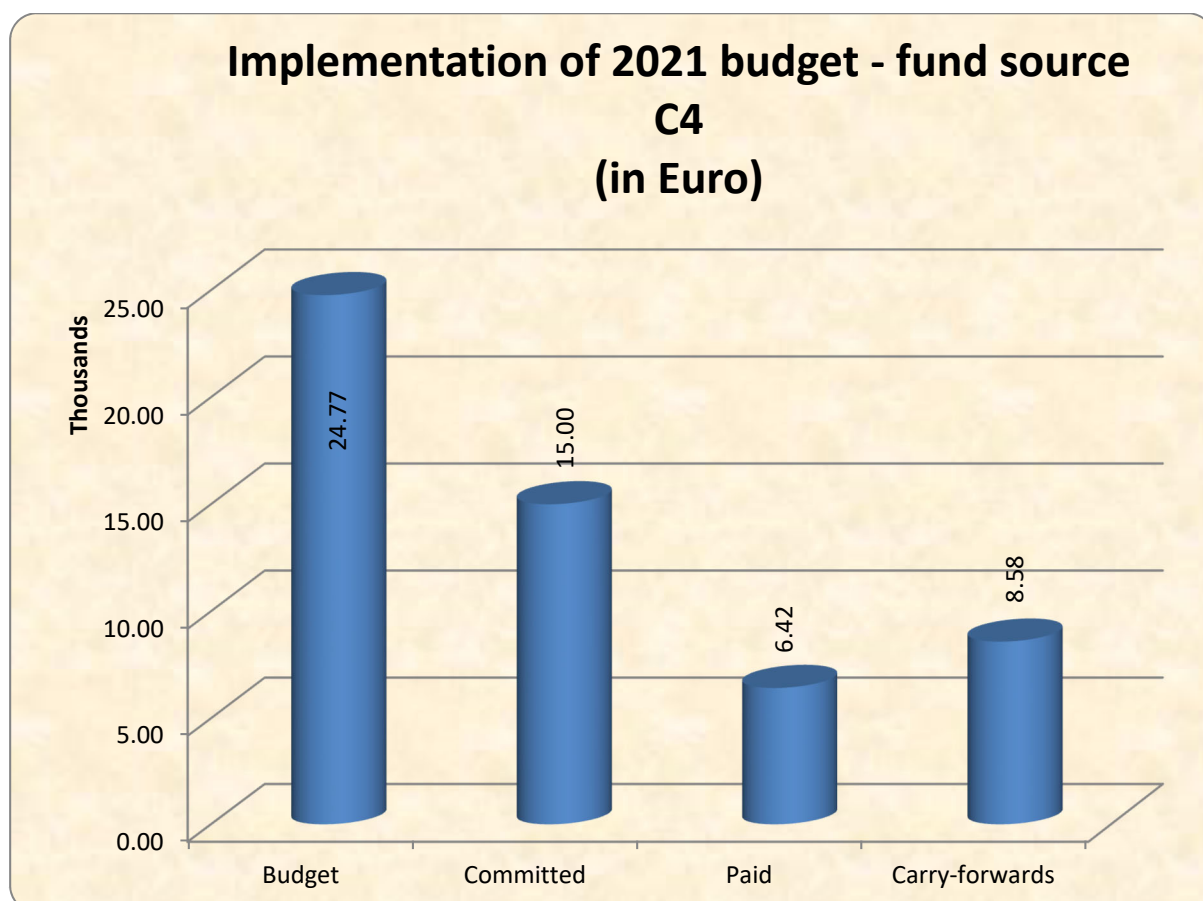
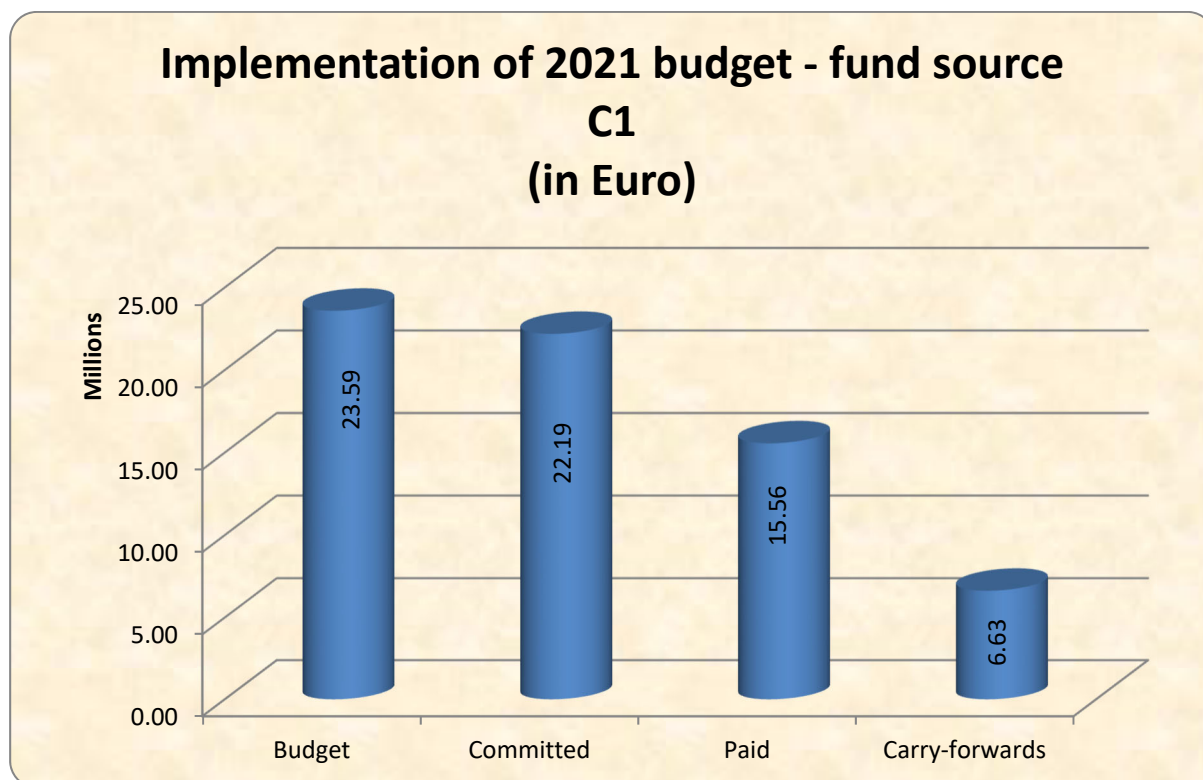
<b>Task</b>	<b>Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation, in cooperation with NRAs, on the basis of data collected in connection with the REMIT implementing acts. Ensure that NRAs and other relevant authorities apply market manipulation provisions under REMIT in a coordinated and consistent way.</b>
Objectives and deadlines (indicative)	Market Monitoring of the data collected according to Article 8 of REMIT. Increased integrity and transparency of wholesale energy markets. Detection of abusive practices under REMIT.  Aim to ensure that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way and coordinate investigations of alleged cross-border market abuse instances as required.
<b>KPI 13</b>	<b>100% of high priority alerts manually screened and transferred to NRAs.</b>
2021 result	REMIT data available in SMARTS remote screening environment. Due to delay in data availability in SMARTS (Q1 2021). Processing of backlog (2nd half of 2020) is delayed. We are experiencing a two month delay in alert screening for 2021. 



