

CONSOLIDATED ANNUAL ACTIVITY REPORT

2022



In pursuance of FR 2018/1046, FFR No 2019/715¹

¹ 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 2022 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 2022 work programme: the completion of the internal energy market and the monitoring of trading in the wholesale energy markets of the Union remained the Agency's core objectives;
- The year 2022 was a year of unfolding energy crisis and exceptional market circumstances that largely affected the work of the Agency. In that context, several additional comprehensive tasks were assigned to ACER throughout the year (e.g., publication of the Final assessment of the EU Wholesale Electricity market design in the first half of 2022, assignment of delivery on two new tasks - publication of the LNG price assessment/benchmark and application of the Market Correction Mechanism - in the second half of 2022). The Agency successfully delivered on all of them. Moreover, in the high price energy environment it provided additional support to the policy-makers also by other means – like by relevant market monitoring and reporting, including of retail price developments and support measures. In 2022 the Agency started to implement also new tasks that were assigned by the revised legislation of TEN-E Regulation;
- The Agency succeeded to meet the mandate/ongoing regulatory work and the new ad hoc tasks with the existing human resources by displaying high level of organisational agility and flexibility (e.g. through prioritisation of tasks, deprioritisation of some tasks, internal mobility, formation of cross-departmental project groups), which helped to meet the increased and unpredictable workload. Despite that, the human resources constraints had an impact on the extent to which the Agency was able to contribute to the completion of the internal energy market since some of the Agency's work could not be done to the extent initially planned.
- In 2022 the execution of commitment appropriations was 99.26%, which is above the 95% target, while the execution of payment appropriations was 70.12%, which represents a progress compared to the 2021 execution, but still remains below the internal target of 75%.
- The Key Performance Indicator (KPI) targets were largely met, with the only exception of the appropriation payments mentioned above;
- The Director has provided a clear declaration of assurance;
- The controls and supervisory checks performed in 2022 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.

The Administrative Board has concluded that:

The Agency has successfully implemented the 2022 work programme despite a very challenging energy crisis that tasked the Agency with many additional assignments not initially anticipated. 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

Michel THIOLLIERE

21 June 2023

EXECUTIVE SUMMARY



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

It is an honour for me to present the 2022 Consolidated Annual Activity Report ('CAAR') of the European Union Agency for the Cooperation of Energy Regulators ('ACER'). It describes the rich palate of regulatory activities performed by the Agency in on the one side electricity and gas markets and those in wholesale energy markets integrity and transparency (REMIT) on the other side, as well as the extent to which it met the objectives set out in its Work Programme of 2022 (Part I). Part II of the CAAR details out all the administrative aspects related to the management and governance of the Agency.



2022 was an extraordinary year. The world, and Europe in particular are facing their first truly global energy crisis since many decades. While the energy prices started to rise already around mid-2021, the global energy landscape has been under severe pressure since the Russian invasion of Ukraine. With such massive developments, the previous years' COVID 19 pandemic feels already years away. It is an understatement to say that the 2022 energy crisis also impacted ACER.



Energy prices started to rise dramatically around mid-2021 leading to calls to mitigate their effects on consumers. Thus, already in 2021 the Agency was tasked by the European Commission with assessing the benefits and drawbacks of the current wholesale electricity market design which ACER delivered end of April 2022.

The Russian aggression on Ukraine in February 2022, led to sharp hikes in energy prices in the EU and worldwide. These, in unison with the security of supply concerns and the decision to phase out dependence on Russian fossil fuels while at the same time accelerating the deployment of renewables, topped the 2022 political agenda. The Agency was and is involved in various ways.

Throughout 2022 ACER contributed to the high - level discussions and provided valuable technical input to EU policy makers often on very short notice. Those were, for example, in the form of feedback to Commission's proposal for securing winter gas storage, as well numerous inputs in deliberations leading to the emergency regulations.

Europe's energy regulators community represented by ACER and CEER, provided support to ensure uninterrupted and safe energy supply in the synchronisation effort of Ukraine and Moldova with the European electricity system. Our contribution is of course small set against the suffering of the Ukrainian people.

In view of the crisis, ACER published a series of brief overviews and reports, for example, a report on Security of EU electricity supply in 2021 in October 2022 or included the energy crisis in its Market monitoring Report.

In addition, the Agency was entrusted with new tasks. On 19 December 2022, EU energy ministers agreed on rules to set a gas market correction mechanism (MCM), the operational aspects of which are managed by ACER. This required a quick turn-around from us and various colleagues already late 2022 prepared for this in anticipation of a possible MCM.

Another Council Regulation (EU) 2022/2576 tasks ACER with producing and publishing a new daily Liquefied Natural Gas (LNG) price assessment starting no later than 13 January 2023. It grants ACER the necessary powers to collect the data needed for the establishment of the LNG benchmark.

Ongoing market design questions are important issues to reflect upon, calling for careful considerations and distinction between short term intervention measures and long term market design. These have been at the forefront of discussions throughout 2022 conducting well into 2023. On 14 February 2023, the Agency, together with CEER, provided its response into the Commission's public consultation on the EU's electricity market design, welcoming the attention to long - term markets as key enabler for investment stability and affordability for consumers.

All the above affected ACER organisationally, often at very short notice, where we aimed to streamline workflows and were helpful in supporting institutions. The Agency carefully juggled the regular/planned work, as well as the ad hoc tasks.



When looking back at last year's developments, I would be tempted to conclude that we had positive and meaningful impact in the activities we undertook. The growing trajectory, both in human and financial resources, is also helpful and will be instrumental for the years to come. We indeed were capable at short notice to react to the unforeseen and to work strongly across departments in a super 'fast moving' and politically sensitive context.



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, 20 June 2023

Christian Pilgaard Zinglensen

Director

The Agency in brief

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.

Vision



Our vision is to be a leading agency for independent, high-quality regulation in Europe to implement the Internal Energy Market and the Energy Union.

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.

Multiannual objectives



1. Contribute to the completion of the Internal Energy Market and the monitoring of its functioning
2. Contribute to the Infrastructure and Security of Supply Challenges
3. Increasing integrity and transparency of wholesale energy markets
4. Contribute to address longer-term regulatory challenges



The Agency's key achievements in 2022

Main achievements in the regulation on wholesale market monitoring and integrity (REMIT):

- 1) Establishing a Cross-border Investigatory Group with 3 NRAs in the EU gas market.
- 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 more than 4.4 billion records of transactions 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.
- 4) Preparation of the implementation of the Market Correction Mechanism² with respect to the monitoring, activation, deactivation and notification (i.e., Articles 3, 4, 5, 10 of the MCM Regulation).
- 5) Implementation of the LNG Benchmark³.

Main achievements in the Internal Electricity Market:

- [ACER Final Assessment of the EU Wholesale Electricity Market Design](#)
- [ACER's Decision No 11/2022 on the alternative bidding zone configurations to be considered in the bidding zone review process](#)
- [ACER's framework guideline on demand response](#)
- [Policy paper on the Further Development of the EU Electricity Forward Market](#)
- [Policy paper on the revision of the network code on requirements for grid connection of generators and the network code on demand connection](#)
- [Framework guidelines on Cybersecurity rules](#)
- [Report on Electricity Transmission and Distribution Tariff Methodologies in Europe](#)
- [Monitoring the margin of capacity available for cross-zonal trade](#)

Main achievements in the Internal Gas Market:

- Significantly increased market monitoring due to the uncertain supply situation and the extremely high price environment, leading to additional reporting to the Board and others on gas wholesale market developments
- Frequent engagement with the Commission on new emergency measures and high-speed development of their implementation, in particular the LNG price assessment methodology and the Market Correction Mechanism

² [COUNCIL REGULATION \(EU\) 2022/2578 of 22 December 2022 establishing a market correction mechanism to protect Union citizens and the economy against excessively high prices](#)

³ [COUNCIL REGULATION \(EU\) 2022/2576 of 19 December 2022 enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders](#)

- Additional monitoring of new issues related to the changed gas flow environment, in particular congestion in gas transmission systems in North-West Europe

Main cross-sectoral achievements (electricity and gas):

There were many cross-sectoral activities in 2022, some of them concluded within the year while some ran through the year and were or expect to be finalised in 2023:

- TEN-E Scenario Guidelines: One of the most important new elements of the revised TEN-E regulation were the Scenario Guidelines, which the Agency was tasked to prepare. Most of our work, including extensive consultations, happened in the second half of 2022, with the final publication in January 2023. Scenario Guidelines now prescribe how both ENTSO-E and ENTSG have to prepare future Scenarios, a major pillar of all network development.
- Unit Investment Costs: a task set by the revised TEN-E, started in 2022 and due by April 2023, the Agency plans to establish a set of unit cost values for infrastructure investments, ranging from electricity to gas, hydrogen and smart grids.
- PCI monitoring, a yearly report was published, taking special care to align the gas and electricity parts in terms of messages and expectations.
- Additional monitoring of retail price developments and support measures, in view of the extremely high price environment energy consumers were facing

Overall achievement of 2022 objectives, PIs and KPIs

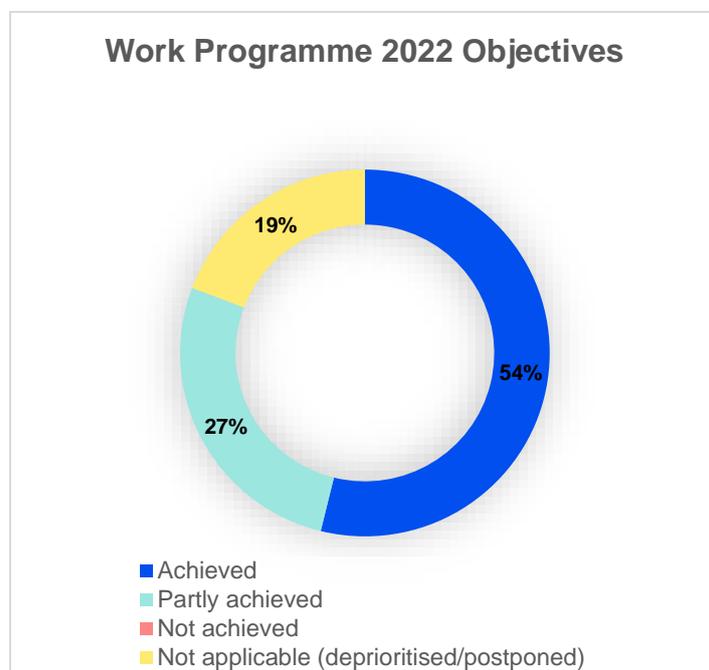


Figure 1: Overall achievement of objectives

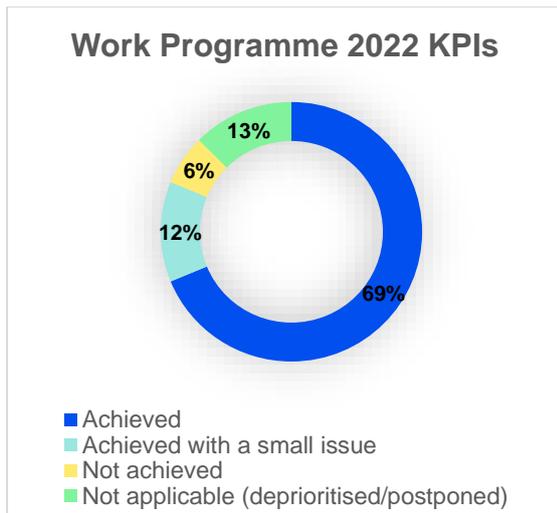


Figure 2: Overall achievement of KPIs



Figure 3: Overall achievement of PIs

Tasks deprioritised or not executed due to lack of resources

The MSC Department deprioritised:

- Manually assessed alerts and Initial Assessments even though a record number of preliminary initial assessments were delivered in 2022.
- Providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations.

The MIT Department deprioritised in 2022 the following activities, also due to the implementation of LNG price assessments and benchmark:

- Making publicly available REMIT information according to Article 12(2) of REMIT beyond the REMIT Quarterly reports.
- Collecting derivatives and emission allowances reported under EU financial market legislation according to Article 10(3) of REMIT.
- SIDC data collection, REMIT data quality projects and REMIT reporting guidance follow ups with stakeholders.

PART I: REGULATORY ACHIEVEMENTS IN 2022

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 29 March 2023



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

2022 saw unprecedented increases in electricity and gas prices and their volatility, exposing households and businesses to extraordinary challenges. This energy crisis has called for rapid responses and the European Union issued not less than 6 emergency measures in the second half of the year, entrusting the Agency and National Regulatory Authorities (NRAs) with important tasks, which implied an ever-deeper collaboration between the Agency and the NRAs.

Already back in October 2021, the Agency had been entrusted with the assessment of the benefits and drawbacks of the EU's wholesale electricity market design. Following extensive discussions within the Agency's Working Groups and the Board of Regulators, the Final Assessment published in April 2022 concluded that whilst the current electricity market design was not to blame for the ongoing energy crisis, some longer-term improvements were needed to deliver the energy transition and achieve the EU's decarbonisation goals. To that end, the Final Assessment put forward 13 measures for consideration by policy makers to future proof the market design. This important debate continues with the issuance of the European Commission's legislative proposal for reforming the Electricity Market Reform, with its stated aim of introducing urgent, targeted adjustments to make the market more resilient and to reduce the impact of gas prices on electricity bills while supporting the energy transition.

The latter very much remains the focus of the energy regulatory community. Thus, in April 2022, the Agency and the Council of European Energy Regulators (CEER) also published their reflection on the EU strategy to harness the potential of offshore renewable energy for a climate neutral future.

This was followed in June by the ACER-CEER reaction to the European Commission's Hydrogen and Decarbonised Gas Market Package, which seeks (among other things) to establish core principles for the regulation of a nascent hydrogen sector. The Agency and CEER welcomed the ambition to establish a comprehensive system design with a clear target model for the hydrogen and decarbonised gas markets, reinforce measures on integrated network development and focus on consumer protection issues. The first edition of the Decarbonised Gases Volume of the ACER-CEER Market Monitoring Report (released in November 2022) also described the current state of EU decarbonised gases and hydrogen, and examined regulatory provisions that could further drive the decarbonisation of the gas sector.

On the subject of market monitoring, another novelty last year was the publication of a stand-alone report on the performance of Member States in the area of security of electricity supply in October 2022. This report takes stock of how Member States assess the expected level of security of supply from the short to the long term as well as the electricity adequacy indicators coming out of these assessments, to identify potential gaps and to serve as a basis for discussion on what kind of security of supply measures are needed.

Here I would like to highlight the importance of the broader monitoring work done by the Agency and the NRAs: for instance in the current energy crisis characterised by high prices and price volatility, vigilance in detecting market manipulation and insider trading was fundamental in ensuring confidence in EU wholesale energy and financial derivatives trading.

I would like to mention here three further distinct and significant contributions made by the Agency and the NRAs in 2022, starting with the submission (in July 2022) to the European Commission of the Agency's revision of the Network Code for cybersecurity aspects of cross-border electricity flows proposed by ENTSO-E and the EU DSO Entity, based on the ACER Framework Guideline on sector-specific rules for cybersecurity aspects of cross-border electricity flows (submitted to the European Commission in July 2021). This network code aims to maintain the security and resilience of the energy system, which is increasingly vulnerable to cyber threats given the increasingly digitalised energy infrastructure.

