RESOLUTION (EU) 2021/1645 OF THE EUROPEAN PARLIAMENT

of 29 April 2021

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Union Agency for the Cooperation of Energy Regulators (before 4 July 2019: Agency for the Cooperation of Energy Regulators) for the financial year 2019

THE EUROPEAN PARLIAMENT,

— having regard to its decision on discharge in respect of the implementation of the budget of the European Union Agency for the Cooperation of Energy Regulators for the financial year 2019,

— having regard to Rule 100 of and Annex V to its Rules of Procedure,

— having regard to the report of the Committee on Budgetary Control (A9-0078/2021),

A. whereas, according to its statement of revenue and expenditure [1], the final budget of the Agency for the Cooperation of Energy Regulators (the 'Agency') for the financial year 2019 was EUR 16 147 153, representing an increase of 19,06 % compared to 2018; whereas the budget of the Agency derives entirely from the Union budget;

B. whereas the Court of Auditors (the 'Court'), in its report on the Agency's annual accounts for the financial year 2019 (the 'Court's report'), states that the Court has obtained reasonable assurance that the Agency's annual accounts are reliable and that the underlying transactions are legal and regular;

Budget and financial management

1. Notes with appreciation that budget monitoring efforts during the financial year 2019 resulted in a budget implementation rate of 99,50 %, exceeding the Agency's planned target of 95 %, representing an increase of 0,25 % compared to 2018; notes that the payment appropriations execution rate was 81,35 %, representing an increase of 1,62 % compared to 2018;

Performance

2. Notes that the Agency continues to use certain measures as key performance indicators to assess the added value provided by its activities, in particular to estimate the impact and the effect of network codes, to keep track of all fines imposed and to improve its budget management;

3. Notes that the Agency succeeded in adopting significant decisions, opinions and recommendations in the Union electricity and gas markets resulting from the adoption of Regulation (EU) No 1227/2011 [2] (REMIT); notes with concern that some tasks were deprioritised or not executed due to a lack of resources;

4. Welcomes the fact that the Agency has continued to outsource accounting services to the Commission and to share resources with other Union agencies in the areas of human resources management, information and communication technology management, budget and finance, procurement and facility management; considers that initiative to be a worthwhile example for other Union institutions to follow;

5. Calls on 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);

[1] OJ C 120, 29.03.2019, p. 139.

[2] Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p. 1).

6. Stresses the importance of increasing the digitalisation of the Agency in terms of internal operations and management procedures; stresses the need for the Agency to continue to be proactive in that regard in order to avoid a digital gap between the Union agencies at all costs; draws attention, however, to the need to take all the necessary security measures to avoid any risk to the online security of the information processed;

Staff policy

7. Notes that, on 31 December 2019, the establishment plan was 100 % implemented, with 67 temporary agents appointed out of 67 temporary agents authorised under the Union budget (compared to 67 authorised posts in 2018); notes that, in addition, 26 contract agents and four seconded national experts worked for the Agency in 2019;

8. Reiterates 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); asks the Union institutions to take into account the importance of ensuring gender balance when nominating their members to the Agency's administrative board;

9. Notes 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;

10. Notes with concern that according to the Court's Special Report 22/2020 entitled 'Future of EU agencies – Potential for more flexibility and cooperation' the Agency faces the risk of limited resources which lead to deprioritisation of a long list of tasks;

11. Welcomes the fact that the Agency received additional resources in the context of the 'Clean Energy for All Europeans' package;

12. Notes that the Agency has adopted a decision on protecting the dignity of the person and preventing harassment, that several training courses have been organised for the purpose of awareness-raising and providing staff with information and that the training is compulsory for all newcomers; notes that one alleged harassment case was reported, but none was investigated or taken to court;

13. Is concerned about the large size of the Agency's administrative board, which complicates the decision-making process and generates considerable administrative costs;

14. Encourages 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;

Sustainability

15. Regrets that the Agency has not set CO_2 reduction targets; welcomes 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;

Procurement

16. Notes that 67 procurement procedures were completed out of 47 planned procedures for 2019; notes that following the Court's observation about the use of e-procurement, the Agency has implemented e-tendering in 2019 and acknowledges that e-submissions are under implementation in 2020;

17. Notes that the Court has issued a qualified opinion regarding the legality and regularity of the payments underlying the accounts with the total amount paid irregularly corresponding to EUR 988 138,00, which represents 6,3 % of all payments made by the Agency in 2019; notes that the observed irregular payments related to two irregular procurement procedures that were not carried out as prescribed following competitive procedures;

18. Notes the Agency's reply to the Court's finding and the measures taken by the Agency to prevent a recurrence of irregular procurement procedures;

19. Regrets 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; is 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;

Prevention and management of conflicts of interest and transparency

20. Acknowledges the Agency's existing measures and ongoing efforts to secure transparency, prevention and management of conflicts of interest, and to ensure the protection of whistleblowers; notes that a case of conflict of interest was identified in 2019, resulting in an assessment by the board of regulators and the human resources unit that decided not to take additional action;

21. Notes with satisfaction that the CVs and the declarations of interest of the administrative board and senior management are published on the Agency's website;

22. Notes the continuation of steps taken in order to enhance the transparency of the Agency's activities by reporting the meetings that the Agency's staff has with external stakeholders, in particular the director's meetings with organisations and self-employed individuals, and their availability on the Agency's website;

23. Notes 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;

24. Underlines the fact that the current ethical framework applying to Union institutions and agencies suffers from considerable drawbacks due to its fragmentation and lack of consistency between existing provisions; highlights that those issues should be addressed by setting up a common ethical framework, ensuring the application of high ethical standards for Union institutions and agencies;

25. Underlines that certain officials fill in declarations of absence of conflicts of interest and provide self-assessments with regard to respect for ethical standards; highlights, however, that such self-declarations and self-assessments are not sufficient and that additional scrutiny is therefore needed;

Internal controls

26. Notes that the Agency reported that its internal control framework is effective and that the annual assessment of its implementation did not highlight deficiencies, except for one minor deficiency concerning missing of recordings in its register of exceptions; notes with concern that the Court found that the register of exceptions was not properly filled in; recommends 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;

27. Notes that the strategic audit plan for the Agency for the period from 2017 to 2019 was fully implemented and the internal audit service determined audit topics for the following planning period;

28. Notes that three out of five actions resulting from the internal audit service risk assessment were fully implemented in the areas of business continuity, document management and monitoring of the implementation of network codes; calls on the Agency to report to the discharge authority on the developments of the ongoing actions for IT governance and market surveillance under REMIT;

Other comments

29. Notes that the Agency looked for areas of improvement regarding information sharing and cybersecurity, by establishing a mechanism to review the standards and guidelines annually; acknowledges the creation of an audit function by a third party to evaluate the Agency's processes from a cybersecurity perspective;

30. Welcomes the Agency's efforts to provide a cost-effective and environmentally friendly workplace;

31. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 29 April 2021 ([3]) on the performance, financial management and control of the agencies.

([3]) Texts adopted, P9_TA(2021)0215.