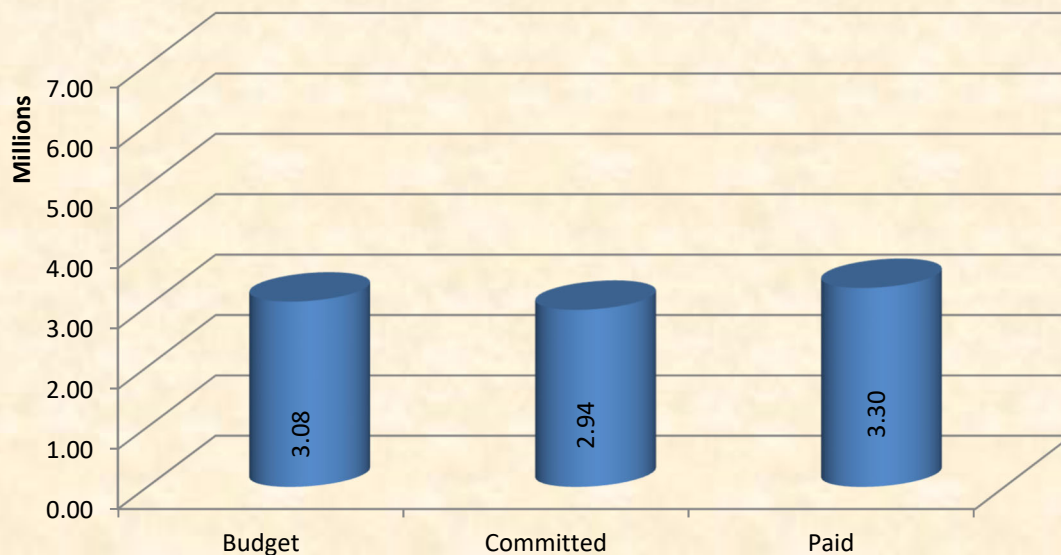
<b>KPI 14</b>	<b>16 initial assessments sent to relevant authorities.</b>	
2021 result	REMIT data available in SMARTS remote screening environment. Due to delay in data availability in SMARTS (Q1 2021). Processing of backlog (2nd half of 2020) was delayed. The Agency experienced a two month delay in alert screening for 2021. 11 PIAs were drafted and sent to relevant authorities in 2021.	
<b>KPI 15</b>	<b>At least 25% of REMIT breach cases pro-actively followed by ACER.</b>	
2021 result	On-going.	
<b>KPI 16</b>	<b>More than 100 REMIT breach cases triaged and reviewed on cooperation needs.</b>	
2021 result	On-going.	
<b>KPI 17</b>	<b>More than 75% of market abuse enforcement Decisions by NRAs quoting the ACER Guidance.</b>	
2021 result	On-going.	
<b>KPI 18</b>	<b>0% of the requests from NRAs of operational assistance on REMIT investigations accepted by ACER.</b>	
2021 result	On-going.	

## ANNEX II: FINANCIAL MANAGEMENT STATISTICS

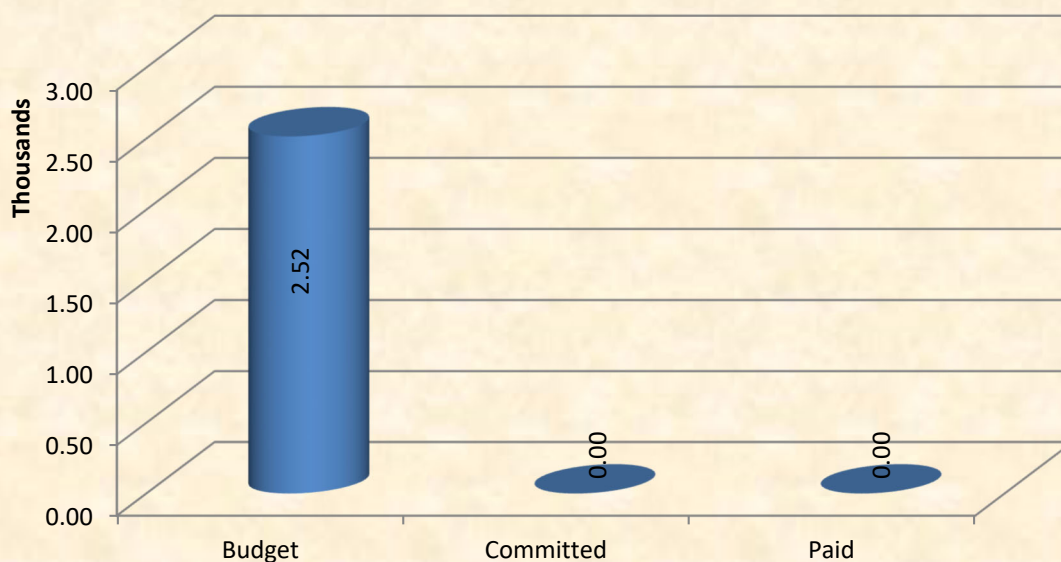
### Budget implementation by fund source



### Implementation of 2021 budget - fund source C8 (in Euro)



### Implementation of 2021 budget - fund source C5 (in Euro)



## Table Budget outturn and cancellation of appropriations

### Calculation budget outturn

Budget outturn of EU contribution - During 2021 the Agency received EU and EFTA contribution amounting to EUR 14.818.735 from which payments amounting to EUR 10.294.012.44 were made during 2021. At the end of 2021 the Agency carried forward payment appropriations amounting to EUR 3.134.353 to honour the open commitments. Unused appropriations carried forward from 2020 and amounting to EUR 138.968.39 were cancelled at the end of 2021. Exchange rate losses of EUR 176.73 were applied and resulted in a budget outturn of EUR 1.529.161,22 that will be returned to the general budget during 2022.

Budget outturn	2019	2020	2021
Reserve from the previous years' surplus (+)			
Revenue actually received (+)	16 243 389	17 299 898	14 818 735
Payments made (-)	-13 197 948	-14 052 215	-10 294 012
Carryover of appropriations (-)	-2 965 258	-3 081 457	-3 134 353
Cancellation of appropriations carried over (+)	118 181	126 274	138 968
Adjustment for carryover of assigned revenue appropriation from previous year (+)			
Exchange rate differences (+/-)	-16	604	-177
Adjustment for negative balance from previous year (-)			
<b>TOTAL</b>	198 348	293 104	1 529 161

### Budget outturn for received fees and charges

The first year of fees collection has seen the implementation of all received revenue

Budget outturn	2019	2020	2021
Reserve from the previous years' surplus (+)			
Revenue actually received (+)			8 771 500
Payments made (-)			-5 614 243
Carryover of appropriations (-)			-3 157 257
Cancellation of appropriations carried over (+)			
Adjustment for carryover of assigned revenue appropriation from previous year (+)			
Exchange rate differences (+/-)			
Adjustment for negative balance from previous year (-)			
<b>TOTAL</b>			0

## **Budget outturn information and justification**

During the financial year 2021 the operations of the Agency were funded from mainly two sources of revenue, namely collected fees and the contribution from the general budget of the Union.

	<b>2021</b>	<b>2020</b>
	<i>EUR '000</i>	<i>EUR '000</i>
Revenue		
Subsidy from the EU general budget	14,819	17,297
Others	25	3
Fees and charges	8,760	-
<b>TOTAL REVENUE</b>	<b>23,604</b>	<b>17,300</b>

Initial approved appropriations for the financial year 2021 amounted to EUR 23,642,735 including contribution from EFTA states of EUR 384,372 and assigned revenue from previous year surpluses of EUR 198,348. In December 2021, the Agency amended its budget in order to align the level of planned fees and charges to the actual collection thus decreasing its budget by EUR 52,500. Recovery of undue payments occurred during 2021, and amounting to EUR 24,771 brought the total revenue for the year to EUR 23,603,506.

### **Cancellation of appropriations from fund source C1**

During the year 2021 the Agency has cancelled the following appropriations:

- From Fund source C1 EUR 1.401.869,54
- From Fund source C8 EUR 136.453,12
- From Fund source C5 EUR 2.515,27

Being the first year of fees collection the Agency took a rather conservative approach regarding the launching of the procurement procedures, especially those that were planned to be covered by fees.

The entry into force of the Commission Decision (EU) 2020/2152 on fees due to the Agency, on 17 December 2020, allowed through Article 8 a transition period for all parties involved providing additional time to adjust to the new requirements and implementation of fees model. Also allowed, was payment in instalments for those entities whose volume of fees contribution

exceeded EUR 250,000. The Agency sent out at the end of January 2021 all the debit notes with the first settlement date being 30 April 2021 and the second 30 September (in accordance with Article 4.2 of the same Decision). About 65% of the fees revenue was expected to be collected by the first deadline, 30 April 2021, with the remaining at the end of quarter three of 2021.

The analysis of the fees collection rate shortly after the first instalment was due, revealed a successful revenue collection rate and the Agency re-evaluated the risk for the second instalment from high to low, thus gaining confidence that the procurement procedures to implement the collected and still expected revenue from the second instalment may start without running the risk of not being backed up by available funds.

The late start of the procurement procedures resulted in an increased conglomeration of procedures in the second half of the year stretching the human resources allocated to process them all. Also to be noted, that with the additional funds provided through fees, the number of procurement procedures concluded in 2021 (200 procurement procedures) with the same number of allocated human resources, was nearly double compared to 2020 (109 procurement procedures). The implementation of the concluded contracts stretched over into 2022, thus leading to a high level of payment appropriations being carried over into 2022, but also to an overall budget implementation rate slightly off the 95% target.

### **Cancellation of appropriations from fund source C8**

Appropriations amounting to EUR 136,453.12 were cancelled at the end of the 2021 financial year and will be returned to the general budget in the course of 2022.

The cancelled amount was mainly due to lower than expected cost of Board meetings, actual cost of building maintenance and utilities consumption, less than expected postage and telecommunication costs, consultancy on REMIT projects and lower than expected number of claims received from the contribution made to staff towards the home office equipment.

### **Cancellation from fund source C5**

The amount of EUR 2,515.27 recovered during 2020 from a case of overpaid schooling fees has been automatically carried over into 2021 but was never committed and can be returned to the general budget.