Second, in August of last year, the Agency issued a decision within the bidding zone review process, proposing alternative bidding zone configurations for five Member States. Following ACER's Decision, TSOs have 12 months to conduct the bidding zone review and provide a recommendation on whether to keep or amend the existing bidding zones, and Member States will then decide whether or not to change the bidding zones accordingly.

Third, in December 2022, the Agency delivered on its mandate to draft a framework guideline on demand response, which sets out the main principles for binding, EU-wide rules aimed at facilitating the participation of demand response in the wholesale electricity markets.

This last reference to demand response, a key enabler of greater renewable integration and therefore of the EU decarbonisation and energy security of supply targets, takes me to back to my introductory points. I would like to conclude underling again the Agency and NRAs' collective, tireless efforts – as evidenced by the numerous deliverables and milestones mentioned above, which are but a part of its achievements - to meet the challenges arising from the current energy crisis and to improve the functioning of the energy markets for the benefit of all.

Ljubljana, 29 March 2023

1. ACHIEVEMENTS PER ACTIVITY

1.1. Market Information and Transparency

The Agency's market information and transparency work is an ongoing activity under REMIT which involves the promotion of regulatory cooperation and data excellence as well as REMIT analytics and information management tasks. The latter tasks are financed through REMIT fees on the basis of Article 32(1)(b) of Regulation (EU) 2019/942 as of 2021.

In 2022, ACER, in close cooperation with NRAs, provided guidance on the application of REMIT and on data reporting, collected in total more than 4.4 billion number of records, 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.

In Q4 2022, the planned delivery of several projects and activities were negatively impacted by additional tasks taken over under the Council emergency regulations (e.g. LNG price assessments/benchmark implementation).

1.1.1. 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.

Objective 1: Promoting Regulatory Cooperation	
Result	Partly Achieved
Main tasks performed	<ul style="list-style-type: none"> Assisting NRAs in exercising, at Union level, their regulatory tasks under REMIT performed in the Member States Policy cooperation with NRAs and, where necessary, their coordination to aim at ensuring the coordinated and consistent application of REMIT 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		
Main outputs	<ul style="list-style-type: none"> • Providing CEREMP for NRAs' national registers of market participants • ACER Guidance to NRAs on the application of REMIT; • Coordination of stakeholder queries with NRAs; • REMIT Q&As (28th Edition); • Potential coordinated policy documents; • Memoranda of Understanding (MoUs); • Exchange of information and/or meetings on the basis of existing MoUs. 		
Indicators	Target 2022	Result 2022	Source of data
99% Availability of the provided IT solutions to NRAs	99%	97%	Monthly performance monitoring
Continued measurement of % planned vs. delivered projects	YoY improvement	75%	Monthly performance monitoring
Implementation of the MoUs in practice through regular exchange of information and/or meetings with the relevant authorities.	At least 1 meeting per cooperating authority per year	Several meetings with ESMA and ad hoc participation in the ESMA CDTF meeting; 1 meeting with FERC; Several meetings with the EnC Secretariat	Monthly performance monitoring

II. Data excellence

Data and information is a key enabler to the Agency's success, supporting the drive to be a forward-looking and data-driven EU Agency that operates efficiently. Good quality data and information, handled well and available quickly allows the Agency to gain deeper insight into the subject matter and to be more efficient at identifying and tackling risks.

The Agency continued to implement technical and organisational requirements to ensure data excellence. The activities related to data excellence continued to 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 markets. Data collection and data management for the electricity and gas departments is a general task and an enabler for providing ACER with the information necessary for the purpose of carrying out ACER's tasks under Regulation (EU) 2019/942.

The Agency's tasks in the field of Data excellence continued to be financed by the Union budget and/or other funding sources made available, insofar as they did not relate to collecting, handling, processing and analysing of information collected according to Article 8 of REMIT.

Objective 1: Data excellence	
Result	Achieved
Main tasks performed	<ul style="list-style-type: none"> • Information management for the Electricity and Infrastructure, Gas and Retail departments
Main outputs	<ul style="list-style-type: none"> • Implementation of the ACER data strategy • Implementation of ACER data governance and policies • Develop new data marts and make information and tools available • Implement ACER information security policy for business IT systems and data

Indicators	Target 2022	Result 2022	Source of data
Implementation of the ACER data strategy	Continued measurement of % planned vs. delivered	75%	Monthly performance monitoring
Implementation of Data governance and policies according to plan	Continued measurement of % planned vs. delivered	75%	Monthly performance monitoring

1.1.2. REMIT Analytics and 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. It has the potential to support the monitoring activities and case-work of financial market authorities under EU financial market legislation and competition authorities under EU competition law and may foster sound policy-making.

REMIT analytics and information management activities aim to establish and manage information as a key asset to support market monitoring and provide reliable information on wholesale energy markets for the promotion of market integrity and transparency as a major pre-requisite for efficient market integration and the security of energy supply. This involves the delivery and operation of efficient and effective data and information-management services and increasing the Agency's information processing capacity, and requires management of in-house and outsourced information and technology services.

I. Regulatory cooperation, reporting guidance and policy activity to support the REMIT reporting mandate

ACER closely cooperates with NRAs on collecting, handling, processing and analysing of information collected pursuant to Article 8 of REMIT on an ongoing basis to foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.

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) according to Article 8 of REMIT and Articles 3(2), 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014. This requires a regular update of the guidance in the light of market developments (e.g. in case of new products admitted to trading at organised market places) and includes providing regular updates to the list of organised market places and to the list of standard contracts.

The Agency shall submit at least on an annual basis a Report to the Commission on its activities under REMIT according to Article 7(3) of 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.

The Agency should inform stakeholders on different aspects of the implementation and operation of

REMIT data collection according to Article 14 of Regulation (EU) 2019/942. Material updates of ACER's REMIT reporting guidance even require consultation of relevant parties according to Article 8 of REMIT and Articles 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014. Involvement of stakeholders will ensure wider acceptance of REMIT data collection and the effectiveness of any potential update of REMIT data collection.

Objective 1: Contribute to a coordinated, consistent and robust REMIT data reporting framework			
Result	Partly Achieved		
Main tasks performed	<ul style="list-style-type: none"> Continue to contribute to a coordinated, consistent and robust REMIT data reporting regulatory framework for the purpose of market monitoring and promote supervisory convergence in the area of data reporting; Enable reporting parties to report data pursuant to Article 8 of REMIT in an efficient, effective and safe manner to the Agency; Collecting, handling, processing and analysing of REMIT information collected according to Article 8 of REMIT. 		
Main outputs	<ul style="list-style-type: none"> Joint ACER-NRA projects on collecting, handling, processing and analysing of information, with the SIDC data collection project as key deliverable; Review of the Transaction Reporting User Manual (FAQs on transaction reporting); Review of the Manual of Procedures on transaction and fundamental data reporting (Manual of Procedures (MoP) on Data Reporting); Review of the Guidance for Registered Reporting Parties; Provision of additional FAQs on data collection; Published and regularly updated list of organised market places; Published and regularly updated list of standard contracts. Contribution to the Agency's Consolidated Annual Activity Report; Contribution to the Agency's Market Monitoring Report; REMIT Quarterly reports, REMIT Portal; Public consultations; Targeted consultations of relevant parties; Stakeholder roundtable meetings and webinars; Ad-hoc expert group meetings; REMIT Forum. 		
Indicators	Target 2022	Result 2022	Source of data
Number of relevant coordination meetings with NRAs	8	8	Monthly performance monitoring
Update of TRUM as key achievement	At least 1 update	1	Dedicated webpage
Update of FAQs on data collection	At least 1 update	1	Monthly performance monitoring
Update of MoP on data collection as required	As required	1	Monthly performance monitoring
Update of the RRM requirements	As required	1	Monthly performance monitoring
Updates of the List of OMPs	4 updates	5	REMIT PORTAL
Updates of the List of Standard Contracts	4 updates	4	REMIT PORTAL
Percentage of REMIT stakeholder queries on REMIT data collection answered	100%	95%	Monthly performance monitoring
% planned vs. delivered projects	Yoy improvement of % planned vs. delivered	75%	Monthly performance monitoring

II. Regulatory registration and supervision of reporting parties

ACER's European register of market participants was established for the purpose of data collection under REMIT and is based on the information provided by NRAs on an ongoing basis (Articles 8 and 9 of REMIT; Article 10(2) of Commission Implementing Regulation (EU) No 1348/2014). 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 Commission Implementing Regulation (EU) No 1348/2014 requires market participants to identify themselves or to be identified by the third party reporting on their 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.

ACER assesses registration applications under REMIT and its Implementing Regulation and monitors the compliance of registered reporting parties which 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 pursuant to Article 8 of REMIT and Article 11(1) of Commission Implementing Regulation (EU) No 1348/2014. There are currently 118 reporting parties registered with the Agency as so-called Registered Reporting Mechanisms (RRMs). As of 2021, this task includes the provision of support services for the collection of REMIT fees from registered reporting parties.

ACER is also registering Inside Information Platforms and Transparency Platforms disclosing inside information on behalf of market participants for the efficient, effective and safe collection of inside information through web feeds (Article 8 of REMIT; Articles 10(1) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014).

Objective 1: Regulatory registration and supervision of reporting parties to ensure efficient, effective and safe exchange and handling of information			
Result	Partly Achieved		
Main tasks performed	<ul style="list-style-type: none"> • Enable reporting parties to report data pursuant to Article 8 of REMIT in an efficient, effective and safe manner to the Agency; • Ensuring efficient, effective and safe exchange and handling of information; • Collecting, handling, processing and analysing of REMIT information collected according to Article 8 of REMIT. 		
Main outputs	<ul style="list-style-type: none"> • 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; • Contribution to the implementation of REMIT fees (e.g. publication of an updated Q&A document on REMIT fees); • Processed new registration applications; • Assessment of whether changes to the current RRM registrations (structural changes of entities, changes in technical and organisational requirements etc.) are compliant with Article 11 (1) of REMIT Implementing Regulation and facilitate the changes by bilateral communication with the RRM and related amendments in the system; • Engagement with individual registered reporting parties, audits, thematic reports and letters addressed to registered reporting parties identifying risks and requesting remediation in alignment with key supervisory priorities. 		
Indicators	Target 2022	Result 2022	Source of data
99% Availability of the publicly made available parts of the European register of market participants on the Agency's REMIT portal	99% service availability	100%	Monthly performance monitoring
Contribution to effective REMIT fee implementation	Yoy improvement of % planned vs. delivered	100%	Monthly performance monitoring

Implementation of the RRM compliance monitoring strategy according to plan	Yoy improvement of % planned vs. delivered	76%	Monthly performance monitoring
Completeness of information	Yoy improvement	89%	Monthly performance monitoring
Accuracy of information	Yoy improvement	99%	Monthly performance monitoring
Timeliness of information	Yoy improvement	99%	Monthly performance monitoring
The time a reporting party takes to proceed to remedial actions following ACER's supervisory action	Yoy improvement	Up to 11 days	Monthly performance monitoring

III. Data analysis and dissemination

Against the background of its legal mandate under Articles 7(3) and 8 of REMIT and Article 11 of Commission Implementing Regulation (EU) No 1348/2014, ACER continued performing data analysis and giving attention to the quality of reported data under REMIT, as a precondition to data-driven monitoring, through action plans and methodologies and worked 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.

According to Article 12(2) of REMIT, 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.

The Agency is also tasked to make its non-sensitive trade database available for scientific purposes pursuant to Article 12(2) of REMIT. In the past, this activity was limited to the Agency's cooperation with the European Commission's Joint Research Centre. In 2022 and beyond, the Agency aims at establishing and making available a dataset which will allow cooperating with universities and research institutes at Union level.

Objective 1:	Data analysis and dissemination to assure data quality, integrity, transparency and usability of information
Result	Partly Achieved
Main tasks performed	<ul style="list-style-type: none"> Perform market data analysis in order to assure data quality, integrity and usability in close co-ordination with NRAs; Making available REMIT data for scientific and transparency purposes; Collecting, handling, processing and analysing of information collected according to Article 8 of REMIT.
Main outputs	<ul style="list-style-type: none"> Data processes to support market monitoring and data analysis, Ongoing data analysis projects/reports; 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; Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency

	<ul style="list-style-type: none"> • Making available of REMIT data sets to researchers from universities and research institutes for scientific purposes; • 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. 		
Indicators	Target 2022	Result 2022	Source of data
Delivery and implementation of REMIT data strategy according to plan	Yoy improvement of % planned vs. delivered	75%	Monthly performance monitoring
Continued measurement of % planned vs. delivered data projects	Yoy improvement of % planned vs. delivered	75%	Monthly performance monitoring
Integrity of information	Yoy improvement	99%	Monthly performance monitoring
Consistency of information	Yoy improvement	94%	Monthly performance monitoring
Contribution to ACER publications using REMIT market data	At least 1	2	Monthly performance monitoring
Engagement in scientific data sharing project	At least 1	1	Monthly performance monitoring
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 1 publication	1	Monthly performance monitoring

IV. Data collection, data management and data sharing

This deliverable comprises the tasks data collection and data sharing and the operation and enhancement of the Agency's REMIT Information Systems ensuring operational reliability. The Agency is tasked to collect records of wholesale energy market transactions, including orders to trade from EU market participants at pan-European level.

The Agency shall also 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. 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.

For the purpose of collecting, handling, processing and analysing information, ACER operates its REMIT Information Systems ARIS. According to Article 12(1) of REMIT, 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.

Objective 1:		Data collection, data management and data sharing to increase integrity and transparency in wholesale energy markets	
Result	Partly Achieved		
Main tasks performed	<ul style="list-style-type: none"> Collecting of information reported by reporting parties in an efficient, effective and safe manner; Providing high-quality REMIT data for monitoring purposes of ACER, NRAs and other relevant authorities; Operate the Agency's REMIT Information Systems operationally reliable; Collecting, handling, processing and analysing of information collected according to Article 8 of REMIT. 		
Main outputs	<ul style="list-style-type: none"> Continuous management of records of wholesale energy market transactions, including orders to trade, derivatives, fundamental data and inside information collected; Provision of REMIT information services to internal ACER users, NRAs and reporting parties; Projects to enhance data collection, data processing and data sharing; ARIS Data Validation Rules Configuration Document; ACER REMIT Information System Data Validation Document Sharing of relevant REMIT data with NRAs through ARIS on an ongoing basis and with other authorities on an ad hoc basis; Maintenance and continuous operations of the Agency's REMIT Information Systems; Enhancements of the Agency's REMIT Information Systems, or components thereof; Application and IT service management; Identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures. 		
Indicators	Target 2022	Result 2022	Source of data
Service availability of data collection, data management and data sharing services	99% service availability	98%	Monthly performance monitoring
% of open tickets versus closed	Yoy improvement	92%	Monthly performance monitoring
Continued measurement of % planned vs. delivered projects	Yoy improvement of % planned vs. delivered	75%	Monthly performance monitoring
Time from discovery of an information security incident/issue until resolution	Yoy improvement	118 hours on average	Monthly performance monitoring

1.2. 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.**

In 2022, the high prices and high volatility on the wholesale energy markets has led the Agency to reinforce its scrutiny (under REMIT) to detect possible instances of market abuse.