## BUDGET APPROPRIATIONS AND TRANSFERS

Budget Line	Description	Initial adopted budget	Amending budget	Transfers	Final adopted budget
1100	Basic salaries and correction	5,212,946.00	0.00	25,605.00	5,238,551.00
1101	Family allowances	834,036.00	0.00	62,358.00	896,394.00
1102	Expatriation and foreign residence allowances	838,431.00	0.00	806.00	839,237.00
1110	Contract agents	2,303,120.00	-52,500.00	-230,301.00	2,020,319.00
1111	Seconded National Experts	175,000.00	0.00	5,176.00	180,176.00
1120	Training and information for staff	273,984.00	0.00	0.00	273,984.00
1130	Insurance against sickness	215,429.00	0.00	-5,733.00	209,696.00
1131	Insurance against accidents and occupational disease	26,845.00	0.00	-2,794.00	24,051.00
1132	Unemployment insurance for temporary staff	81,766.00	0.00	-653.00	81,113.00
1140	Birth and death grants	2,630.00	0.00	-1,830.00	800.00
1141	Annual travel expense from place of work to origin	91,781.00	0.00	-5,626.00	86,155.00
1142	Schooling fees	585,000.00	0.00	-4,940.00	580,060.00
1150	Overtime	43,237.00	0.00	-43,237.00	0.00
1160	Expenditure related to recruitment	72,000.00	0.00	-62,000.00	10,000.00
1161	Travel expenses taking up duty	9,600.00	0.00	-8,997.00	603.00
1162	Installation, resettlement and transfer allowances	23,063.00	0.00	24,761.00	47,824.00
1163	Temporary daily subsistence allowances	77,400.00	0.00	-58,700.00	18,700.00
1170	Supplementary clerical and interim services	460,000.00	0.00	75,500.00	535,500.00
1171	Administrative assistance	250,000.00	0.00	-25,000.00	225,000.00
1172	Trainees	188,190.00	0.00	48,303.00	236,493.00
1200	Mission expenses -Corporate Services	45,000.00	0.00	-30,000.00	15,000.00
1201	Mission expenses - Director	35,000.00	0.00	-3,500.00	31,500.00
1202	Mission expenses - Strategy Delivery and Communications	55,000.00	0.00	-25,000.00	30,000.00
1300	Medical services and equipment	66,500.00	0.00	-6,650.00	59,850.00
1401	Social welfare of staff	27,000.00	0.00	0.00	27,000.00
1410	Staff Committee	16,500.00	0.00	0.00	16,500.00
2000	Rent	673,900.00	0.00	-7,098.00	666,802.00
2001	Removal costs	15,000.00	0.00	-6,000.00	9,000.00
2010	Utilities	180,200.00	0.00	-15,000.00	165,200.00
2011	Cleaning and maintenance	182,300.00	0.00	-12,300.00	170,000.00
2020	Insurance	20,000.00	0.00	-6,500.00	13,500.00
2030	Security and surveillance of buildings	170,000.00	0.00	-40,000.00	130,000.00
2031	Health and safety at work	4,200.00	0.00	3,000.00	7,200.00
2040	Other expenditure on buildings	44,700.00	0.00	132,699.00	177,399.00
2100	Consumables	15,000.00	0.00	-8,000.00	7,000.00
2101	Software	42,000.00	0.00	-16,000.00	26,000.00
2102	Subscriptions IT	450,000.00	0.00	0.00	450,000.00
2103	Disaster recovery site	45,000.00	0.00	-30,975.00	14,025.00
2210	Purchase of furniture	89,600.00	0.00	26,040.00	115,640.00
2220	Transportation costs	71,000.00	0.00	-7,100.00	63,900.00
2230	Library acquisitions	127,000.00	0.00	-12,700.00	114,300.00
2300	Stationery and office supplies	58,000.00	0.00	-5,800.00	52,200.00
2310	Bank charges	200.00	0.00	0.00	200.00
2320	Legal expenses	250,000.00	0.00	-25,000.00	225,000.00

2325	External audit expenses	24,000.00	0.00	0.00	24,000.00
2326	Information security	75,000.00	0.00	0.00	75,000.00
2328	Data protection	40,000.00	0.00	0.00	40,000.00
2330	Administrative Board meetings	35,000.00	0.00	0.00	35,000.00
2331	Board of Regulators meetings	114,060.00	0.00	-51,040.00	63,020.00
2332	Board of Appeal	1,050,000.00	0.00	-100,000.00	950,000.00
2333	External participants to meetings	8,000.00	0.00	0.00	8,000.00
2334	EU Agencies Network	5,500.00	0.00	0.00	5,500.00
2400	Postal charges	15,600.00	0.00	-5,600.00	10,000.00
2410	Telecommunications subscriptions and charges	89,000.00	0.00	-39,500.00	49,500.00
2420	Hardware and other equipment	410,000.00	0.00	61,475.00	471,475.00
3000	Representation expenses - Director	5,000.00	0.00	0.00	5,000.00
3001	Representation expenses - Corporate Services	500.00	0.00	0.00	500.00
3002	Representation expenses - Electricity	1,500.00	0.00	-700.00	800.00
3003	Representation expenses - MIT	1,250.00	0.00	-1,250.00	0.00
3004	Representation expenses - Gas	1,000.00	0.00	0.00	1,000.00
3005	Representation expenses - MSC	1,000.00	0.00	-1,000.00	0.00
3100	Operational missions - Gas Department	70,000.00	0.00	-50,000.00	20,000.00
3101	Operational missions - Electricity Department	120,000.00	0.00	-90,000.00	30,000.00
3102	Operational missions - MIT	30,000.00	0.00	-25,000.00	5,000.00
3103	Operational missions - MSC	25,000.00	0.00	-15,000.00	10,000.00
3200	Public hearings, workshops, conferences	105,200.00	0.00	-45,000.00	60,200.00
3201	Website set-up and maintenance	200,000.00	0.00	-100,000.00	100,000.00
3202	Publications, information material	27,000.00	0.00	0.00	27,000.00
3300	Translation at CDT	513,600.00	0.00	-273,600.00	240,000.00
3400	Insurance	7,000.00	0.00	0.00	7,000.00
3500	Infrastructure, hardware licenses, deployment, service desk and operations	1,530,000.00	0.00	1,025,000.00	2,555,000.00
3501	Software maintenance, development, testing and software licenses	1,250,000.00	0.00	273,943.00	1,523,943.00
3502	Surveillance and BI tools customisation, licenses and consultancy	900,000.00	0.00	250,000.00	1,150,000.00
3503	Studies, technical writing, coordination, QA and information security	800,000.00	0.00	0.00	800,000.00
3504	REMIT hardware	0.00	0.00	0.00	0.00
3505	Business enhancements and development of surveillance and conduct tools # Market Surveillance and Conduct Department	150,075.00	0.00	0.00	150,075.00
3600	Expert consultations - MIT	400,000.00	0.00	40,000.00	440,000.00
3601	Expert consultations - Gas	380,000.00	0.00	-140,000.00	240,000.00
3602	Expert consultations - Electricity	301,350.00	0.00	-100,000.00	201,350.00
3603	Expert consultations - Corporate Services	209,542.00	0.00	-9,542.00	200,000.00
3604	Expert consultations - MSC	300,000.00	0.00	-300,000.00	0.00
		<b>23,642,735.00</b>	<b>-52,500.00</b>	<b>0.00</b>	<b>23,590,235.00</b>

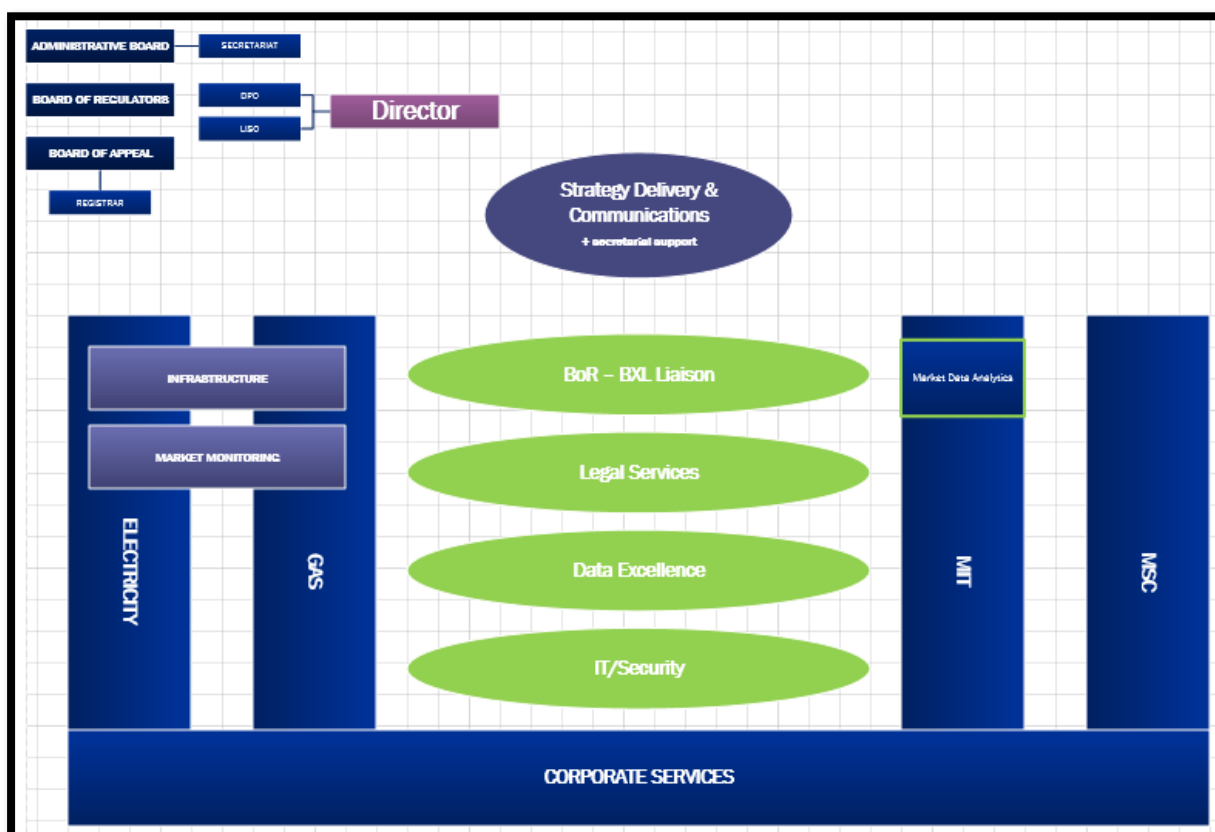


### ANNEX III: ORGANISATIONAL CHART

The number of staff in active service in the different departments as of December 2021 was the following:

Contract type/ Department	SDC (+Dir.)	LS	BoR-BXL	CS	IGR	ELE	MIT	MSC	Total
AD	4	3	1	5	10	12	8	12	55
AST	1	0	0	8	1	1	1	0	12
CA	2	2	1	9	4	6	9	2	35
SNE	0	0	0	0	1	1	1	0	3
<b>Statutory Staff, SNEs</b>	<b>7</b>	<b>5</b>	<b>2</b>	<b>22</b>	<b>16</b>	<b>20</b>	<b>19</b>	<b>14</b>	<b>105</b>
Interim	2	0	0	9	1	1	2	1	16
Trainee	0	0	0	1	3	3	5	4	16
<b>GRAND TOTAL</b>	<b>9</b>	<b>5</b>	<b>2</b>	<b>32</b>	<b>20</b>	<b>24</b>	<b>26</b>	<b>19</b>	<b>137</b>

The organisational chart at the end of 2021 was the following:



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

### ESTABLISHMENT PLAN

Human Resources	Year 2021		
	Authorised Budget	Actually filled as of 31/12/2021	Occupancy Rate %
Administrators (AD)	59	56	95%
Assistants (AST)	12	12	105
Assistants/Secretaries (AST/SC)	NA	NA	NA
<b>ESTABLISHMENT PLAN POSTS</b>	<b>71</b>	<b>68</b>	<b>97.5%</b>
Contract Agents (CA)	36	33.1	92%
Seconded National Experts (SNE)	4	3.4	84%
<b>TOTAL STAFF</b>	<b>111</b>	<b>107.5</b>	<b>92.8%</b>

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

<i>Key functions (examples – terminology should be adjusted to each agency's job titles)</i>	<i>Type of contract (official, TA or CA)</i>	<i>Function group, grade of recruitment*</i>	<i>Indication whether the function is dedicated to administrative support or operations [subject to definitions used in screening methodology]</i>
Director	TA	AD14	Operational

<i>Head of Department</i>	TA	AD11	Operational
<i>Team Leader</i>	TA	AD7-AD8	Administrative/ Operational/Neutral
<i>Administrator</i>	TA	AD5-AD8	Administrative/ Operational/ Neutral
<i>Assistant</i>	TA	AST1-4	Administrative/ Operational/ Neutral
<i>FG IV</i>	CA	FG IV	Administrative/ Operational/Neutral
<i>FG III</i>	CA	FG III	Administrative/ Operational/Neutral

## RESULTS OF THE 2021 JOB-SCREENING EXERCISE<sup>11</sup>

<b>Job Type (sub) category</b>	<b>Year 2020</b>	<b>Year 2020 (%)</b>	<b>Year 2021</b>	<b>Year 2021 (%)</b>
<b>Administrative support and coordination</b>	<b>29</b>	<b>21.32%</b>	<b>34</b>	<b>22.97%</b>
<i>Administrative support</i>	18	13.24%	23	15.54%
<i>Coordination</i>	11	8.09%	11	7.43%
<b>Operational</b>	<b>96</b>	<b>70.59%</b>	<b>102</b>	<b>68.92%</b>
<i>Top level operational coordination</i>	11	8.09%	11	7.43%
<i>Programme management &amp; implementation</i>				
<i>Evaluation &amp; impact assessment</i>				
<i>General operation</i>	85	62.50%	91	61.49%
<b>Neutral</b>	<b>11</b>	<b>8.09%</b>	<b>12</b>	<b>8.11%</b>
<i>Finance/control</i>	11	8.09%	12	8.11%
<i>Linguistic</i>				
<b>Total:</b>	<b>136</b>	<b>100%</b>	<b>148</b>	<b>100%</b>

HR implementing rules adopted in 2021 - None.

<sup>11</sup> Table as per Methodology for Agencies job screening (2014)

## ANNEX V: HUMAN AND FINANCIAL RESOURCES BY ACTIVITY

### 2021 Full Time Equivalents and budget - Breakdown per Activity

	<b>ACTIVITIES 2020</b>	<b>FTEs</b>	<b>2021 PD</b>	<b>2021 final budget</b>
<b>1</b>	<b>Market Integrity and Transparency</b>	20.5	7,174,918	7,144,691
<b>2</b>	<b>Market Surveillance and Conduct</b>	14.5	2,114,892	2,094,210
<b>3</b>	<b>Internal Electricity Market</b>	16.5	3,134,732	3,134,732
<b>4</b>	<b>Internal Gas Market</b>	8.0	1,516,704	1,516,704
<b>5</b>	<b>Electricity and Gas Internal Market Monitoring</b>	12.0	2,286,138	2,286,138
<b>6</b>	<b>Infrastructure and Security of Supply</b>	14.2	2,694,603	2,694,603
<b>7</b>	<b>Administrative support and coordination categories</b>	18.3	3,390,861	3,389,270
<b>8</b>	<b>Neutral categories</b>	7.0	1,329,886	1,329,886
	<b>TOTAL</b>	<b>111.0</b>	<b>23,642,735</b>	<b>23,590,235</b>

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

The number, type and value of all procurement procedures concluded in 2021 are presented below.

### 1) Operational

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	9	9.38%	5,307.81	5,307.81
Negotiated – very low value	12	12.50%	83,529.70	83,529.70
Negotiated – low value – direct contract	0	0.00%	0.00	0.00
Negotiated – low value – FWC	2	2.08%	120,000.00	0.00
Negotiated – middle value – direct contract	0	0.00%	0.00	0.00
Negotiated – middle value – FWC	0	0.00%	0.00	0.00
Negotiated – point 11.1(e) of Annex I FR	0	0.00%	0.00	0.00
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	10	10.42%	722,300.00	722,300.00
Open – FWC (concluded in 2021)	3	3.13%	1,340,000.00	0.00
Specific contracts, following FWC	17	17.71%	4,605,452.77	4,605,452.77
Order forms, following FWC	43	44.79%	2,350,509.90	2,350,509.90
<b>TOTAL</b>	<b>96</b>	<b>100%</b>	<b>9,227,100.18</b>	<b>7,767,100.18</b>

### 2) Administrative

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	9	6.62%	6,239.05	6,239.05
Negotiated – very low value	29	21.32%	124,607.36	124,607.36
Negotiated – low value – direct contract	0	0.00%	0.00	0.00
Negotiated – low value – FWC	2	1.47%	85,000.00	0.00
Negotiated – middle value – direct contract	2	1.47%	75,878.93	75,878.93
Negotiated – middle value – FWC	1	0.74%	70,000.00	0.00