The energy crisis and the exceptional market circumstances (characterised by scarce electricity and gas supplies, unprecedentedly high prices and price volatility), vigilance in detecting market manipulation and insider trading was more important than ever to ensure confidence in the integrity of the EU wholesale energy markets.

In this context, ACER and the energy regulatory authorities of Austria, Germany and the Netherlands have established a cross-border investigatory group on the oversight of the gas markets. The aim of a cross-border investigatory group was to coordinate and strengthen the efforts on fact-finding and evidence gathering. The investigatory group will be closed when sufficient evidence is gathered to pursue a case or if NRAs conclude on the absence of a REMIT breach. ⁴

The Agency's market surveillance and conduct work promotes the integrity of wholesale energy market through these main activities:

- i. On a daily basis, assessing gas and electricity market data on anomalous instances and for this purpose implementing surveillance tools to detect potential instances of market abuse;
- ii. Notifying and referring suspected market abuse instances to NRAs and other relevant authorities;
- iii. Requesting and coordinating investigations performed by NRAs;

⁴ More information can be found on: <https://www.acer.europa.eu/news-and-events/news/acer-and-3-regulatory-authorities-reinforce-coordination-energy-market-abuse>.

- iv. Providing guidance to NRAs on market abuse definitions; and
- v. Providing operational assistance to a requesting NRA on their REMIT investigation (deprioritised).

The Agency aims to ensure that all NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent manner, which is done mainly through case coordination and publishing Guidance to NRAs on the application of market abuse prohibitions. It is worth mentioning that the Agency also monitors wholesale energy derivatives i.e., financial products and hence notifies the appropriate financial authorities should it detect potential instances of market abuse.

The recast of the Agency's founding regulation assigns the Agency with a new task, which is to provide operational assistance to NRAs upon their request to support their investigations into suspicious behaviour from market participants in wholesale energy markets. The Agency assessed⁵ that the additional resources it would require, should it not reject any of the requests for assistance from NRAs, amounts to a significant increase in additional amount of staff. This task is currently deprioritised.

Objective 1: Ensuring the integrity of wholesale energy markets and delivering trustworthy market outcomes for EU energy consumers			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> 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. That is, 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; and screening, registering and assessing notifications on suspicious trading instances reported by national authorities, persons professionally arranging transactions, market parties and other entities. 		
Main outputs	<ul style="list-style-type: none"> Reporting to NRAs assessed triggered alerts and initial assessments of potential market abuse cases. 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. Providing support to NRAs to issue investigations rendering enforcement actions including sanctioning decisions. 		
Indicators	Target 2022	Result 2022	Source of data
% of high priority alerts manually screened	100%	99.95%	Monthly performance report
# of initial assessments sent to relevant authorities	16	17	Monthly performance report

⁵ See: Note on the resources required to provide operational assistance to the NRAs on REMIT investigations pursuant to Article 6(8) of Regulation (EU) 2019/942.

Objective 2: Ensuring a consistent application of market abuse provisions by NRAs in order secure effective REMIT framework			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> 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, and monitoring obligations (Articles 4, and 15). It includes the following activities: case coordination; case consistency; development, consultation and issuance of ACER Guidance; statutory meetings involving the discussion of REMIT cases. That is, 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, providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations. 		
Main outputs	<ul style="list-style-type: none"> Notifications on REMIT cases by ACER and triage and review of received Notifications from NRAs (and PPATs) based on the data received under Article 8. Cooperation between ACER and NRAs and among NRAs on REMIT cases. Coordination meetings with NRAs on the consistent application of market abuse provisions in REMIT (e.g. ARC, MM SC). Processing of requests from ACER and updates from NRAs. Establishment and coordination of investigatory groups. Reviews by ACER of potential REMIT breach assessments by NRAs (closing and consistency notes). Publication of Guidance to NRAs on the application of REMIT market abuse provisions. 		
Indicators	Target 2022	Result 2022	Source of data
% of REMIT breach cases pro-actively followed by the Agency	> 25% of the stock	26%	Monthly performance report
Number of REMIT breach cases triaged and reviewed on cooperation needs	>100	123	Monthly performance report
Number of interactions on market abuse cases to ensure a coordinated and consistent approach (documents and requests sent)/year	> 600	1,422	Monthly performance report
Number of statutory meetings (>50% of the target group) organised and chaired by the MSC department	>5	10	Monthly performance report
Number of cross border investigatory groups under management	0	1	Monthly performance report
% of market abuse enforcement Decisions issued by NRAs quoting the ACER Guidance	>=75%	84%	Monthly performance report
Requests from NRAs of operational assistance on REMIT investigations accepted by ACER	0%	0%	Monthly performance report

Objective 3: Development and enhancement of applied surveillance and conduct IT tools	
Result	Partly Achieved
Main tasks performed	<ul style="list-style-type: none"> Implementable detailed business requirements to enhance existing IT tools
Main outputs	<ul style="list-style-type: none"> The development and enhancements of the Agency's main surveillance tool for market surveillance; Development of new alerts for detecting potential market abuse; Enhancements of existing alerts for improved detection of potential market abuse; The development and enhancements of the Agency's Notification Platform (NP) and Case Management Tool (CMT). <p>Outputs relating to the multi-annual work programme objectives:</p>

	<ul style="list-style-type: none"> 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>Other outputs:</p> <ul style="list-style-type: none"> The training of staff, NRAs and other users for the use of the tools. 		
Indicators	Target 2022	Result 2022	Source of data
Number of alert enhancements implemented	20	12	Monthly performance report
Number of alerts developed and implemented	2	0	Monthly performance report
Number of new Case Management Tool (CMT) Power BI improvements implemented	>15	42	Monthly performance report
Number of Notification Platform and CMT issues/bugs/improvements documented for solving	>15	34	Monthly performance report

Objective 4: Ensure cooperation between public authorities dealing with related matters.

Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> 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. It also aims at disseminating best practices among public authorities. 		
Main outputs	<ul style="list-style-type: none"> Notifications to ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries. <p>Outputs relating to the multi-annual work programme objectives:</p> <ul style="list-style-type: none"> Ensure cooperation between public authorities dealing with related matters. Increased integrity and transparency of wholesale energy markets. <p>Other outputs:</p> <ul style="list-style-type: none"> Coordination meetings with ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries. Increased integrity and transparency of wholesale energy markets. 		
Indicators	Target 2022	Result 2022	Source of data
Number of large scale non-statutory meetings (ESMA/ financial authorities - EFET, PPATs/OMPs - MSF, other entities – EMIT Forum)	4/year	4/year	ACER's Web page; meeting agendas and minutes

Objective 5: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.

Result	Not applicable		
Main tasks performed	The task was fully deprioritised in the 2022 Work Programme and no tasks were performed during 2022.		
Main outputs	<ul style="list-style-type: none"> no related outputs in 2022 		
Indicators	Target 2022	Result 2022	Source of data

For 2022 no indicator 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 not be acted on.	n/a	n/a	n/a
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1.3. 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.

Objective 1: Ensuring the full implementation of Network Codes and Guidelines and more broadly of the new requirements laid down in the CEP	
Result	Achieved
Main tasks performed	<ul style="list-style-type: none"> • Issuing decisions on the amended European-wide terms and conditions or methodologies. • Assisting NRAs for the approval of amended regional-wide terms and conditions or methodologies developed by TSOs, NEMOs or other entities, pursuant to the adopted Network Codes and Guidelines. Issuing decisions on these regional terms and conditions or methodologies in case NRAs fail to agree or upon their joint request. • Monitoring the implementation of the obligations resulting from the adoption of the Network Codes, Guidelines, the different terms and conditions and methodologies and the Electricity Regulation. Investigating the reasons for delays and/or non-compliance and issuing recommendations and/or decisions to address these issues. • Collecting the required data and information to perform these monitoring activities. If necessary, issuing recommendations and/or decisions to get these data and information. • Continuing to promote the involvement of stakeholders in monitoring the implementation of network codes and guidelines, in particular through the European Stakeholder Committees. • Opinions and recommendations in the areas of the Agency’s competence, to the European Parliament, the Council and the Commission • The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.
Main outputs	<ul style="list-style-type: none"> • ACER Decision 01/2022 requesting additional information in relation to single intraday coupling data • ACER Decision 02/2022 on the European Resource Adequacy Assessment for 2021 • ACER Decision No 03/2022 on the amendment to the methodology for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process • ACER Decision No 04/2022 on the Regional Coordination Centre Post-Operation and Post-Disturbances Analysis and Reporting Methodology • ACER Decision No 05/2022 on the definition of system operation regions • ACER Decision No 06/2022 on the 1st amendment of the Core intraday common capacity calculation methodology • Decision 07/2022 on the Regional Coordination Centre Training and Certification of Staff Methodology • ACER Decision 08/2022 on the request of the regulatory authorities of the Continental Europe synchronous area to extend the period for reaching an agreement on the proposal for the minimum activation period to be ensured by frequency containment reserves providers

	<ul style="list-style-type: none"> • ACER Decision 09/2022 on the TSOs' proposal for amendment to the requirements of the Single Allocation Platform and to the methodology for sharing costs of establishing, developing and operating the Single Allocation Platform • ACER Decision 10/2022 on the TSOs' proposal for amendment to the congestion income distribution methodology • ACER's Decision No 11/2022 on the alternative bidding zone configurations to be considered in the bidding zone review process • ACER Decision No 12/2022 concerning risk hedging opportunities on the bidding zone borders between Finland and Sweden • ACER Decision No 13/2022 on the Methodology for the Optimisation of Inter-Transmission System Operators Settlements related to Redispatching and Countertrading • ACER Decision 14/2022 on the Amendment to the Implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with manual activation • ACER Decision 15/2022 on the Amendment to the Implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation • ACER Decision 16/2022 on the Amendment to the Implementation framework for a European platform for the imbalance netting process • ACER Decision No 17/2022 on Svenska kraftnät's request for a derogation from the 70% requirement pursuant to Article 16(9) of Regulation (EU) 2019/943 • ACER Opinion No 03/2022 relating to the implementation of long-term transmission rights on the FI-EE bidding zone border • ACER's response to ENTSO-E's submission of the Winter Outlook 2021/2022 • Open letter on ENTSO-E Summer Outlook 2022 • Congestion income distribution methodology (CACM Art. 73) • Extension request Tmin LER • Market monitoring report – adequacy • Cross-zonal hedging opportunities on FI-SE (FCA A30) • ACER and CEER reflection on the EU strategy to harness the potential of offshore renewable energy for a climate neutral future
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Indicators	Target 2022	Result 2022	Source of data
Timely adoption of decisions	100%	100%	ACER's Web page
Timely adoption of the implementation monitoring reports and where necessary of Opinions/ Recommendations to foster the implementation of these NCs and GLs	100%	100%	ACER's Web page

Objective 2: Amendment and/or Development of new Network Codes and Guidelines			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> • Adoption of new framework guidelines and issuing opinions and recommendations to the European Commission on new network codes and guidelines as well as on amendments of existing network codes and guidelines. This includes a thorough consultation process with all stakeholders and supporting the European Commission during the adoption of these new or amended network codes. 		
Main outputs	<ul style="list-style-type: none"> • recommendations to amend the existing (or to develop new) Network Codes and Guidelines • Preparatory work towards amendments to the grid connection network codes including a public consultation: https://www.acer.europa.eu/electricity/connection-codes • The Framework Guideline on demand response 		
Indicators	Target 2022	Result 2022	Source of data
Timely adoption of recommendations	100%	100%	ACER's Web page

Objective 3: Monitoring the Tariff practices and the use of congestion income			
Result	Partly Achieved		
Main tasks performed	Tariff Methodologies <ul style="list-style-type: none"> Updating (completing and improving) the Best Practice Report on transmission and distribution tariff methodologies. Monitoring and promoting the implementation of best practices in Member States through recommendations. Monitoring transmission charges paid by generators. Use of Congestion Income <ul style="list-style-type: none"> Monitoring the effective and consistent implementation of the Agency's decision on the methodology regarding the use of the congestion income. 		
Main outputs	<ul style="list-style-type: none"> Report on Electricity Transmission and Distribution Tariff Methodologies in Europe Report on the use of the congestion income 		
Indicators	Target 2022	Result 2022	Source of data
Timely adoption of monitoring reports in these two areas (Tariff and use of congestion income)	100%	50% ⁶	ACER's Web page

Objective 4: Monitoring the performance of RCCs and EU DSO entity (including data request)			
Result	Not applicable		
Main tasks performed	The new EU DSO Entity and RCCs went live in the course of 2022 and the performance monitoring of those entities is not applicable.		
Main outputs	A number of deliverables will prepare the grounds for the proper execution of tasks of the RCC, among which: <ul style="list-style-type: none"> The ACER Decision No 04/2022 on the Regional Coordination Centre Post-Operation and Post-Disturbances Analysis and Reporting Methodology The ACER Decision No 05/2022 on the definition of system operation regions The ACER Decision 07/2022 on the Regional Coordination Centre Training and Certification of Staff Methodology 		
Indicators	Target 2022	Result 2022	Source of data
Timely adoption of Opinions/Recommendations	100%	n/a	ACER's Web page

⁶ [Report on Electricity Transmission and Distribution Tariff Methodologies in Europe](#) was published in January 2023 (slight delay)

1.4. Internal Gas Market

2022 was an exceptional year for the internal gas market. The Russian invasion of Ukraine led to significantly reduced Russian pipeline gas deliveries to the EU markets, which needed to be replaced in a very short and uncertain timeframe. This also led to historically unprecedented high prices, spilling over into electricity markets. This context called for extraordinary policy actions to preserve energy security of supply and protect consumers, combined wherever possible with increased decarbonisation.

In 2022 the Agency continued to engage in the preparation of the Hydrogen and Decarbonised Gas Market Package⁷. In a joint effort with CEER, the regulatory community closely followed and advised policy makers on key regulatory requirements for gas decarbonisation, sector integration and hydrogen network regulation.

By 2022, the Network Codes implementation process in gas was well under way, most Network Codes were implemented in most Member States and ACER focused on bilateral exchanges with those lagging behind. In addition ACER delivered its annual congestion monitoring and tariff reports, the latter each time when the national tariffs methodology in the Member States were consulted for a new tariff decision.

Objective 1: Implementation of Network Codes: Decisions, assistance to NRAs, advocacy			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> Joint requests from the Functionality Platform: the Agency will interpret and provide solutions in a joint process with ENTSOG. Decision regarding network codes when NRAs cannot agree (based on Article 6(10) of Regulation (EU) 2019/942): the Agency will issue decisions in case NRAs disagree on cross-border matters. Advocacy on network codes per market request or per the request of the NRAs (based on Article 6 of Regulation (EU) 2019/942 or informal requests): the Agency will guide NRAs that require deeper explanations to the network codes in the course of the national implementation, or changes to the national implementation, per the NRA's request. 		
Main outputs	<ul style="list-style-type: none"> Joint requests from the Functionality Platform: the Agency will interpret and provide solutions in a joint process with ENTSOG. Decision regarding network codes when NRAs cannot agree Advocacy on network codes per market request or per the request of the NRAs 		
Indicators	Target 2022	Result 2022	Source of data
Number and complexity of the Joint solutions on the Functionality platform	5-6	2-3	FUNC platform
Number and complexity of the Decisions and NRA-ACER advocacy	1-2	2-3	ACER website

Objective 2: Reporting and monitoring	
Result	Achieved
Main tasks performed	<ul style="list-style-type: none"> Tariff Reports evaluating the national tariff consultations (based on Article 27 of Regulation (EU) 2017/460): the Agency will improve compliance with its inputs to the final tariff decision of the NRA. Annual Report on Congestion at Interconnection points in the European Union with the planned automation of the report in 2022, entailing more data testing (based on Point 2.2.1.2 of the Commission Decision of 24 August 2012): the Agency will provide a list

⁷ [ACER-CEER Reaction to the European Commission's Hydrogen and Decarbonised Gas Market Package](#)

	<p>with the congested interconnection points with recommendations with a view to increase smooth congestion management on cross-border points.</p> <ul style="list-style-type: none"> • Implementation Monitoring Report on the Tariff Network Code with a view to the implementation issues that have not been delivered and in relation to the allowed revenues of the transmission system operators. (Based on Article 9(1) of Regulation (EC) 715/2009): the Agency will support the appropriate implementation of the network code to increase transparency of national tariff and allowed revenue settings. • Implementation Monitoring Report for Balancing with the application of the balancing analytical framework: the Agency will increase comparability of the national balancing market designs and improve learning about best practices. 		
Main outputs	<ul style="list-style-type: none"> • 9th ACER Report On Congestion In The EU Gas Markets And How It Is Managed • Monitoring update on incremental capacity projects – Second edition • Towards completing the implementation of the EU gas balancing network code: Flash update report – Sixth edition • Gas Balancing dashboard • Agency Report: Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Denmark • Agency Report Analysis of the consultation document for the non-transmission tariffs applicable for the emergency supply service provided to non-protected consumers in Denmark • Agency Report: Analysis of the consultation document on the application of a commodity charge (flow-based charge) in Austria • Study on the Future Regulatory Decisions on Natural Gas: Repurposing, Decommissioning and Reinvestments 		
Indicators	Target 2022	Result 2022	Source of data
Number and complexity of the Reports mentioned above.	Between 8 and 12	3 and 5	ACER website
Allowed regulatory decisions on natural gas networks (study on repurposing, decommissioning and reinvestments)	1	1	ACER website
Capacity Reports on annual congestion and incremental projects	2	2	ACER website
Gas Balancing Dashboard and update report	n/a	1	ACER website
Increased time of data testing in relation to the automation projects on Congestion Report and potential data screens needed in the Balancing reporting.	n/a	Testing completed	n/a
Time dedicated to Hydrogen and decarbonised gas market package	n/a		n/a

Objective 3:	Tasks initiated by the European Commission or at the Agency's initiative		
Result	Not applicable		
Main tasks performed	The legislative package remained under revision, so the tasks envisaged in the 2022 Work Programme (Amendment of the Interoperability and Data Exchange Network Code (based on Article 7 of Regulation (EC) 715/2009); Opinions and recommendations under own initiative (based on Article 24(2) of Regulation 2019/942): the Agency will gradually explore the need to issue them.) were not performed during 2022.		
Main outputs	-		
Indicators	Target 2022	Result 2022	Source of data
Number of legislative changes and timeline for implementation	n/a	n/a	n/a
Number and complexity of own initiative opinions and recommendations	n/a	n/a	n/a

1.5. Electricity and Gas Internal Market Monitoring

As regards the Agency's work on Internal Energy Market monitoring, Article 15 of Regulation (EU) 2019/942 specifies that the Agency shall monitor the internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This work will be combined with part of the Agency's obligation under article 7(3) of Regulation (EU) 1227/2011.

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, and increasingly aimed at bringing the monitoring results closer to the time of the monitored developments. The market monitoring report is enriched with purposeful indicators, 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.

In electricity, 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 and the derogations granted to TSOs to deviate from the 70%. Finally, following the adoption of the "Clean Energy for all Europeans" legislation, the market monitoring report includes 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.

In gas, the monitoring in 2022 focused particularly on the gas market developments and the gas price rally triggered by the changed supply and demand fundamentals as an outcome of the Russian invasion of Ukraine. In energy retail, a closer outlook was offered on user price evolution, price dispersion and the share of energy price as part of disposable income given that the energy price increase hit energy consumers.

Finally, a remarkable deliverable that was not initially foreseen stems from the European Commission's 'Toolbox' Communication of October 2021, where the European Commission tasked ACER with assessing the benefits and the drawbacks of the EU's current wholesale electricity market design and with providing recommendations for its improvement. In response to this mandate, ACER delivered a dedicated report in April 2022 "ACER Final Assessment of the EU Wholesale Electricity Market Design". As a consequence of the resources devoted to this task, the 'traditional' electricity wholesale volume of the market monitoring report was replaced by a series of brief electricity overviews.

Objective 1: Market Monitoring Report	
Result	Achieved
Main tasks performed	<ul style="list-style-type: none"> • Report on benefits and weaknesses of the existing wholesale electricity market design and possible recommendations to improve its functioning. • Wholesale Gas Market Volume • Monitoring report on the amount of cross-zonal capacity available for trade and on the derogation decisions • Monitoring the performance of Member States in the area of security of supply. • Retail Market and Customer Protection Volume

	<ul style="list-style-type: none"> Fulfilling the request of the European Commission, who mandated ACER to assess the electricity market design and provide recommendations for its improvement. 		
Main outputs	<ul style="list-style-type: none"> 11th Annual Market Monitoring Report Annual Report on the Results of Monitoring the Internal Electricity and Natural Gas Markets in 2021: Gas Wholesale Markets Volume Annual Report on the Results of Monitoring the Internal Electricity and Natural Gas Markets in 2021: Energy Retail and Consumer Protection Volume Retail and Energy market data ACER Report on the Results of Monitoring the Internal Electricity and Natural Gas Markets in 2021 MMR 2021: Decarbonised Gases and Hydrogen Volume ACER Final Assessment of the EU Wholesale Electricity Market Design ACER Report on the result of monitoring the margin available for cross-zonal electricity trade in the EU in 2021 ACER Security of EU electricity supply in 2021: Report on Member States approaches to assess and ensure adequacy 2022 series of electricity overviews, including <ul style="list-style-type: none"> Electricity wholesale markets 2021 developments Prequalification processes for the provision of balancing services: Progress report on European wholesale electricity market integration 		
Indicators	Target 2022	Result 2022	Source of data
Timely completion of the Annual Market Monitoring Report.	November 2022 (parts delivered earlier)	Fulfilled on time. The Electricity wholesale market design, the Electricity Wholesale volume of the market monitoring report was replaced by a series of electricity overviews	ACER's Web page

1.6. Infrastructure and Security of Supply

The Agency and NRAs cooperate in implementing the TEN-E Regulation, which entered into force on 15 May 2013 and was repealed 30 May 2022. The Regulation aims to facilitate infrastructure development with the objective of supporting the European energy transition, including rapid electrification, scaling up of renewable and fossil fuel free electricity generation, the increased use of renewable and low-carbon gases, energy system integration and a higher uptake of innovative solutions..

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 potential 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.

Objective 1: Ensuring the proper implementation of the TEN-E Regulation			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> 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. Requests of updates and Opinion(s) on ENTSO-E's and/or ENTSOG's methodologies for cost-benefit analysis, if updated 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 Decisions on investment requests including on cross-border cost allocation under Article 12(6) of Regulation (EU) 347/2013 		
Main outputs	<ul style="list-style-type: none"> ACER Consolidated report on the progress of electricity and gas Projects of Common Interest ACER Opinion 06/2022 on key elements of ENTSO-E and ENTSOG draft TYNDP 2022 Scenario Report 		
Indicators	Target 2022	Result 2022	Source of data
Timely publication of the Decisions/Opinions/Recommendations/Reports	100%	100%	ACER's Web page

Objective 2: Monitoring the TSOs' cooperation in the Electricity Sector			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> Opinion on the draft Union-wide electricity infrastructure 10-Year Network Development Plan 2022 Opinion on the implementation of the Union-wide electricity infrastructure 10-Year Network Development Plan and investments to create new interconnector capacity 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 Opinions on ENTSO-E's annual work programme and ENTSOE's annual report Opinions on potential updates to ENTSO-E's common network operation tools and common incidents classification scale Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators Opinion on ENTSO-E's research and development plan Annual monitoring report on the implementation and management of the inter-TSO compensation fund 		
Main outputs	<ul style="list-style-type: none"> Opinions on ENTSO-E's annual work programme and ENTSOE's annual report ACER Report on the implementation of the ITC mechanism in 2021 ACER Opinion 04/2022 on ENTSO-E's Research, Development and Innovation Implementation Report 2021-2025 		
Indicators	Target 2022	Result 2022	Source of data
Timely adoption and publication of the deliverables	100%	100%	ACER's Web page

Objective 3: Ensuring the proper implementation of the adequacy-related methodologies			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> Monitoring the implementation of the adequacy related methodologies approved by ACER (European Resource Adequacy Assessment, Short-term and seasonal adequacy assessments, Value of loss of load, Cost of new entry, Reliability standard and Cross-border participation in capacity markets). European Resource Adequacy Assessment (ERAA) 2021: Issue the decision on whether to approve or amend. European Resource Adequacy Assessment 2022: Close interaction with ENTSO-E pursuing improvements with a view to ensure a robust ERAA to facilitate a smooth approval process. In this context, a set of minimum expectations about ERAA 2022 was shared with ENTSO-E early in the process. Close interaction with ENTSO-E to improve its bi-annual seasonal adequacy assessments also considering the energy crises context. 		
Main outputs	<ul style="list-style-type: none"> ACER Security of EU electricity supply in 2021: Report on Member States approaches to assess and ensure adequacy ACER's minimum expectations for ERAA 2022 ACER decision on the ERAA 2021 Shared reasoned considerations/recommendations with ENTSO-E on the Winter Outlook 2021-2022 and following the Summer Outlook 2022. 		
Indicators	Target 2022	Result 2022	Source of data
Timely adoption and publication of the deliverables	Timely adoption	Fulfilled	ACER's Web page

Objective 4: Monitoring the TSOs' cooperation in the Gas Sector			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> Opinion on the draft Union-wide gas infrastructure 10-Year Network Development Plan 2022 Opinion on the implementation of the Union-wide gas infrastructure 10-Year Network Development Plan and investments to create new interconnector capacity 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 Opinions on ENTSOG's annual work programme and ENTSOG's annual report Opinions on potential updates to ENTSOG's common network operation tools and common incidents classification scale Opinion on ENTSOG's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators Opinions on ENTSOG's annual Summer and Winter supply outlooks Opinion on ENTSOG's research and development plan 		
Main outputs	<ul style="list-style-type: none"> Opinion on the national gas and hydrogen 10-Year Network Development Plans to assess their consistency with the Union-wide 10-Year Network Development Plan (if appropriate) recommendations to amend the national 10-year network development plans or the Union-wide network development plan ACER Opinion 08/2022 on the Review of Gas and Hydrogen National Network Development Plans to Assess Their Consistency with the Eu Ten-Year Network Development Plan Opinions on ENTSOG's annual work programme and ENTSOG's annual report ACER Opinion 05/2022 on ENTSOG's Summer Supply Outlook 2022 ACER Opinion 07/2022 on ENTSOG Winter Supply Outlook 2022/2023 		
Indicators	Target 2022	Result 2022	Source of data

Timely adoption and publication of the deliverables	Timely adoption	100%	ACER's Web page
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Objective 5: Ensuring the proper implementation of measures to safeguard the security of gas supply			
Result	Achieved		
Main tasks performed	<ul style="list-style-type: none"> 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") 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. Opinions on requests for an exemption from the obligation to enable permanent bi-directional capacity (if the Agency decides to issue an opinion) Decisions on exemptions as provided for in Article 36(4) of Directive 2009/73/EC where the infrastructure concerned is located in the territory of more than one Member State Decisions on terms and conditions and operational security of cross-border interconnectors and on exemptions 		
Main outputs	<ul style="list-style-type: none"> ACER Opinion 01/2022 on the elements of the coordinated decisions as result of the proceedings to review the exemption from the obligation to enable bi-directional capacity at the "Mosonmagyaróvár" cross-border interconnection point between Hungary and Austria ACER Opinion 02/2022 on the elements of the coordinated decisions on a request of prolongation of the exemption from the obligation to enable bi-directional capacity at the Murfeld/Ceršak cross-border interconnection point between Austria and Slovenia ACER report on gas storage regulation and indicators ACER and CEER views on the proposal for a regulation amending Regulations (EU) 2017/1938 and (EC) n°715/2009 relating to the access to gas storage facilities 		
Indicators	Target 2022	Result 2022	Source of data
Timely adoption and publication of the deliverables	Timely adoption	100%	ACER's Web page

Objective 6: Contribute to the proper regulatory terms and conditions for access and operational security of cross-border infrastructure, and exemptions			
Result	Not applicable		
Main tasks performed	The task envisaged in the 2022 Work Programme (Issuing decisions on terms and conditions and operational security of cross-border interconnectors and on exemptions) was not performed during 2022.		
Main outputs	<ul style="list-style-type: none"> no related outputs in 2022 		
Indicators	Target 2022	Result 2022	Source of data
Timely adoption and publication of the deliverables	Timely adoption	n/a	ACER's Web page

Objective 7:	Contribute to the implementation of Union energy legislation by NRAs and to the activities of EU level institutions		
Result	Not applicable		
Main tasks performed	The tasks envisaged in the 2022 Work Programme (“Peer review” opinions as requested 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; Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission) were not performed during 2022.		
Main outputs	<ul style="list-style-type: none"> no related outputs in 2022 		
Indicators	Target 2022	Result 2022	Source of data
Timely adoption and publication of the deliverables	Timely adoption	n/a	ACER's Web page

PART II (a): MANAGEMENT



2.1. Administrative Board

The Administrative Board is the governing body of the Agency composed of 9 members and 9 alternates appointed either by the European Parliament, the Council of the EU and the European Commission. It is an independent body, responsible for the Agency's governance as well as all administrative and budgetary activities. More concretely, the Administrative Board 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 5 times in the course of 2022. In particular, the Administrative Board was convened four times in ordinary session on 27 January, 16 June, 25/26 October and 14/15 December and once in the extraordinary session on 6/7 April.

Over 2022, the Administrative Board enhanced the relations with the Agency in between the meetings by appointing among its members rapporteurs who are responsible for a specific task or policy. This enables to regularly discuss topics of the Board's interest with the Agency's departments and provides support to their tasks. In its work, the Administrative Board is supported by a dedicated secretariat.