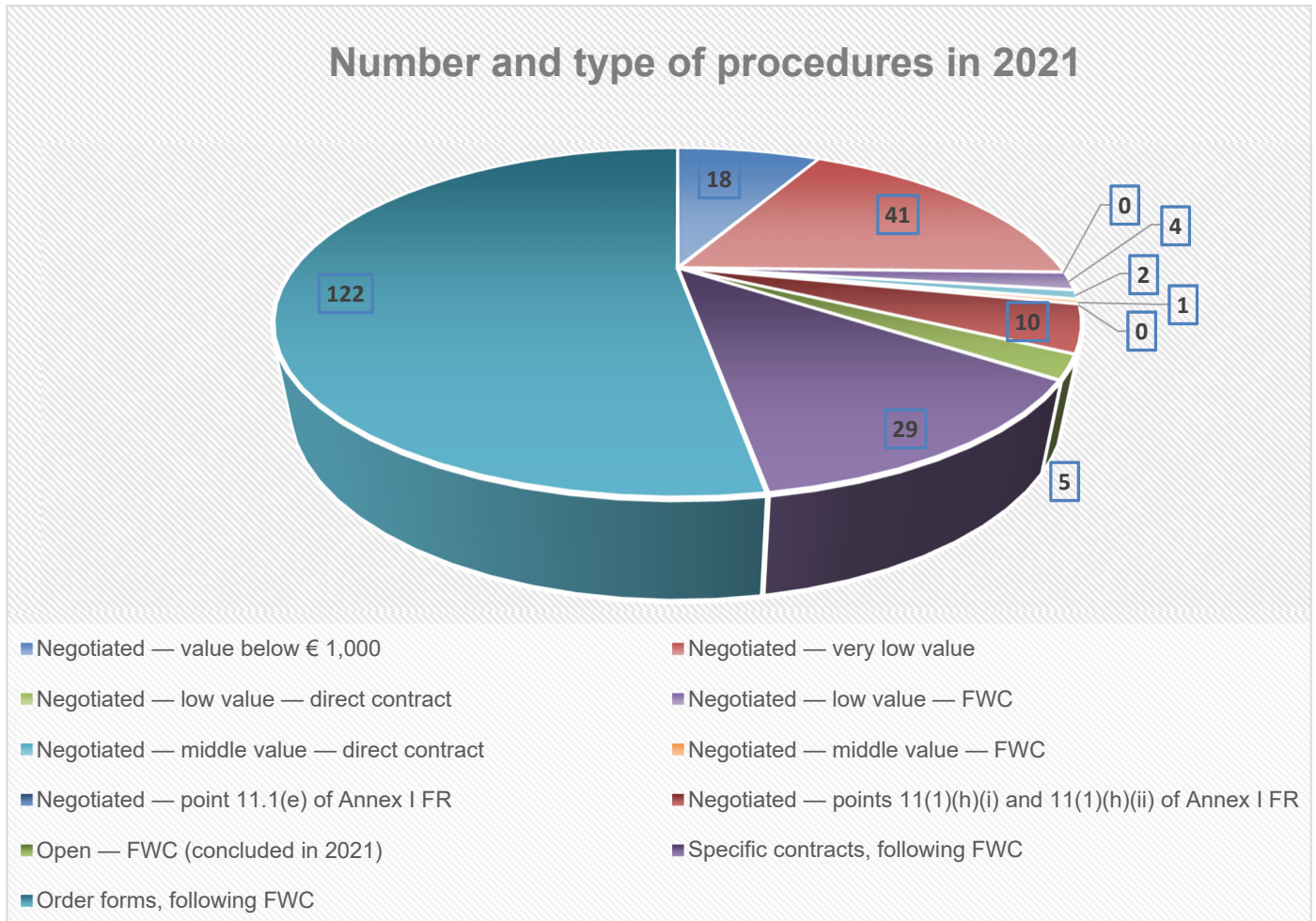
Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – point 11.1(e) of Annex I FR	0	0.00%	0.00	0.00
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	0	0.00%	0.00	0.00
Open – FWC (concluded in 2021)	2	1.47%	2,980,000.00	0.00
Specific contracts, following FWC	12	8.82%	1,270,551.56	1,270,551.56
Order forms, following FWC	79	58.09%	802,261.77	802,261.77
<b>TOTAL</b>	<b>136</b>	<b>100%</b>	<b>5,414,538.67</b>	<b>2,279,538.67</b>

3) *Total (operational and administrative)*

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	18	7.76%	11,546.86	11,546.86
Negotiated – very low value	41	17.67%	208,137.06	208,137.06
Negotiated – low value – direct contract	0	0.00%	0.00	0.00
Negotiated – low value – FWC	4	1.72%	205,000.00	0.00
Negotiated – middle value – direct contract	2	0.86%	75,878.93	75,878.93
Negotiated – middle value – FWC	1	0.43%	70,000.00	0.00
Negotiated – point 11.1(e) of Annex I FR	0	0.00%	0.00	0.00
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	10	4.31%	722,300.00	722,300.00
Open – FWC (concluded in 2021)	5	2.16%	4,320,000.00	0.00
Specific contracts, following FWC	29	12.50%	5,876,004.33	5,876,004.33
Order forms, following FWC	122	52.59%	3,152,771.67	3,152,771.67
<b>TOTAL</b>	<b>232</b>	<b>100%</b>	<b>14,641,638.85</b>	<b>10,046,638.85</b>

**Negotiated procedures**

In 2021 there were no negotiated procedures under point 11.1(e) of Annex I FR carried out, as laid down in Article 74(10) FR.



## ANNEX VII: ENVIRONMENT MANAGEMENT

The greening actions of the Agency's Greening Action Plan 2021-2022 fall into six thematic domains, inspired by the European Commission's *Feasibility and Scoping Study for the Commission to Become Climate Neutral by 2030*:

1. Design sustainable buildings and working space;
2. Optimise energy consumption and systems for buildings;
3. Reconsider air travel and promote sustainable travel modes;
4. Reduce commuting emissions for transport and mobility;
5. Reduce Greenhouse Gas (GHG) emissions from purchase and consumption;
6. Manage and communicate for other sources of emissions.

Thematic domain 1:

- Design sustainable buildings: The current rental contract expires on 31 January 2024. The Agency started the preparations for the new procurement procedure for the rental of green and sustainable office premises at the end of 2021. In this process the Agency has identified its course of actions for the optimisation of office space (also in respect of the new normal after the COVID-19 pandemic). There is not an absolute intention to change the current building, however the new tender procedure will identify the minimum criteria which would ensure that the Agency is located in a green and sustainable building, whether through negotiations with the current Landlord or via relocation. The new tender specifications will be drafted in line with the Commissions guidance and will take into account the greening efforts of the Agency. In order to ensure the best results, the Agency has reached out to the Greening Network for template tender specifications. In addition, the Agency has contacted the Interinstitutional Green Public Procurement Helpdesk as well as the Office for Infrastructure and Logistics in Brussels (OIB).
- Design sustainable working space: In October 2021 a contract was signed with Deloitte for Consultancy services for designing a workplace strategy.

In order to facilitate the defining of needs and negotiations under the procurement procedure, the Agency intends to rely on an established workplace concept which assures the future workplace of the Agency will meet its organisational and workforce needs with respect to: the Agency's commitment under its Greening Action Plan 2021-2022 to establish a workplace reduction strategy; the establishment of a new working model post SARS-CoV-2 pandemic; the Agency's wish to become a competitive and attractive working place by facilitating flexibility of the workplace, encouraging innovation and cooperation.

Thematic domain 2:

In this respect, the following actions were carried out:



- The installation of energy saving lightbulbs/ LED lights and lights on sensors has been implemented in the Agency premises.
- The Greening Ambassadors: Following the adoption of the Agency's Greening action plan, the Agency encouraged the formation of a group of "Greening Ambassadors". They are staff members who volunteered to participate and assist the Agency in implementing the Greening action plan.
- The Agency successfully negotiated with the Landlord to have 100 % share of green energy. As such, at the end of 2021 the electricity provider provided a certificate of origin demonstrating the purchase of green energy.
- The Agency expressed its interest to join an interinstitutional FWC for consultancy services on carbon footprint calculation, offsetting of carbon emissions and Eco-Management and Audit Scheme (EMAS) certification.
- The Agency is aligning its internal processes to good practices, such as EMAS standards, with a view to reduce the environmental impact of its operations. In this respect, the Agency is undertaking significant steps in managing its environmental impact: Continuously improving waste management and sorting. The Agency's green-ambassadors group implemented a better waste management within the Agency ensuring that sorting of waste occurs already at the work station and raising awareness of staff on proper sorting of waste;
- Improving the paperless financial circuits in the financial administration by migrating to the document management system in use by the Commission services (ARES) and further developing IT tools reduced the use of paper across the Agency;
- Introducing e-recruitment reduced use of paper for recruitment procedures;
- The introduction of e-submission in 2020 further reduced the use of paper in procurement procedures;
- Complying with all environmentally relevant legislation and regulations of Slovenia, our host country.
- The Agency has started to migrate some services to the cloud, thus reducing required on-premises power and cooling capacity.

#### Thematic domain 3:

Efforts have been made towards developing remote meeting attendance for staff through enhanced cloud-based video conferencing and telepresence solutions. In order to support the above objective, the Agency has improved its capabilities and facilities (meeting rooms equipped with proper hardware) for telepresence and video conferencing.

#### Thematic domain 4:

In 2020 the Agency adopted a Director Decision on the support granted to staff in respect of commuting to work, by which staff is incentivized to use public transport over the means of private

transport. As such, the staff was offered the reimbursement of annual public transport tickets. Following this decision, parking places have been considerably reduced, with only two left for supporting staff with a disability.

Thematic domain 5:

The following measures have been taken:

- Environmental aspects were introduced in tendering procedure for stationery and office supplies by introducing 'green' criteria in procurement documents to drive lower impact choices e.g. low-grammage office paper, longer lasting, refillable products, etc.
- The Agency has committed to reducing printing by removing local printers from individual offices and introducing secure, centralized and energy-saving printing services on the shared printers. The Agency has also started the modernisation of IT equipment by replacing external displays and laptops with Blue Angel or Energy Star certified equipment reducing the average energy consumption and associated toner waste;
- Reusable business cards with QR code were introduced.

Thematic domain 6:

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

The Agency participated in the Annual Greening Network event in October 2021. Moreover, it participated in interinstitutional workshops on the introduction of climate neutrality in EU institutions. The greening efforts of the Agency are published on its website.

In 2021 the Greening Ambassadors worked on a project of an annual competition among staff under the flagship of "Volunteers for a green change". All staff members have been invited, on a voluntary basis, to form or join a team, with whom they would have to meet challenges with a view to reduce their environmental footprint via individual actions. The challenge was launched at the beginning of 2022.

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

Further limitations are imposed by the fact that the Agency's premises, the TR3 building, is under the protection of Cultural Heritage of Slovenia. Regardless of the contractual dependencies implied

by the current building contract, the premises provide added benefits to the Agency in its pursuit of reducing its environmental impact by:

- being built with high quality, sustainable building materials;
- providing a high amount of natural sunlight due to the building's unique triangular prism shape and large windows, thus reducing the energy consumption for lighting;
- being located in the city centre where modified traffic flows give priority to pedestrians, cyclists and public transport, as well as being near the most important traffic junctions and connections making it easily reachable with eco-friendly alternatives by its staff members and guests;
- having a space for private bicycle-parking which was further extended upon the Agency's initiative following increased interest, thus further promoting eco-friendly commuting to work.

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

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

Finally, COVID-19 pandemics also affected the environmental impact of the Agency:

- There were no on-site events after 16<sup>th</sup> March 2020 and thus no need for catering which resulted in a reduction in the overall energy, water and waste figures;
- Reduced office presence of staff resulted in a change of behaviour regarding printing and the use of paper, use of energy in the offices (power, heating), and waste;
- On-the-job training was suspended due to reduced office presence but will continue once staff returns to the office;
- Increased usage and adoption of web conferencing and online communication tools replacing physical conferences.

## ANNEX VIII: PROVISIONAL FINANCIAL ACCOUNTS

### BALANCE SHEET

	Note	31.12.2021	EUR '000 31.12.2020
<b>NON-CURRENT ASSETS</b>			
<i>Computer Software</i>	2.1	30	-
<i>Property, plant and equipment</i>	2.2	782	865
		<b>812</b>	<b>865</b>
<b>CURRENT ASSETS</b>			
<i>Exchange receivables and non-exchange recoverables</i>	2.3	8 803	4 051
<i>Cash and cash equivalents</i>	2.4	1	1
		<b>8 804</b>	<b>4 051</b>
<b>TOTAL ASSETS</b>		<b>9 616</b>	<b>4 917</b>
<b>CURRENT LIABILITIES</b>			
<i>Payables</i>	2.5	(1 529)	(314)
<i>Accrued charges</i>	2.6	(1 360)	(984)
		<b>(2 889)</b>	<b>(1 298)</b>
<b>TOTAL LIABILITIES</b>		<b>(2 889)</b>	<b>(1 298)</b>
<b>NET ASSETS</b>		<b>6 727</b>	<b>3 619</b>
<i>Accumulated surplus</i>		3 619	3 156
<i>Economic result of the year</i>		3 108	462
<b>NET ASSETS</b>		<b>6 727</b>	<b>3 619</b>

### STATEMENT OF FINANCIAL PERFORMANCE

	Note	2021	EUR '000 2020
<b>REVENUE</b>			
<b>Revenue from non-exchange transactions</b>			
<i>Funds from the Commission</i>	3.1	13 290	17 004
		<b>13 290</b>	<b>17 004</b>
<b>Revenue from exchange transactions</b>			
<i>Other</i>	3.2	8 796	3
		<b>8 796</b>	<b>3</b>
<b>Total revenue</b>		<b>22 086</b>	<b>17 007</b>
<b>EXPENSES</b>			
<i>Operating costs</i>	3.3	(4 022)	(3 584)
<i>Staff costs</i>	3.4	(9 740)	(8 963)
<i>Other expenses</i>	3.5	(5 215)	(3 999)
<b>Total expenses</b>		<b>(18 978)</b>	<b>(16 545)</b>
<b>ECONOMIC RESULT OF THE YEAR</b>		<b>3 108</b>	<b>462</b>

## CASHFLOW STATEMENT<sup>12</sup>

	EUR '000	
	2021	2020
<i>Economic result of the year</i>	3 108	462
<b>Operating activities</b>		
<i>Depreciation and amortization</i>	355	344
<i>(Increase)/decrease in exchange receivables and non-exchange recoverables</i>	(4 752)	(653)
<i>Increase/(decrease) in payables</i>	1 215	116
<i>Increase/(decrease) in accrued charges</i>	376	(2)
<b>Investing activities</b>		
<i>(Increase)/decrease in intangible assets and property, plant and equipment</i>	(302)	(268)
<b>NET CASHFLOW</b>	<b>(0)</b>	<b>(1)</b>
<i>Net increase/(decrease) in cash and cash equivalents</i>	(0)	(1)
<i>Cash and cash equivalents at the beginning of the year</i>	1	2
<i>Cash and cash equivalents at year-end</i>	1	1

## STATEMENT OF CHANGES IN NET ASSETS

	EUR '000		
	Accumulated Surplus/ (Deficit)	Economic result of the year	Net Assets
<b>BALANCE AS AT 31.12.2019</b>	<b>3 312</b>	<b>(155)</b>	<b>3 156</b>
<i>Allocation 2019 economic result</i>	(155)	155	-
<i>Economic result of the year</i>	-	462	462
<b>BALANCE AS AT 31.12.2020</b>	<b>3 156</b>	<b>462</b>	<b>3 619</b>
<i>Allocation 2020 economic result</i>	462	(462)	-
<i>Economic result of the year</i>	-	3 108	3 108
<b>BALANCE AS AT 31.12.2021</b>	<b>3 619</b>	<b>3 108</b>	<b>6 727</b>

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

# NOTES TO THE FINANCIAL STATEMENTS

## 1. SIGNIFICANT ACCOUNTING POLICIES

### 1.1. ACCOUNTING PRINCIPLES

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

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

### 1.2. BASIS OF PREPARATION

#### 1.2.1. Reporting period

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

#### 1.2.2. Currency and basis for conversion

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

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

#### Euro exchange rates

Currency	31.12.2021	31.12.2020	Currency	31.12.2021	31.12.2020
<b>BGN</b>	<b>1.9558</b>	1.9558	<b>PLN</b>	<b>4.5969</b>	4.5597
<b>CZK</b>	<b>26.8580</b>	26.2420	<b>RON</b>	<b>4.9490</b>	4.8683
<b>DKK</b>	<b>7.4364</b>	7.4409	<b>SEK</b>	<b>10.2503</b>	10.0343
<b>GBP</b>	<b>0.84028</b>	0.8990	<b>CHF</b>	<b>1.0331</b>	1.0802
<b>HRK</b>	<b>7.5156</b>	7.5519	<b>JPY</b>	<b>130.3800</b>	126.4900

#### 1.2.3. Use of estimates

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

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

#### 1.2.4. Application of new and revised European Union Accounting Rules (EAR)

##### Revised EAR which is effective for annual periods beginning on or after 1 January 2021

In 2020, the Accounting Officer adopted the revised EAR 11 'Financial Instruments', which is mandatorily effective as of 1 January 2021. The revised EAR 11 is based on the new IPSAS 41 'Financial Instruments', the amended IPSAS 28 'Financial Instruments: Presentation' and the amended IPSAS 30 'Financial Instruments: Disclosures' which were issued in August 2018. It establishes the financial reporting principles for financial assets and financial liabilities. In accordance with the transition provisions of the revised EAR 11, the entity accounts for any changes from the initial application, on 1 January 2021. The revised EAR 11 does not require the restatement of prior periods.