It adopted the following 20 decisions:

Number	Subject Matter		Adoption
1	Appointment of One Member and One Alternate of the Board of Regulators (ERSE)	*	25 January
2	Appointment of One Member of the Board of Regulators (NVE - RME)	*	
3	Appointment of One Alternate of the Board of Regulators - (DUR)	*	15 February
4	Appointment of One Member of the Board of Regulators - (ESA)	*	
5	Appointment of One Member and One Alternate Member of the Board of Regulators - (EWRC)	*	24 February
6	Appointment of One Member of the Board of Regulators (Ei)	*	25 April
7	Appointment of One Alternate Member of the Board of Regulators (Forsyningstilsynet)	*	2 June
8	On the Adoption by Analogy of Commission Decision C(2021) 8179		16 June
9	On the Conduct of Administrative Inquiries and Disciplinary Proceedings		
10	On the Adoption by Analogy of Commission Decision C(2022) 1715		
11	Appointment of one Member of the Board of Regulators - (CRE)	*	8 September
12	Appointment of one Member of the Board of Regulators - Konkurensiamet	*	23 September
13	Appointment of one Member of the Board of Regulators - CNMC	*	14 November
14	Appointment of one Alternate Member of the Board of Regulators - ANRE	*	
15	Appointment of Reporting Officers - Mr Zinglensen - Year 2022		14 December
16	Guidelines - Prevention and management of Conflicts of Interest - ACER AB and BoA		
17	Internal Control Framework		
18	Amending Decision 14-2021 on Budget and Establishment Plan of the Agency - Financial year 2022		
19	Non-application by analogy of Commission Decision on working time and hybrid working		15 December
20	Budget and Establishment Plan of the Agency- Financial year 2023		

* 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.

Moreover, in January 2022 the Administrative Board adopted the [Draft Single Programming Document 2023-2025](#), which was then submitted for the opinion to the European Commission, the Council of the EU and the European Parliament. Following the receipt of the opinion of the Commission and of a favourable opinion of the Board of Regulators, the Administrative Board adopted the [Single Programming Document 2023-2025](#) on 15 December 2022.

The Administrative Board adopted also one opinion in the course of 2022:

Number	Subject Matter	Adoption
1	Final accounts for the financial year 2021	16 June

Risk and control issues discussed

The Administrative Board adopted in December 2022 more stringent Guidelines on the prevention and management of conflicts of interest for the Administrative Board and the Board of Appeal. The Guidelines complement the existing Agency's overall policy on the prevention and management of the conflict of interest that was established in 2015. The Guidelines on one hand provide additional understanding to the Board's members in fulfilling their duties according to ACER policy on the prevention and management of conflict of interest, while on the other hand they also provide additional guidelines to the Review Panel in the assessment of circumstances that could lead to conflict of interests. The Guidelines also clarify the breach of trust procedure and the consequential actions to be undertaken. Moreover, they refine the timeline of the assessment process that should lead to an early conclusion of the annual exercise.

In December 2022, the Administrative Board discussed the broader near-term risks that had been identified by the Agency through its regular risk assessment exercise.

2.2. Major developments

As the forewords already highlighted the year, 2022 was dominated by a very significant energy supply shock and ensuing energy price crisis with direct negative impacts on households and industry. It had implications for the security of supply, requiring significant energy savings effort, and with implications for fiscal, monetary and supportive policies in a wide range of areas. As such, the energy crisis also heavily affected the workings of the Agency in various ways.

1) [Developments directly impacting Agency](#): The Agency saw itself confronted with extra tasks following the crisis, some of which are summarised below.

The Agency was tasked in 2021 to produce an assessment of the EU's electricity wholesale market design with delivery of first initial insights in November 2021 and a final report in April 2022.

In parallel to this, the EU had been responding to the quickly evolving crisis by taking various emergency measures to contain and manage the energy crisis. In this fast-evolving context, the Agency stood ready

to assist decision-makers, in particular the European Commission, with technical advice and input on various measures considered to address the increase in energy prices and security of supply concerns.

The Agency was also assigned new tasks via dedicated emergency European legislation, notably the 'Gas Market Correction Mechanism (MCM)' and the 'Liquefied Natural Gas price assessment (LNG price assessment)'. These initiatives were developed quickly during the autumn and became applicable soon after their adoption, thus requiring from the Agency to prepare for implementation in parallel to the decision-making process in the Council. Moreover, the nature of these tasks were considerably new for the Agency, reaching beyond various cooperation of energy regulators and requiring new contacts and reporting channels to be established (e.g. towards LNG data providers).

2) **Impact on the organisation of the Agency's workflows:** The energy crisis impacted several planned tasks, hence required close follow-up and action by the Agency staff lead by its management team.

In short, the increase in new tasks or input to inform the course of action that had been unforeseen, and the speed at which these required tackling, required both continuous redirection of efforts and significant agility in the Agency's working approaches. This also involved the Agency's Board of Regulators and its Administrative Board.

In practice this led to

- *Reprioritisation of some tasks:* Some tasks needed to be deprioritised. The Agency deemed it an acceptable risk given the extraordinary circumstances that some workflows could be deprioritised (e.g., some of the more general market monitoring efforts, not closely linked to the energy crisis). That said, all formal ACER decisions were still delivered.
- *Incorporation of new tasks:* The new tasks of the MCM and the LNG price assessment will lead to new staff being assigned to the Agency. However, per usual practice the Agency was faced with a delay between the actual start of these tasks incumbent upon the Agency and the arrival of new employees hired to perform them. Thus, the recruitment for some of the assigned positions has been still underway. Naturally, such 'frontloading' within finite resources impacted the planning of other tasks and required the development of new IT tools.
- *Increase of interactions with various decision-makers:* During 2022 the Agency was drawn upon by many decision-makers at a much higher rate than usual, and this on a variety of energy-related topics. It also interacted with new interlocutors compared to the past, two examples being the Eurogroup (i.e., the finance ministers of the Eurozone) and the European Central Bank alongside the national central bank heads, this likely due to the knock-on effects of the energy crisis on both fiscal and monetary policy challenges for the EU. The Agency also saw an exponential growth in invitations to discuss energy issues which, whilst valuable in their own right, needed careful prioritisation.

Overall, 2022 required significantly higher flexibility than usual from Agency staff in terms of planning of tasks and workload. The Agency deployed more cross-organisational project teams on a more widespread basis than in the past to tackle the new and unforeseen challenges.

2.3. Budgetary and financial management

Revenue 2022

During the financial year 2022 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.

	<i>EUR '000</i>	
Revenue	2022	2021
Subsidy from the EU general budget	15 164	14 819
Others	3	25
Fees and charges	9 654	8 760
Total	24 821	23 604

Initial approved appropriations for the financial year 2022 amounted to EUR 24 891 343 including contribution from EFTA states of EUR 364 124 and assigned revenue from previous year surpluses of EUR 293 103. In December 2022, the Agency amended its budget in order to align the level of planned fees and charges to the actual collection, and to account for a double-counting error, thus decreasing its budget by EUR 63 500. Recovery of undue payments occurred during 2022 amounting to EUR 2 967, and brought the total revenue for the year to EUR 24 820 954.

Fees revenue 2022

As from the year 2021 the Agency is annually 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.

REMIT IT	2022 budgeted	2022 executed
Infrastructure, hardware licenses, deployment, service desk and operations	2,018,500	2,267,387
Software maintenance, development, testing and software licenses	1,475,000	1,511,506
Surveillance and BI tools customisation, licenses and consultancy	900,000	1,302,874
Studies, technical writing, coordination, QA and information security	500,000	500,000
Business enhancements and development of surveillance and conduct tools - MSCD	460,000	284,193
Expert consultation MIT and MSC	575,000	433,410
Specific data and information services	-	-
Other related operational costs	57,000	10,762
	5,985,500	6,310,132
Staff costs		
Temporary Agents	2,597,243	2,215,832
Contract Agents	663,181	639,249
Seconded National Experts	150,724	85,279
	3,411,148	2,940,360

Overheads	267,020	413,177
TOTAL 2022	9,663,669	9,663,669

Budget implementation 2022

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

Heading	Appropriations 2022	Appropriations 2021	Variation 2022/2021
Final adopted budget	2022	2021	2022/2021
Title 1 - Expenditure relating to staff and resources	12 361 558	11 684 506	5.79%
Title 2 - Agency's building and associated costs	4 055 995	4 138 861	-2.00%
Title 3 - Operational expenditure	8 410 289	7 766 868	8.28%
Total budget	24 827 842	23 590 235	5.25%

The increase of 5.79% in the appropriations of 2022 within Title 1 as compared to 2021 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 slight decrease in 2022 as compared to 2021 by 2% mainly related to minor savings in legal expenses.

The increase seen in 2022 within Title 3 as compared to 2021 of 8.28% 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 all appropriations used for commitments was 99.21%, for payments reached 75.46% and 22.99% of payment appropriations were carried over to 2023.

							<i>thousands</i>
Official Budget Title	Final adopted budget (commitm. appropr.)	Assigned revenue (commitm. appropr.)	Carry-over of commit. appropr. from 2021	Total commit. appropr. available	Commitments made	Carry-over of commitment appropriations to 2023	Cancelled commit. appropr.
	1	2	3	4=1+2+3	5	6	7=4-5-6
1	12 362	2	0	12 363	12 236	2	126
2	4 056	10	0	4 066	4 040	0	26
3	8 410	1	0	8 411	8 367	1	43
Total	24 828	13	0	24 841	24 643	3	194

Procurement procedures – 2022

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures
Negotiated – value below € 1,000	26	10.57%
Negotiated – very low value	66	26.83%
Negotiated – low value – direct contract	4	1.63%
Negotiated – low value – FWC	0	0.00%
Negotiated – middle value – direct contract	1	0.41%
Negotiated – middle value – FWC	0	0.00%
Negotiated – point 11.1(e) of Annex I FR	0	0.00%
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	8	3.25%
Open – FWC (concluded in 2022)	0	0.00%
Specific contracts, following FWC	27	10.98%
Order forms, following FWC	114	46.34%
TOTAL	246	100%

A total number of 246 procurement procedures of different types were concluded in 2022.

Rate of procurement procedure types used (e.g. open/negotiated etc.): 43% of negotiated and 57% 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.

Authorising officer by sub-delegation function and grade	Authorisation of:	Limit amount
Head of Department – Corporate Services, grade AD 12	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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, AD8	<ul style="list-style-type: none"> Payments orders Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations 	EUR 500,000
Financial Officer, grade AD 6	<ul style="list-style-type: none"> Payment orders Recovery orders 	EUR 750,000

	<ul style="list-style-type: none"> • Technical and accounting adjustments 	
Budget Assistant, grade AST 4	<ul style="list-style-type: none"> • Payment orders • Recovery orders • Technical and accounting adjustments 	EUR 20,000
Financial Assistant, grade AST 3	<ul style="list-style-type: none"> • 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. Most of the delegations and nominations for the financial year 2022 were signed in December 2021. The rest were signed as per the needs identified.

2.5. Human resources management

The past years saw the engagement of the Agency's services in several HR-related projects, stemming from the needs identified by various surveys and polls, working groups and managerial discussions (i.e., project groups on "Lessons learned from COVID-19", "Diversity & Inclusion", and "Follow-up to the Staff Engagement Survey 2020").

In a context of great employment changes, and besides the activities related to selection and recruitment, the Agency availed itself of the collaboration with Deloitte on the implementation of two HR transformational programmes. The first one focusses on talent management at the Agency, and it has been implemented throughout 2021-2022 via four interlinked work packages. The second programme targeted three key strategic areas of human resources management (i.e., design and implementation of Leadership and Expert Pipeline framework, design of ACER 2.0 business model, revision of job descriptions), with dedicated work packages being implemented throughout 2022 – beginning of 2023.



Figure 4: HR projects 2021-2023

In light of the above-described landscape and the different considerations, reports and data collected in different HR areas in the past years, the outlook of the years 2023-25 will see the Agency developing three priority areas each encompassing a set of key actions, which will be planned, implemented and monitored. Periodic updates will be made available to staff and management and a review of the strategy and its implementation will be undertaken on a yearly basis:

- 1) New ways of working: create a flexible, modern and dynamic working environment
- 2) Talent acquisition: attract the best talents to fulfil the Agency's objectives
- 3) Talent development: fostering a high performing and engaging organisation.

Implementing rules

1. DECISION No 8/2022 OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS of 16 June 2022 on the adoption by analogy of the Commission Decision laying down general implementing provisions regarding the payment of the education allowance provided for in Article 15 of Annex X to the Staff Regulations to staff members for the duration of temporary assignments to the seat of the institution or any other place of employment in the Union;
2. DECISION No 9/2022 OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS of 16 June 2022 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings;
3. DECISION No 10/2022 OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS of 16 June 2022 on the adoption by analogy of the Commission Decision on home leave for officials, temporary staff and contract staff serving in a third country and repealing Commission Decision C(2013) 9035 final of 16 December 2013.

2.6. Strategy for efficiency gains

As from 2020, 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 2021, aiming to assess the needs and the resources on a regular and ad-hoc basis. A shift of internal human resources took place both in 2020 (with the revision of the Agency's organisational structure) and in 2021, with the internal transfer of four positions. The internal re-allocation of positions and staff continued in 2022, better to address the implementation of the new tasks related to energy emergency, while selection procedures for new posts are being completed.

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.

Moreover, in 2022, the Agency availed itself of the support of external consultants better to foster internal processes and seek for additional efficiency gains. Through the work package dedicated to (workload) analysis and strategy, ACER is increasing the development of a sound talent management

strategy and implement solutions for organisational (re-)structuring and task allocation that ensure quality, efficiency and effectiveness of the Agency's work.

The organisational analysis which has been conducted in 2022 entailed the following:

- a) Definition of an organisational structure in order to address the management of the Agency's tasks vis-à-vis the 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 FTE 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 Agency is also using a number of tools for procurement processes (e-Submission portal, e-Tendering portal, e-Notices and e-Invoicing for invoices under DIGIT contracts). The Public Procurement Management Tool (PPMT) is at the time of the drafting of this document in a testing phase. Individual departments also use IT tools which facilitate planning.

E-Platform is a website/platform which BoR and AB boards use to enable board members to electronically:

- (via E-Declarations module) annually submit Declaration of Interest, CV and Declaration of Commitment.
- (via E-Voting module) vote on various activities.

The Agency also uses Sysper⁸, ARES⁹ (including Qualified Electronic Signature) and MiPS¹⁰.

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.

⁸ European Commission's Human Resource Management System

⁹ ARES is the document management system in use in the Commission services

¹⁰ European Commission's missions management system

2.7. Assessment of audit and ex-post evaluation results

2.7.1. Internal Audit Service (IAS)

Based on the IAS Strategic Audit Plan for the Agency (SIAP) covering the period 2021-2023, the IAS performed an audit on Planning, budgeting and monitoring in 2021/2022. 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 started in 2022.

The IAS performed an audit on Decision-making process under Article 2(d) of Regulation (EU) 2019/942 in 2022/2023. The overall objective of the audit was to assess the adequacy of the design and the effectiveness and efficiency of the decision-making process, and compliance with the applicable regulations, procedures and guidance for the audited processes. The Final Audit Report was received on 25/05/2023 and it contains one (1) “very important” recommendation on Access to ACER’s extranet and two (2) “important” on The exchange of information – confidentiality and Stakeholders' relations and communication in the decision-making process. An Action Plan was defined and sent to the IAS.

2.7.2. Internal Audit Capability (IAC) – not applicable.

2.7.3. European Court of Auditors (ECA)

Audit of the 2021 annual accounts

In February 2022 the European Court of Auditors (ECA) audited the 2021 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 2021, 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 and payments underlying the accounts for the year ended 31 December 2021 are legal and regular in all material respects.