##### Changes from the application of the revised EAR 11

The only financial instruments of the entity, are the receivables from exchange transactions. In accordance with the revised EAR 11 requirements, the entity has classified these receivables as 'financial assets at amortised cost' ('loans and receivables' in prior periods). The entity has applied the impairment requirements of the revised EAR 11 to the receivables and has recognised the required adjustment of the loss allowance in the accumulated surplus or deficit on 1 January 2021.

## 1.3. BALANCE SHEET

### 1.3.1. Intangible assets

An intangible asset is an identifiable non-monetary asset without physical substance. An asset is identifiable if it is either separable, or arises from binding arrangements. Acquired intangible assets are stated at historical cost less accumulated amortisation and impairment losses. Internally developed intangible assets are capitalised when the relevant criteria of the EU accounting rules are met and the expenses relate solely to the development phase of the asset. Intangible assets are amortised on a straight-line basis over their estimated useful lives (3 to 11 years).

### 1.3.2. Property, plant and equipment

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

Type of asset	Straight line depreciation rate
<i>Buildings</i>	4 % to 10 %
<i>Plant and equipment</i>	10 % to 25 %
<i>Furniture and vehicles</i>	10 % to 25 %
<i>Computer hardware</i>	25 % to 33 %
<i>Other</i>	10 % to 33 %

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

## Leases

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

Finance leases are leases where substantially all the risks and rewards incidental to ownership are transferred to the lessee.

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

### 1.3.3. Impairment of non-financial assets

Assets that have an indefinite useful life are not subject to amortisation/depreciation and are tested annually for impairment. Assets that are subject to amortisation/depreciation are tested for impairment whenever there is an indication at the reporting date that an asset may be impaired. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable (service) amount. The recoverable (service) amount is the higher of an asset's fair value less costs to sell and its value in use.

Intangible assets and property, plant and equipment residual values and useful lives are reviewed, and adjusted if appropriate, at least once per year. If the reasons for impairments recognised in previous years no longer apply, the impairment losses are reversed accordingly.

### 1.3.4. Receivables and recoverables

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

Receivables from exchange transactions meet the definition of financial instruments. The entity classified them as financial assets at amortised cost and measured them accordingly.

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

### 1.3.5. Cash and cash equivalents

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

### 1.3.6. Payables

Included under accounts payable are both amounts related to exchange transactions such as the purchase of goods and services, and to non-exchange transactions e.g. to cost claims from beneficiaries, grants or other EU funding, or pre-financing received (see note **1.4.1**).

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



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

#### 1.3.7. Accrued and deferred revenue and charges

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

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

## 1.4. STATEMENT OF FINANCIAL PERFORMANCE

### 1.4.1. Revenue

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

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

*(i) Revenue from non-exchange transactions*

Revenue from non-exchange transactions are taxes and transfers, because the transferor provides resources to the recipient entity, without the recipient entity providing approximately equal value directly in exchange. Transfers are inflows of future economic benefits or service potential from non-exchange transactions, other than taxes. For the EU entities, transfers mostly comprise funds received from the Commission (e.g. balancing subsidy to the traditional agencies, operating subsidy for the delegation agreements).

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

*(ii) Revenue from exchange transactions*

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

### 1.4.2. Expenses

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

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

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

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

## 1.5. CONTINGENT ASSETS AND LIABILITIES

### 1.5.1. Contingent assets

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

### 1.5.2. Contingent liabilities

A contingent liability is either a possible obligation of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation where it is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation.

A contingent liability also arises in the rare circumstances where a present obligation exists but cannot be measured with sufficient reliability.

Contingent liabilities are not recognised in the accounts. They are disclosed unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

## 1.6. CONSOLIDATION

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

## 2. NOTES TO THE BALANCE SHEET

### ASSETS

#### 2.1. INTANGIBLE ASSETS

	EUR '000
	<b>TOTAL</b>
Gross carrying amount at 31.12.2020	5 127
Additions	38
<b>Gross carrying amount at 31.12.2021</b>	<b>5 165</b>
Accumulated amortisation at 31.12.2020	(5 127)
Amortisation charge for the year	(7)
<b>Accumulated amortisation at 31.12.2021</b>	<b>(5 134)</b>
<b>NET CARRYING AMOUNT AT 31.12.2021</b>	<b>30</b>
NET CARRYING AMOUNT AT 31.12.2020	-

#### 2.2. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment are tangible assets that are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes, and are expected to be used during more than one reporting period.

					EUR '000
	Plant and equipment	Furniture and vehicles	Computer hardware	Other	<b>TOTAL</b>
Gross carrying amount at 31.12.2020	2	158	2 359	281	2 799
Additions	3	46	203	13	265
Disposals			(7)		
<b>Gross carrying amount at 31.12.2021</b>	<b>4</b>	<b>204</b>	<b>2 555</b>	<b>294</b>	<b>3 064</b>
Accumulated depreciation at 31.12.2020	(2)	(101)	(1 567)	(264)	(1 934)
Depreciation charge for the year	(0)	(15)	(326)	(6)	(348)
Disposals			7		
<b>Accumulated depreciation at 31.12.2021</b>	<b>(2)</b>	<b>(115)</b>	<b>(1 887)</b>	<b>(271)</b>	<b>(2 282)</b>
<b>NET CARRYING AMOUNT AT 31.12.2021</b>	<b>2</b>	<b>89</b>	<b>668</b>	<b>23</b>	<b>782</b>
NET CARRYING AMOUNT AT 31.12.2020	-	57	792	16	865

In 2021 the Agency continued to upgrade its IT infrastructure, especially the one for its REMIT project, with the necessary software and hardware. During the year the Agency also purchased the necessary furniture in line with the growth in number of staff and the move towards ergonomic work stations.

#### 2.3. EXCHANGE RECEIVABLES & NON-EXCHANGE RECOVERABLES

Exchange transactions are transactions in which the entity receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of goods, services or use of assets) to the other party in exchange. Non-exchange transactions are transactions in which an entity either receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

At 31 December 2021 ACER did not have any non-current receivables and recoverables. The amounts included under this heading are of current in nature and can be broken down as follows:

	EUR '000	
	31.12.2021	31.12.2020
<b>Recoverables from non-exchange transactions</b>		
<i>Member States</i>	89	28
	<b>89</b>	<b>28</b>
<b>Receivables from exchange transactions</b>		
<i>Central treasury liaison accounts</i>	8 074	3 339
<i>Deferred charges relating to exchange transactions</i>	614	675
<i>Customers</i>	12	
<i>Other</i>	15	10
	<b>8 714</b>	<b>4 023</b>
<b>Total</b>	<b>8 803</b>	<b>4 051</b>

The heading Recoverables from Member States contain VAT amounts to be recovered from the Republic of Slovenia. The Agency benefits from a direct exemption for VAT from the Republic of Slovenia for purchases where the direct exemption is impracticable to obtain, the VAT is refunded by the Republic of Slovenia. The increase under this heading relates to the fact that a request for refund for 2021 has been made to the tax authorities in January 2022.

Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the treasury of ACER was integrated into the Commission's treasury system. Except for imprest accounts (see note 2.4 below), ACER has no bank accounts of its own since 1 October 2017. All payments and receipts are processed via the Commission's treasury system and registered on inter-company accounts, which are presented under the heading Central treasury liaison accounts. An increase of the balance on the Central treasury accounts in 2021 is a result of Agency's conservative approach in starting projects funded by the RRM's fees until fees were first collected. This resulted in lower payments on those projects and thus increase of cash available to the agency.

The deferred charges consist of pre-payments made during the year for services that will be delivered in 2022. The most material deferrals include Smarts licence from Nasdaq (kEUR 263) covering the period 1 October 2021 – 31 July 2022, the payment to the European School for the school year 2021 and 2022 (kEUR 128) and the rent of the premises for the month of January 2022 (kEUR 56).

## 2.4. CASH AND CASH EQUIVALENTS

Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of the entity, the treasury of entity has been integrated into the Commission's treasury system. The majority of payments and receipts are processed via the Commission's treasury system and registered on liaison accounts, which are presented under heading 'receivables from exchange transactions'.

	EUR '000	
	31.12.2021	31.12.2020
<i>Imprest accounts</i>	1	1

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

## LIABILITIES

### 2.5. PAYABLES

Payables are liabilities to pay for goods or services that have been received or supplied and - unlike accrued charges - have already been invoiced or formally agreed with the supplier. Payables can relate to both

exchange transactions (such as the purchase of goods and services) and non-exchange transactions (e.g. cost claims from beneficiaries of grants, pre-financing or other EU funding).

	<i>EUR '000</i>	
	<b>31.12.2021</b>	<b>31.12.2020</b>
<i>Commission subsidy</i>	<i>1 529</i>	<i>314</i>

The heading comprises the unused pre-financing amounts received from the Commission in 2021, known as the balancing subsidy. The outstanding amount will be returned to the Commission upon request in the course of 2022.

## 2.6. ACCRUED CHARGES

Accruals are liabilities to pay for goods or services that have been received or supplied but - unlike payables - have not yet been invoiced or formally agreed with the supplier. They include amounts due to employees (e.g. accruals for untaken holidays). The calculation of accruals is based on the open amount of budgetary commitments at year-end. The portion of the estimated accrued charges relating to pre-financing paid has been recorded as a reduction of the pre-financing amounts.

	<i>EUR '000</i>	
	<b>31.12.2021</b>	<b>31.12.2020</b>
<i>Accrued charges</i>	<i>1 360</i>	<i>984</i>

The most material accrued expenses included under this heading are operating expenses (kEUR 770), staff expenses for untaken leave (kEUR 255), experts and related expenditure (kEUR 105), non-IT services (kEUR 111), office supplies and maintenance (kEUR 31), training costs (kEUR 42), land and the building's operating lease (kEUR 46).

### 3. NOTES TO THE STATEMENT OF FINANCIAL PERFORMANCE

#### REVENUE

#### NON-EXCHANGE REVENUE

##### 3.1. FUNDS FROM THE COMMISSION

Revenue from non-exchange transactions relates to transactions where the transferor provides resources to the recipient entity without the recipient entity providing approximately equal value directly in exchange. The heading mainly includes amounts received from the Commission during the year and recoveries of operational expenses.

	<i>EUR '000</i>	
	2021	2020
<i>Funds from the Commission</i>	13 290	17 004

During 2020, the operations of ACER were fully subsidised from the EU budget. In 2021 a substantial part of the Agency's activities was financed from the fees collected from the RRM's (see note 3.2). This explains the significant decrease under this heading. As mentioned above the unused amount of kEUR 1 529 is recorded under accounts payable and will be reimbursed to the Commission in 2022 (see note 2.5).

#### EXCHANGE REVENUE

##### 3.2. OTHER EXCHANGE REVENUE

	<i>EUR '000</i>	
	2021	2020
<i>Fees income</i>	8 772	-
<i>Other</i>	25	3
<b>Total</b>	<b>8 796</b>	<b>3</b>

The fees income comprises fees from the Registered Reporting Mechanisms (RRMs) for the services the Agency provides with the collection, handling and analysing of data reported by the energy market participants. This financial year is the first year in which those fees were collected.

#### EXPENSES

##### 3.3. OPERATING COSTS

Included under this heading are expenses incurred in relation to operational activities.

	<i>EUR '000</i>	
	2021	2020
<i>Operating costs</i>	4 022	3 584

Included under operating cost are amounts spent on operational missions, workshops, public hearings, REMIT project related costs and other costs incurred so as to fulfil the mission of the Agency. The increase of the operating costs is in line with the increase of the activities of the agency.

### 3.4. STAFF COSTS

This heading includes the expenses for salaries, allowances and other employment-related benefits. Based on the service level agreement between the entity and the Commission, the calculations of staff-related costs is carried out by the Commission's Office for Administration and Payment of Individual Entitlements (also known as the Paymaster's Office - PMO). The pensions of the entity staff members are covered by the Pension Scheme of European Officials. This pension scheme is a defined benefit plan, i.e. the amount of benefit an employee will receive on retirement depends on several factors, the most important of which is years of service. Both the entity staff and the EU budget contribute to the pension scheme, with the contribution percentage being revised annually in line with the changes in the Staff Regulation governing the scheme. The cost to the EU Budget is not reflected in the entity accounts. Similarly, no provision related to the future pension payments is recognised in the annual accounts of the entity, as the obligation falls to the Commission. Consequently, both the annual cost to the EU budget, and the future benefits payable to the entity staff, are accounted for in the Commission's annual accounts as part of its provision for pensions and other post-employment benefits. The pension costs included in the Commission's Statement of Financial Performance represent current service cost (rights accrued during the year due to service) and interest cost (unwinding of the liability discounting) which have arisen following the year-end actuarial valuation of the employee benefits liabilities.

	EUR '000	
	2021	2020
<i>Staff costs</i>	9 740	8 963

The increase of staff costs in 2021 is a combined effect of an increase in the number of staff and annual indexation of salaries granted in June 2021.

### 3.5. OTHER EXPENSES

Included under this heading are expenses of administrative nature such as external non IT services, operating leasing expenses, communications and publications, training costs etc.

	EUR '000	
	2021	2020
<i>External non IT services</i>	2 097	1 228
<i>Operating leasing expenses</i>	976	911
<i>Administrative expenses with EU entities</i>	844	626
<i>Property, plant and equipment related expenses</i>	504	492
<i>Office Supplies &amp; maintenance</i>	541	399
<i>Training costs</i>	139	156
<i>Experts and related expenditure</i>	-	88
<i>Communications &amp; publications</i>	56	52
<i>Missions</i>	23	21
<i>Recruitment costs</i>	3	11
<i>Other</i>	32	15
<b>Total</b>	<b>5 215</b>	<b>3 999</b>

The significant increase of the non-IT services and administrative expenses with EU entities is mainly related to the much higher legal expenses incurred in defending the appeals against the Agency's decision in the Electricity operational area and the related translations of those decisions.

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

	Future amounts to be paid			
	< 1 year	1- 5 years	> 5 years	Total
<i>Buildings</i>	1 023	1 132		2 155

## 4. OTHER SIGNIFICANT DISCLOSURES

### 4.1. OUTSTANDING COMMITMENTS NOT YET EXPENSED

The outstanding commitments not yet expensed comprise the budgetary RAL ('Reste à Liquider') less related amounts that have been included as expenses in the current year's statement of financial performance. The RAL represents the open budgetary commitments for which payments and/or de-commitments have not yet been made. This is the normal consequence of the existence of multi-annual programmes.

	<i>EUR '000</i>	
	31.12.2021	31.12.2020
<i>Outstanding commitments not yet expensed</i>	5 494	2 349

### 4.2. SERVICES IN KIND

During 2021 ACER received from the Council of the European Energy Regulators offices space and logistical and secretarial support for the agency's liaison office in Brussels free of charge. The offered office space and share of common areas totalling to 32 m2 cost approximately EUR 5 150 per year.

### 4.3. RELATED PARTIES

The related parties of the entity are the other EU consolidated entities and the key management personnel of these entities. As transactions between the relevant entity and the parties involved take place as part of the normal operations of the entity and on terms and conditions that are normal for such transactions, no specific disclosures are required.

### 4.4. KEY MANAGEMENT ENTITLEMENTS

The Director, or head of entity, is remunerated in accordance with the Staff Regulations of the European Union, which establish the rights and obligations of all officials of the EU. The Staff Regulations are published on the Europa website.

	31.12.2021	31.12.2020
<i>Director</i>	<i>AD 14</i>	<i>AD 14</i>

### 4.5. OTHER EVENTS

At the end of the financial year 2021, the Agency had fifteen legal cases ongoing before the General Court requesting annulment of decisions taken by the Agency and one case where an application of intervention by ACER is requested. All cases are still ongoing. At this stage, any claim for damages against ACER is assessed as unlikely.



## 5. FINANCIAL RISK MANAGEMENT

### 5.1. TYPES OF RISK

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

(1) *Currency risk* is the risk that the entity operations will be affected by changes in exchange rates. This risk arises from the change in the price of one currency against another.

(2) *Interest rate risk* is the possibility of a reduction in the value of a security, especially a bond, resulting from an increase in interest rates. In general, higher interest rates will lead to lower prices of fixed rate bonds, and vice versa. The entity does not have any securities thus it is not exposed to the interest rate risk.

**Credit risk** is the risk of loss due to a debtor's non-payment or other failure to meet a contractual obligation. The default events include a delay in repayments, and bankruptcy.

**Liquidity risk** is the risk that an EU entity will encounter difficulty in meeting obligations associated with financial liabilities that are settled by delivering cash or another financial asset.

### 5.2. CURRENCY RISKS

At the end of the year, the financial assets are composed of exchange receivables. The financial liabilities are composed of accounts payable. Their ending balances are mainly quoted in EUR, the entity is thus not exposed to currency risk.

### 5.3. CREDIT RISK

At the end of the year, the financial assets comprise exchange receivables that are not past due for more than 30 days. As no credit loss is expected during the life time of those receivables the entity is not exposed to any significant credit risk.

### 5.4. LIQUIDITY RISK

The financial liabilities are mainly composed of accounts payable. All the accounts payable have remaining contractual maturity of less than 1 year.