Audit of the 2022 annual accounts

ECA audited the Agency's 2022 annual accounts in the period December 2022 - February 2023. As part of the process, ECA issues its preliminary findings to which the Agency has the opportunity to reply. Once the replies are analyzed by ECA and agreed upon they will be included in their annual report expected to be published towards the end of 2023.

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 2022, the Agency continued to implement activities defined in action plans from previously conducted IAS audits:

1. 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. The action plan has been fully implemented and [closed by the IAS in 2022](#).
2. Following the IAS audit on the Implementation of REMIT in 2020, the final audit report contained six recommendations: two "very important" and four "important". The action plan has been fully implemented and [closed by the IAS in 2022](#).
3. Following the IAS audit on Planning, budgeting and monitoring in 2021/2022, the final audit report contained two recommendations: one "very important" (implementation of ABB, functional time reporting and workload assessment) and one "important". An action plan was defined and accepted by IAS, and its implementation started in 2022.

2.8.2. Observations issued by the ECA

The observations of ECA, the Agencies replies and the actions taken by the Agency in 2022 in order to address these findings are detailed below:

ECA observation:

In its audit report for the 2019 financial year, ECA concluded that several specific contracts under a framework contract for IT services were partly irregular. As a result, subsequent payments based on this framework contract may also be affected. In 2021, the associated payments amounted to €21 534.

Agency's reply:

The Agency acknowledges the payment made under the framework contract in question. Its value represents 0.1% of all payments made in 2021. The Agency has minimised the use of the out of price list to the extent possible (bringing it below 10% of the value of each specific contract), taking into account the continuity of its operational activities.

Agency actions in 2022:

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. During 2022 no items were ordered from the out-of-price lists.

ECA observation:

Between 2019 and 2021, ACER assessed three cases of a potential conflict of interest in relation to a senior member of staff taking up paid outside activity or a new job elsewhere. In the one case ECA reviewed, was found that, in contravention of Article 16 of the Staff Regulations, ACER did not consult the Joint Committee and issued its decision after the deadline. The decision included restrictions designed to mitigate the risk of conflict of interest. Because it was issued late, however, it could not be enforced, meaning that the person concerned was effectively authorised to take up the new job without any restrictions. ACER subsequently asked the person concerned to honour the restrictions set out in the initial decision, but this request lacked any legal basis.

Agency's reply:

The Agency acknowledges all the facts, as presented by the ECA. It should be noted that faced with this situation for the first time, the Agency tried to ensure that the proper terms and conditions would be imposed. However, the Agency did not manage to do so on time and had to withdraw the decision. The Agency considered the exchange of letters with the former staff member as representing a good solution to formalise the contractual obligations after the withdrawal of the decision, thus protecting from operational, legal and reputational risks. Having gained the experience of this process, the Agency is committed to apply the process in a timely and correct manner.

Agency action in 2022:

The Agency was looking into developing the guidelines of the process to be used for any future application. During 2022, the Agency had no similar case.

ECA observation:

ECA found that ACER had carried over €6.6 million (29.9 %) of 2021 commitment appropriations to 2022. Of that amount, €4.0million, or 54 % of operational expenditure, was related to core operational activities under the REMIT Regulation. High rates of carry-overs contradict the budgetary principle of annuality and suggest structural issues in the implementation of the budget.

Agency's reply:

The Agency acknowledges the increased level of carry-overs. The year 2021 was the first year in which the Agency collected fees. 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. This resulted in a high level of carry-overs from the commitments open balances at year-end.

Agency action in 2022:

During 2022 and its second year of revenue collection the Agency has timely committed the funds allocated to the projects covered from fees in accordance with the needs recorded in the procurement plan. Given that most of the significant contracts were renewed or started in the second half of 2022, the level of funds carried over into 2023 to cover the obligations resulting from these contracts lead to a high level of carry-overs, fact that is to a certain extent out of the Agency's control.

All observations and the Agency's replies can be found in ECA's publicly available [report](#).

Follow-up on earlier recommendations**Previous years' observations from ECA****ECA observation:**

ACER signed a framework contract in cascade, in two lots, for a maximum amount of €25 million in the field of IT systems and consultancy. However, 61.3% of the payments made in 2019 under lot 1 of the contract were not covered by the contract price list. ACER concluded direct contracts for the items concerned, without a competitive procedure. The associated specific contracts are therefore irregular.

Agency's follow-up:

Observation to remain open until 2025 when the framework contract used is set to expire. The Agency is following up its action plan in order to minimise the use of orders for out-of-price lists items, to ensure their value does not exceed the 10% self-imposed limit of any contract and that the value remains immaterial. During the year 2021 the Agency made one immaterial payment of EUR 21,534 or 2.24% of the contract value for out of price list items.

ECA observation:

ECA found evidence suggesting that ACER 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 follow-up:

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 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. The agency received different positions of Temporary Staff AST/SC within the context of the Decarbonisation Directive (one position per year, from 2023 to 2027). The Agency launched a selection procedure in 2022 and established a reserve list to guarantee the prompt hiring of suitable candidates. Unfortunately, at the end of 2022, with the energy crisis, the Decarbonisation package was put on hold. The Agency intends to resume the hiring process as soon as possible, in order to decrease the number of interim staff.

ECA observation:

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

Agency's follow-up:

Through the carry over exercise at year-end the budget line managers are justifying the need to carry over the balance of the open commitments and are providing the evidence to support the amount recorded. The request and evidence is then verified for correctness and approved by the authorising officer and the accounting correspondent before the financial year is closed. Apart from this the Agency is monitoring on a monthly basis the implementation of its procurement plan to minimise the delays in the conclusion of procurement procedures that could lead to the more procedures being concluded towards year-end and increased amount of carry overs. The Agency is performing on a quarterly basis thorough budget reviews to align the planned consumption to the actual implementation. As a result of the process the Agency experienced a significant increase in the implementation rate of commitments, reaching 99.26% in 2022, the highest rate ever. Since 2021 the Agency is funded also by fees, which were in 2022 about 38.7% of its total budget. In 2022 the Agency carried over € 7.2 million (29.4%) of the commitment appropriations, a slight improvement as compared to 2021 (29.9%), but a significant improvement in the payments rate that reached 70.1% in 2022 as compared to 65.9% in 2021. From the total carried over about € 4.5 million or 47% related to operational activities of the multi-annual REMIT project which are covered from fees and charges and 17.9% of committed appropriations from EU subsidy.

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 2020 and acted upon the recommendations received.

Staff policy

The Discharge Authority reiterated its concern about the lack of gender balance among the Agency's senior management, namely one woman (16,7 %) and five men (83,3 %) in its senior management; noted that the gender distribution among the staff overall is 68 men (67,3 %) and 33 women (32,7 %) and encouraged the Agency to take measures to achieve gender balance.

Given the long-term contracts of the Agency's senior management members (excluding that of 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.

Concerning overall gender balance, the Agency ensures that no gender discrimination occurs in its selection procedures, which are fully based on merit. The current gender composition of the Agency's staff is the result of the gender composition of the candidates applying for positions at the Agency and of their performance in the selection procedures. Gender balance will remain a priority as the Agency's staff will continue to grow in the coming years.

The Agency also set up a working group dedicated to diversity and inclusion. The aim of the group is to brainstorm 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 welcomed the efforts made in staff policy to promote teleworking and a healthy life and continues to encourage the Agency to pursue the development of a long-term human resources policy framework that addresses work-life balance, lifelong guidance and career development, gender balance, teleworking, geographical balance and the recruitment and integration of people with disabilities.

Besides the effort made by the Agency during the long pandemic period to better address the new ways of working, ACER has in place policies which encompass work/life balance, career development, equality and diversity action plans to better foster and celebrate diversity in its workforce. The Agency will continue to implement solutions in line with the staff regulations and related implementing acts.

The Discharge Authority noted that according to the Agency's annual report, the increase of powers that were granted to the Agency in recent years, also increased the number of appeals against the Agency's decisions, in turn drastically increasing the need for legal support in defending the Agency's decisions; called on the Agency to reflect the need for sufficient legal support in its organisation structure and to ensure appropriate staffing; welcomed in this regard the transfer of appropriations in the form of a subsidy amounting to EUR 429 000 in support for its unprecedented need of legal support in defending the Agency's decisions; called on the Agency to reflect the potentially continuing need for legal support in the procedure for future budgets of the Agency.

The budget allocated in 2022 by the Agency to cover the costs of the legal counsel needed to defend the appeals against the decisions taken was similar to that in the previous year (approx. 1 million). The Agency estimates that the funds needed for this purpose will diminish in future years due to the reinforcement of the internal legal team with two additional staff in 2022.

Procurement

The Discharge Authority noted with concern that the Court has issued a qualified opinion regarding the legality and regularity of the payments underlying the accounts for the financial year 2019; noted with concern that for the 2019 financial year, the Court concluded that several specific contracts under a framework contract for IT services were irregular, because no competitive procurement procedure had been followed by the Agency, and more precise, certain ordered items and services were not covered by the price lists of the bids submitted for the contract; notes that payments made in 2020 for out-of-price list items under this framework contract amounted to EUR 752 654 (3,71 % of the total payment appropriations available in 2020); noted the statements of the director of the Agency in the discharge hearing with the agencies on 29 November 2021, and the Agency's reply to written questions that the Court's finding was related to an excessive use of the option of 'out-of-price list items', and that the Agency has taken steps to prevent this from happening in the future; called on the Agency to report to the Court and the discharge authority on the above mentioned framework contracts as well as on the steps taken.

In 2022 the Agency did not have any open obligations from the contracts drawn in 2019 and 2020 under the framework contract in question. The Agency is no longer using the out-of-price-list services/products.

Internal control

The Discharge Authority noted that the internal audit service (IAS)'s audit on the implementation of Regulation (EU) No 1227/20111 in 2020 resulted in two very important, and four important recommendations that are currently being implemented on the basis of an action plan that was approved by the IAS; noted that from previously performed audits, the audits on "IT security in the Agency and information security in the REMIT domain" and "Human Resources Management" that three very important and four important recommendations were closed in 2020, and four important recommendations still need to be implemented; also noted that two important recommendations previously closed by the Agency, were reopened, after the IAS considered the efforts of the Agency to implement them insufficient, yet closed again later in 2020; called on the Agency to not close recommendations too early and calls on the IAS to continue its follow-up work on closed recommendations to make sure they are implemented as intended.

1. In 2017 the IAS performed an audit on the HRM function of the Agency. The audit resulted in five recommendations: one "critical", two "very important" and two "important"; the "critical" recommendation was later downgraded to "very important" and a "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 made 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 the Agency's contractors - stemming from the negative impact of COVID-19 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 and closed in 2022. One remaining “important” recommendation is to be implemented in 2022, in line with the Action Plan approved by the IAS.

The Discharge Authority noted that a risk assessment was performed in 2020, resulting in a new IAS strategic audit plan for the Agency for the period from 2021 to 2023; called on both the IAS and the Agency to monitor the identified risks and to take appropriate mitigating actions, as well as assess the measures taken by performing audits on the identified risks.

As of 2021 the Agency also performs a mid-term review of its risk assessment and the resulting Risk Register with critical risks. It strives to take appropriate mitigating actions for the risks identified by the IAS and ECA.

The Discharge Authority noted the statement of the Agency in its annual report, that the delegations and sub-delegations of budget implementation powers for the financial year 2020 were signed in November 2019 by the outgoing director and were not revoked by the incoming director, and remained valid as such, and that they were reconfirmed by the Agency’s director in December 2020; noted however the finding of the Court that the current director took office on 1 January 2020 and that he issued retroactively on 18 December 2020 a confirmation of the delegations of two members of staff, meaning that for almost one year, the members of the staff in question authorised operations based on the delegations issued by the previous director; noted with concern the Court’s conclusion that this constitutes an important internal control weakness, and was in particular concerned that this weakness was not identified by the Agency itself; called on the Agency to properly assess its internal control framework, in accordance with the guidance provided by the Directorate-General for the Budget of the European Commission.

In response to ECA’s observations in 2021 the Agency approved the rules on the delegation of authorising powers for the purpose of budget implementation.

Prior to the Court’s observation, the Agency considered the power of acting as authorising officer and the duty to implement the budget as intrinsically tied to the function of the Director. Consequently, in the period January – December 2020 the Agency considered in good faith that no action was required to maintain the validity of the delegation acts.

The implementation of internal control principles is monitored via indicators to assess the level of compliance and effectiveness of the internal control measures.

Excel templates provided by DG BUDG are used to track if indicator targets have been met. Activities carried out during the year and controls in place are assessed and deficiencies affecting the principle identified. The sum of principle assessments within an internal control component is used to assess the component as a whole. The sum of component assessments is used to assess the Internal Control System as a whole.

The complete text of single principle assessments, as well as the overall assessment of components and the system as a whole are published in the Consolidated Annual Activity Report.

In 2021 the Agency made a review of the Internal Control Framework indicators and concluded that a revision of the indicators should be made to better reflect the controls already in place at the Agency. The aim is to introduce the new set of indicators with the adoption of a decision of the Administrative Board in 2022.

COVID-19 response and business continuity

The Discharge Authority noted the difficulties faced by the Agency in applying a telework regime and handling an increasing amount of confidential data for the Agency's supervisory mandate, from more than 3 million records collected in 2019, to an average of over 6,8 million records of transactions and orders to trade per day in 2020; called on the Agency to inform the discharge authority on the measures taken to ensure business continuity, while at the same time complying with data security and confidentiality requirements.

The Agency ensured business continuity in the area of market surveillance by allowing remote access to sensitive data as a temporary exception from REMIT Information Security Policy. The exception was approved by the ACER Director. Several risk mitigation measures were applied, e.g. the separate instance of ACER market surveillance solution was set up in a secured network and the amount of market data loaded was limited to at the most 3 months of continuous data at one time. Only specific users dealing with REMIT market surveillance were allowed remote access and the ACER Information Security Officer periodically monitored how the data was accessed to detect any unauthorised access. Furthermore, additional similar temporary security exceptions were provided and approved by the ACER Director to facilitate access to sensitive information for REMIT cases work. ACER also established the Crisis Management Group (CMG) which included the management of the Agency and Business Continuity Coordinator and which periodically monitored and re-assessed specific mitigations measures in place and potential additional risks.

The Discharge Authority noted that the Agency reported significant savings under the allocated appropriations for missions and events; called on the Agency to maintain (part of) those savings in the post-lockdown era and to reflect a new way of more economical remote working in its operational procedures.

The savings the Agency identified during the pandemic due to travel restrictions (approx. EUR 230,000) were used in its operational area to ensure further development of the REMIT project.

Moreover, the Agency envisages to maintain some of the practices established during the pandemic period, in particular the organisation of remote selection procedures, saving appropriations in term of travel reimbursement for candidates and management of reimbursement payments.

Other comments

The Discharge Authority recalled the importance to increase the digitalisation of the Agency in terms of internal operation and management but also in order to speed up the digitalisation of procedures; stressed the need for the Agency to continue to be proactive in this regard in order to avoid a digital gap between the agencies at all costs; drawn attention, however, to the need to take all the necessary

security measures to avoid any risk to the online security of the information processed; called on the Agency to speed up the development of its cybersecurity policy and to inform the discharge authority on its completion.

Since 2018 the Agency has an Information Security Policy covering also all aspects of cybersecurity as a sub-domain. In 2020 the Agency continued to develop standards covering some residual area of cybersecurity.

The Agency took steps to re-evaluate risks related to the digitalised functions and to mitigate those risks, when necessary. With its internal policy the Agency evaluates risks for new digitalisation projects at the beginning of each project involving digital platforms for internal and/or external use. The Agency monitors constantly the threats landscape with the support of CERT-EU information, of which the Agency is a constituent. It makes sure that no risk is underestimated, making use of CERT-EU information and of the processes and standards described in the Agency's policies.

In order to evaluate risks and to review policies and their standards, the Agency also made use of external contractors to assess risks independently and prioritise the course of actions.

In 2021 the Agency, after having completed the development and adaptation of an overall set of cybersecurity standards already in use by major EU Institutions, implemented the first review of one of the standards to align with the new emerging risks.

The Information Resources Team implements the cybersecurity standards and protects all existing digital platforms. However, the shortage of human and financial resources has limited the Agency in its capability to improve and further develop its digitalisation, as cybersecurity measures in some areas cannot mitigate the risks in line with the Agency risk appetite. The Agency had to put on hold some projects in the area of Cloud Computing, as the existing resources would not have allowed to mitigate the risks in line with the policies and their standards. This prudent approach aimed to protect the Agency from potential reputational damages and to allow it to plan and to progress on digitalisation only when resources will be available, or when existing solutions will allow the Agency to implement the requirements. Nevertheless, the level of digitalisation was sufficient for the execution of the assigned tasks, and the Security and IT Teams are committed to further develop digitalisation in line with internal security policies.

2.10. Environment 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. Due to its complexity and longer-term tasks the Greening Action Plan has been extended and will be implemented also in 2023 and 2024.

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

Based on the information provided in the previous subsections, the results achieved in 2022 were satisfactory. 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.

Overall, suitable controls are in place and working as intended, risks and opportunities are being appropriately monitored and mitigated, and necessary improvements are being implemented. ACER conducts its operations in compliance with relevant legal requirements.

Controls and supervisory checks performed in 2022 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. All IAS audit recommendations from previous years were closed in 2022.

The conclusion of the management assessment is 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.

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 ante and 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 [Internal Control Framework](#) in December 2018¹¹ and amended its Internal Control Indicators in 2022¹². 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

¹¹ 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.

¹² Decision No. 17/2022 of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators 14 December 2022 amending Decision No 17/2018 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 13 December 2018 on the Internal Control Framework of the Agency for the Cooperation of Energy Regulators

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 2022 is the following:

Overall Assessment of Internal Control System		
Internal Control Component	Assessment	Explanation/Conclusion
CONTROL ENVIRONMENT Principle 1-5	CATEGORY 2 - The component is present and functioning well but some improvements are needed.	<p>P1 We demonstrate a commitment to integrity and ethical values</p> <p>A welcome pack, including a Code of good administrative behaviour, is distributed to all newly recruited staff, including ethical matters. The training on Ethics and Integrity for newcomers was organized via EU Learn. The Agency started planning a series of trainings in cooperation with OLAF to be delivered during 2023. 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 Agency's Intranet. The Agency also appointed the Ethics Correspondent and deputy Ethics Correspondent is November 2022 for a period of two years. The actions included in Anti-Fraud Strategy 2022-2024 are being carried out.</p> <p>The staff engagement survey was not conducted this year. However, staff issues have been monitored regularly with a number of pulse surveys run throughout the year.</p> <p>Staff meetings with the Director were organised at least once a month. The aim was to keep staff informed throughout the year on the developments in the Agency.</p> <p>Regular meetings of the Director with the Staff Committee were conducted throughout the year.</p> <p>P2 Management exercises oversight of the development and performance of internal control</p> <p>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 in the CAAR.</p> <p>P3 Management establishes structures, reporting lines and appropriate responsibilities in the pursuit of objectives</p> <p>The Agency defined Rules of Procedure for its bodies and working groups. The Agency has defined its process architecture, has developed and is currently developing its Quality Management documentation (including Standard Operating Procedures).</p> <p>The Agency has updated Guidelines on financial circuits and segregation of duties.</p> <p>Deputising arrangements have been successfully implemented according to the Administrative Board decision 15-2015 on laying</p>

		<p>down the policy and procedure for deputising in SYSPER 2 in 2020, when Sysper was available to ACER staff.</p> <p>P4 We demonstrate a commitment to attracting, developing and retaining competent individuals in alignment with objectives</p> <p>A staff engagement survey was not conducted in 2022. However, staff issues have been monitored regularly with a number of pulse surveys run throughout the year.</p> <p>Establishment plan fulfilled at 97.4%.</p> <p>The Competency Framework of the Agency is in place.</p> <p>100% of selection notices advertised on at least 2 media channels, in addition to the website of the Agency and EPSO.</p> <p>P5 We hold individuals accountable for their internal control responsibilities in the pursuit of objectives</p> <p>100% of 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>RISK ASSESSMENT</p> <p>Principle 6-9</p>	<p>CATEGORY 2 - The component is present and functioning well but some improvements are needed.</p>	<p>P6 We define objectives with sufficient clarity to enable the identification and assessment of risks relating to the achievements of objectives</p> <p>The Risk Management Exercise was conducted in February 2022. In September 2022 a mid-term risk management exercise was performed.</p> <p>A staff engagement survey was not conducted in 2022. However, staff issues have been monitored regularly with a number of pulse surveys run throughout the year.</p> <p>The execution of commitment appropriations was 99.26% and execution of payment appropriations was 70.12%. The implementation of the payment appropriations is lower than the internal target of 75%, mainly due to the multiannual nature of the contracts in place for the REMIT project. Planned procurement procedures ensured the consumption of the allocated funds and the on-time availability of the contracts whose deliverables will consume the payment appropriations carried over into 2023. The cancellation of payment appropriations from the funds carried over from 2021 was 4.41%, thus resulting in achievement of the payments implementation target to the level of 95.59%.</p>

		<p>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.</p> <p>The Risk Management Exercise was conducted in February 2022. In September 2022 a mid-term risk management exercise was performed. Risks are followed-up in the CAAR.</p> <p>P8 We consider the potential for fraud in assessing risks related to the achievement of objectives.</p> <p>Fraud risk assessment is performed annually within the general risk assessment exercise.</p> <p>ACER's Anti-Fraud Strategy was adopted in 2021 (up to date).</p> <p>The Guidelines on Management of Col concerning staff involved in selection, recruitment or reclassification procedures were adopted in 2018 and being applied in all selection procedures.</p> <p>P9 We identify and assess changes that could significantly impact the internal control system.</p> <p>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>CONTROL ACTIVITIES</p> <p>Principle 10-12</p>	<p>CATEGORY 2</p> <p>- The component is present and functioning well but some improvements are needed.</p>	<p>P10 We select and develop control activities that contribute to the mitigation of risks to the achievement of objectives.</p> <p>Business continuity arrangements identified in the ACER Business Continuity Plan were tested regularly during 2022 and lessons learned and follow-up on the findings is on-going. The activity of the Continuity Management Group (CMG) due to the situation of the pandemic, was terminated.</p> <p>The 4 eyes principle was ensured in all financial workflows.</p> <p>The segregation of duties among financial actors is clearly defined in the Guidelines on financial circuits and segregation of duties.</p> <p>Ex-ante legal checks are performed on all procurement procedures in line with the Procurement Guidelines for Project Managers.</p> <p>Delegations and nominations of financial actors are in place for every budgetary year. Ex-post controls on financial transactions are performed on a quarterly basis with findings followed up and implemented when applicable. Additional checks on the efficiency of the financial workflows are performed during the annual validation of the accounting systems.</p>

		<p>P11 We select and develop general control activities over technology to support the achievement of objectives.</p> <p>The ICT Strategy is older than three years. However, the Director established the <u>operational framework for the IT governance of the Agency</u>, comprising:</p> <ul style="list-style-type: none"> • the IT Strategy and Planning (ITSP) cluster (main coordination body); • the IT Project Management Office (IT-PMO) in the ITSP cluster; • the Data Excellence cluster (DEX); • the Corporate Information Services Team; • the Information Communication Technology Steering Committee (established with the mandate to perform/execute the IT governance function for all IT activities of the Agency). <p>Furthermore, the practice of including a dedicated slot for IT governance matters on Senior Management meetings on quarterly basis started in 2022. ITSP cluster operates through weekly sync-ups. Therefore, the effectiveness of the principle is not affected.</p> <p>There were 4 information security incidents identified in 2022 of which 3 were classified as due to human errors and one generated by external source. The number of incidents keep increasing due to the double effect of working from remote with digital means and at the same time due to the increased pressure and stress of Staff. This is akin to the increased number of incidents and attacks against all EU Institutions and Agencies and may further increase with the gradual increasing digitalisation of all EUIBAs.</p> <p>P12 We deploy control activities through corporate policies that establish what is expected and through procedures that put policies in action.</p> <p>Exceptions and non-compliance events (incidents) reported were reviewed and registered. A new Director Decision was adopted on 13 September 2022, with the aim of both strengthening and leaning these processes. A training was provided for the Budget, Finance and Procurement team. In 2022, seven exceptions and six non-compliance events were registered in the Register of Exceptions and Non-compliance Events.</p>
<p>INFORMATION AND COMMUNICATION</p> <p>Principle 13-15</p>	<p>CATEGORY 1 - The component is present and functioning well.</p>	<p>P13 We obtain or generate and use relevant quality information to support the functioning of internal control.</p> <p>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>P14 We communicate information internally, including objectives and responsibilities for internal control, necessary to support the function of internal control.</p> <p>The whistleblowing policy together with other fraud awareness information are published on the Anti-Fraud intranet page (part of the Integrity Package 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>P15 We communicate with external parties about matters affecting the functioning of internal control.</p> <p>Changes and developments in the internal control system are communicated and reported in the CAAR.</p>
<p>MONITORING ACTIVITIES</p> <p>Principle 16-17</p>	<p>CATEGORY 1 - The component is present and functioning well.</p>	<p>P16 We select, develop and perform ongoing and/or separate assessments to ascertain whether the components of internal control are present and functioning.</p> <p>The IAS audit Action Plans are being implemented and regularly reported to the Administrative Board (AB) and annually reported in the CAAR. The internal control framework is assessed annually and the results are reported in the CAAR.</p> <p>P17 We assess and communicate internal control deficiencies in a timely manner to those parties responsible for corrective action, including senior management as appropriate.</p> <p>The results of the continuous and specific assessments (evaluations) have been properly disclosed in the CAAR. Actions of the IAS Action plans have been implemented according to deadlines in 2022.</p>

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 Single Programming Document. This covers operational, legal and administrative areas of activity. Risks are assessed in relation to specific objectives at department level (some objectives being inter-departmental). A risk register of critical risks is compiled on the basis of the assessment of the likelihood and potential impact of individual risks, including the Agency's response to the risks.

As a result of the exercise, the management identified risks considered to be both likely and with a potentially significant impact on Agency activities.

A mid-year risk review was performed in September to re-assess the risks originally foreseen during the planning exercise. This is a short overview of the most important / critical risks identified:

1. **Political instability due to Russian invasion of Ukraine:** The Russian invasion of Ukraine affects gas prices and gas flows, affecting the Agency's work. The political instability after Russia's invasion of Ukraine can jeopardize EU wholesale energy markets and the implementation of the Regulation on wholesale energy market integrity and transparency (REMIT). Member States could assign new tasks and roles to National Regulatory Authorities due to the energy crisis, shifting their priorities (e.g. away from REMIT). Political decisions (e.g. EU bans of Russian products) can affect the trading activities and patterns (frequency, style, number of Market Places) and suddenly impact the amount of REMIT fees to be collected.
2. **Cybersecurity:** Cybersecurity threats are continuously increasing especially due to the current geopolitical environment and specifically the invasion of Russia in Ukraine. Market surveillance and ensuring coordination and consistency in the application of REMIT entails by its very nature the processing of sensitive and confidential information. There is always a risk that information could be leaked, causing damage to the Agency's reputation. Leakage could be the result of 'social engineering' or extortion by hackers.
3. **COVID-19 and Teleworking:** Difficulty to recruit new staff and SNEs for the open positions, linked to ACER's headquarters in Ljubljana, whose connectivity to the rest of Europe has diminished even further. The number of applicants is decreasing, given the current job market, as limited flexibility in term of remote working could be given to staff. The new provisions on teleworking do not envisage the possibility to telework from abroad for an extensive period. This may bring staff members to leave the agency, increasing the turnover of staff. This may also lead to the lack of candidates who may find the agency less attractive, compared to employers guaranteeing more flexibility. Several processes still need adjustment to teleworking, to ensure compliance and optimal performance, but most importantly, staff well-being.
4. **Appeals against Agency decisions:** Over the past years, the trend to appeal decisions of the Agency has become stronger. The total amount of appeals annually continues to increase as compared to the previous year. 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. In this respect, it is vital that the legal costs can continue to be covered by the Agency's budget.
5. **Implementation and enforcement of REMIT at national level:** There is a risk that the National Regulatory Authorities may not have at their disposal the resources needed to follow-up the assessments and alerts signalled by the Agency. Limited resources for market monitoring in EU NRAs would automatically negatively impact the market monitoring of trading activity in wholesale energy markets with the risk that breaches of REMIT remain undetected. This impacts the trust EU energy consumers have in the price formation of EU energy markets and risks reputational damage also to ACER. Poor implementation of REMIT at national level may also hamper ACER's data collection and/or data quality. Effective data collection requires enforcement of breaches of data reporting obligations at national level.
6. **Implementation of REMIT and collection of fees:** The volume of data collected has continued to increase every year (7.2 million on average per day in 2021). The data volume increase may pose significant problems to REMIT IT and budget.

Performance monitoring

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-employment

The Administrative Board adopted¹³ the [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 in December 2021.

The Agency has formulated three strategic objectives:

1. Maintain and enhance an anti-fraud culture underpinned by high levels of awareness, integrity, impartiality and transparency within the organisation
2. Strengthen measures for detection of suspicious behaviours, including through maintaining an efficient system for internal reporting and handling of suspected irregularities
3. Implement all actions necessary for fraud risk mitigation, also identified through internal assessments and external audits.

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 2022 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

¹³ [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](#)

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.

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.

Register of Exceptions and Non-compliance Events

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 2022, there was seven (7) exceptions and six (6) non-compliance events registered in the Register of Exceptions and Non-compliance events. None of the deviations were of a nature that could lead to a formal reservation to the Authorising Officer's annual declaration of assurance.

The deviations were reviewed by the Internal Control Coordinator and results show that all of them can be prevented in the future by streamlining and redesigning internal processes and providing clarifications and strengthening communication with contractors.

Ex-ante and ex-post controls

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.

3.2. Conclusions of assessment of internal control systems

<p>OVERALL ASSESSMENT</p> <p>Are all components operating together in an integrated manner?</p>	<p>CATEGORY 2 - The internal control system is present and functioning but some improvements are needed.</p>
<p>Is the overall internal control system effective?</p> <p>Category 1. Minor- Yes Category 2. Moderate- Yes Category 3. Major- Partially Category 4. Critical- No</p>	<p>YES</p> <p>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.</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 European Union 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.

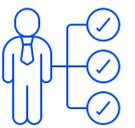
Ljubljana, 08 June 2023



Olga BORISSOVA

Head of Department - Corporate Services

PART IV: MANAGEMENT ASSURANCE



4.1. Review of the elements supporting assurance

The building blocks of assurance underpin the reasonable assurance provided by the authorising officer in his declaration of assurance in the CAAR. The reliability of the information contained in this report is supported by the following building blocks of assurance:

- the Director's own knowledge of the management and control system in place;
- the Regulatory achievements ([see 1](#));
- the observations of the Internal Audit Service (see [2.7](#) and [2.8](#));
- the observations of the European Court of Auditors (see [2.8.2](#));
- the observations of the Discharge authority (see [2.9](#));
- the absence of OLAF activities ([see 2.8\(b\)](#));
- the absence of vital observations from the European Parliament;
- the absence of observations of the European Ombudsman;
- the assessment by the Agency management (see [2.11](#));
- the results of the assessment of the effectiveness of the Internal Control Framework (see [3.1](#) and [3.2](#));
- the results of the risk assessment exercises (see [3.1](#)) and mitigating measures implemented;
- ex-ante and ex-post controls (see [3.1](#));
- the analysis of recorded exceptions and non-compliance events and their low impact (see [3.1](#));
- the implementation of ACER's Anti-Fraud Strategy and Conflict of Interests policy (see [3.1](#));
- the statement of the Internal Control Coordinator (see [3.3](#));
- the accounting officer's certification of the 2022 accounts;
- Follow-up on reservations from previous years.

This approach provides sufficient guarantees as to the completeness and reliability of the information reported and results in a complete coverage of the budget delegated to the Director of the Agency.

4.2. Reservations

The Agency analyses major weaknesses, if any, in achieving its 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 non-compliance events described, in 2022, [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. 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 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.

PART V: DECLARATION OF ASSURANCE



I, the undersigned, Director of the European Union 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, 20 June 2023

A handwritten signature in blue ink, appearing to read 'C. Pilgaard Zinglensen', with a long horizontal stroke at the end.

Christian Pilgaard Zinglensen

Director

ANNEXES



Annex I: Core business statistics - reporting on KPIs

TRAFFIC LIGHTS (VISUAL STATE OF PLAY) — LEGEND

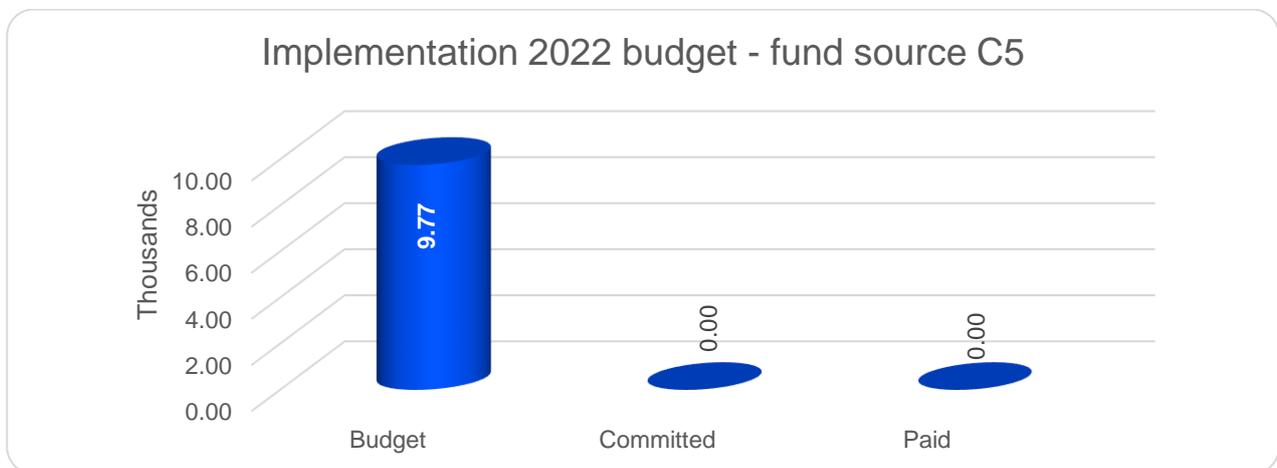
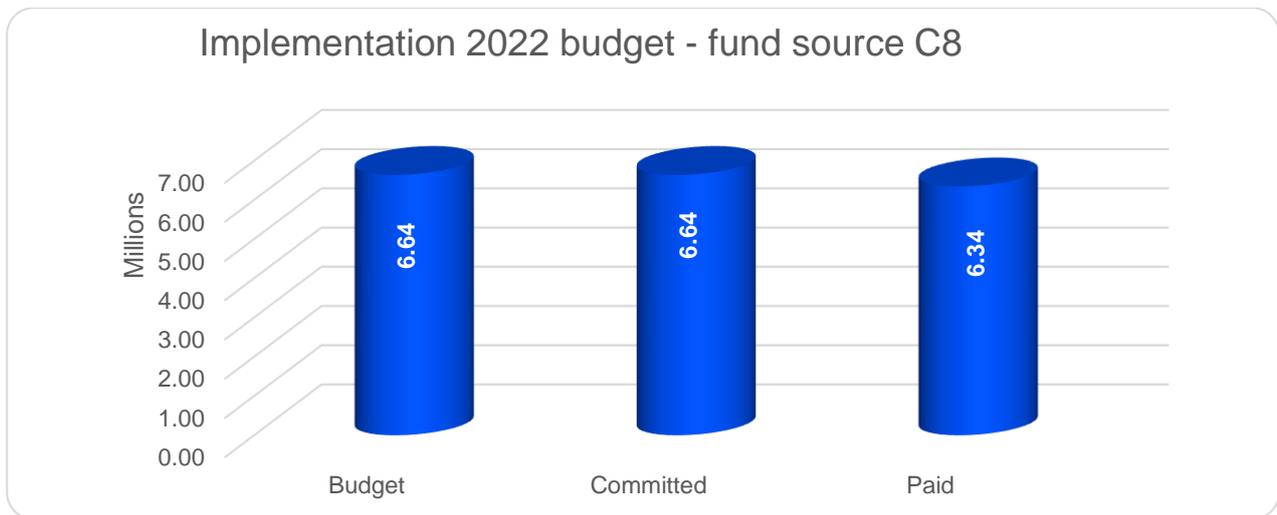
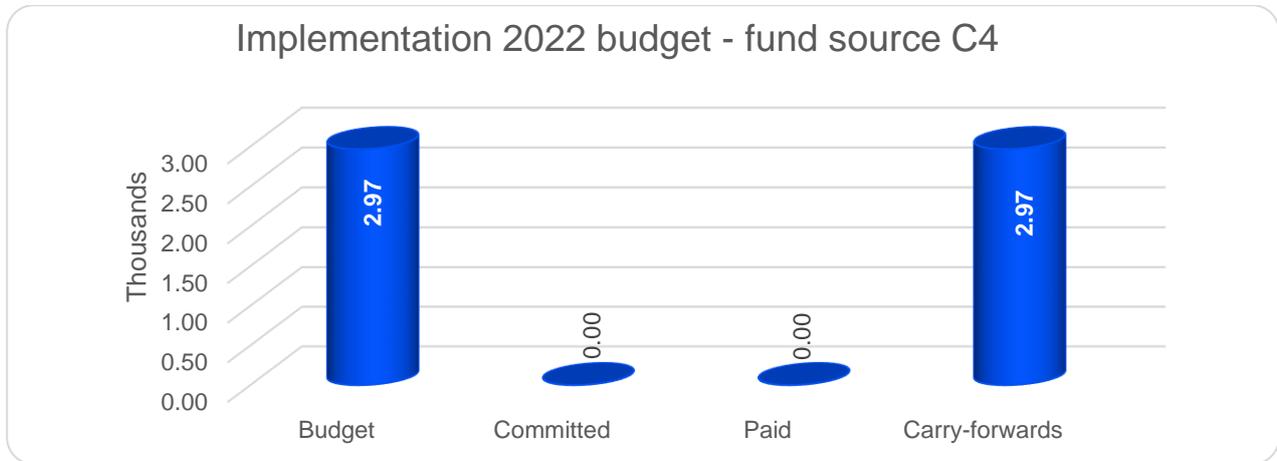
					
KPI is fulfilled and task completed	KPI is fulfilled and task completed with a small delay/issue	On track, no problems envisaged (used for Q1, Q2 and Q3)	Slight delay or issue that still needs to be addressed but the KPI is expected to be fulfilled, possibly with a slight delay	Problem or delay due to 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

Area/activity	KPI	Target 2022	Result 2022	Visual	
Staff satisfaction	1	Number of participating staff satisfied or highly satisfied with the employment conditions at the Agency	2/3	Staff Engagement Survey not conducted in 2022.	N.A.
Budget Implementation and Audit	2	% execution of commitment appropriations	95%	99.26%	
	3	% execution of payment appropriations	75%	70.12%	
	4	% of cancellation of payment appropriations	<5%	4.41%	
	5	Non-qualified opinion received from ECA and % of ECA's recommendations implemented in line with the Agency's Action Plan	Yes; 75%	Non-qualified opinion received.	
Internal Electricity Market and Infrastructure	6	% of opinions, reviews, recommendations and reports delivered on time	90%	95%	
Internal Gas Market and	7	% of opinions, reviews, recommendations and reports delivered on time	90%	100%	

Infrastructure and Security of Supply Electricity and Gas Internal Market Monitoring	8	Positive feedback on the reports based on an online survey	70% satisfied or very satisfied	Survey not conducted in 2022.	N.A.
Market Information and Transparency	9	Key achievements (e.g. key projects) as well as continued measurement of % planned vs. delivered projects	75%	75%	
	10	Accuracy, Consistency, Completeness, Integrity and Timeliness (ACCIT) of information, measured by the YoY % change of composite indicator of data quality metrics AND	94.5 % in 2021	96%	
		% of service availability, measured as an average availability of individual REMIT IT services	99%	98%	
Market Surveillance and Conduct	11	% of high priority alerts manually screened and transferred to NRAs	100%	99.95%	
	12	Number of initial assessments sent to relevant authorities	16	17	
	13	% of REMIT breach cases pro-actively followed by ACER	At least 25%	26%	
	14	Number of REMIT breach cases triaged and reviewed on cooperation needs	>100	123	
	15	% of market abuse enforcement Decisions by NRAs quoting the ACER Guidance	>75%	84%	
	16	% of the requests from NRAs of operational assistance on REMIT investigations accepted by ACER	0%	0%	

Annex II: Financial management statistics

Budget implementation by fund source



Budget outturn and cancellation of appropriations

During 2022 the Agency received EU and EFTA contribution amounting to EUR 14.979.704,90 from which payments amounting to EUR 11.894.583,46 were made during 2022. At the end of 2022 the Agency carried forward payment appropriations amounting to EUR 3.371.283,75 to honour the open commitments. Unused appropriations carried forward from 2021 and amounting to EUR 292.595,60 were cancelled at the end of 2022. Exchange rate losses of EUR 0,72 were applied and resulted in a budget outturn of EUR 476,978.35 that will be returned to the general budget during 2022.

Budget outturn	2020	2021	2022
Reserve from the previous years' surplus (+)			
Revenue actually received (+)	17 299 898	14 818 735	14 979 705
Payments made (-)	-14 052 215	-10 294 012	-11 894 583
Carryover of appropriations (-)	-3 081 457	-3 134 353	-2 900 738
Cancellation of appropriations carried over (+)	126 274	138 968	292 596
Adjustment for carryover of assigned revenue appropriation from previous year (+)			
Exchange rate differences (+/-)	604	-177	-1
Adjustment for negative balance from previous year (-)			
TOTAL	293 104	1 529 161	476 979

In its second year of fees collection the Agency received in 2022 an amount of EUR 9,663,669.00, made payments of EUR 5,515,471 and carried over into 2023 an amount of EUR 4,148,198 to cover the obligations towards its suppliers left open at year end. The appropriation from fees were totally committed, thus the budget outturn from fees and charges amounts to EUR 0.00.

Budget outturn	2020	2021	2022
Reserve from the previous years' surplus (+)			
Revenue actually received (+)		8 771 500	9 663 669
Payments made (-)		-5 614 243	-5 515 471
Carryover of appropriations (-)		-3 157 257	-4 148 198
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 (-)			
TOTAL		0	0

Cancellation of appropriations

At the end of 2022, the following appropriations have been cancelled: Fund source C1, EUR 184,469.10; Fund source C5, EUR 9,770.65; Fund source C8, EUR 292,595.60.

The cancelled appropriations on fund source C8 were mainly related to less than expected deliverables from contracted services, lower than estimated actual consumption of utilities, and less than estimated claims towards medical expenses, schooling fees and ordered training.

No cancellation of appropriation from fees has been made in 2022.

Budget appropriations and transfers

In the course of 2022, there were six lots of budget transfers approved, transferring appropriations amounting to EUR 2,053,633 between several budget lines as shown in the table below. All transfers made were within the 10% limit and did not require the approval of the Administrative Board.

Budget Line	Description	Voted budget 2022	Transfers during the year	Budget amendment	Final 2022 budget
1100	Basic salaries and correction	5,284,739.00	390,592.81		5,675,331.81
1101	Family allowances	898,543.00	11,448.61		909,991.61
1102	Expatriation and foreign residence allowances	851,682.00	46,160.28		897,842.28
1110	Contract agents	2,230,700.00	-31,846.09		2,198,853.91
1111	Seconded National Experts	351,690.00	-158,703.21		192,986.79
1120	Training and information for staff	260,800.00	48,390.00		309,190.00
1130	Insurance against sickness	217,577.00	8,370.97		225,947.97
1131	Insurance against accidents and occupational disease	24,453.00	2,708.24		27,161.24
1132	Unemployment insurance for temporary staff	83,427.00	4,167.95		87,594.95
1140	Birth and death grants	2,050.00	-1,851.69		198.31
1141	Annual travel expense from place of work to origin	84,758.00	2,494.04		87,252.04
1142	Schooling fees	723,226.00	-315,565.22	-63,500.00	344,160.78
1150	Overtime	31,019.00	-31,019.00		0.00
1160	Expenditure related to recruitment	8,800.00	9,000.00		17,800.00
1161	Travel expenses taking up duty	6,000.00	-4,772.16		1,227.84
1162	Installation, resettlement and transfer allowances	14,652.00	-14,652.00		0.00
1163	Temporary daily subsistence allowances	45,765.00	-33,479.36		12,285.64
1170	Supplementary clerical and interim services	781,625.00	-29,213.34		752,411.66
1171	Administrative assistance	247,200.00	-1,360.32		245,839.68
1172	Trainees	287,381.00	-79,895.41		207,485.59
1200	Mission expenses -Corporate Services	35,200.00	-16,200.00		19,000.00
1201	Mission expenses - Director	35,000.00	6,676.29		41,676.29
1202	Mission expenses - Strategy Delivery and Communications	55,000.00	-23,500.00		31,500.00
1300	Medical services and equipment	81,660.00	-39,340.00		42,320.00
1401	Social welfare of staff	26,000.00	-10,500.00		15,500.00
1410	Staff Committee	16,500.00	1,500.00		18,000.00
2000	Rent	725,861.00	-10,050.00		715,811.00
2001	Removal costs	15,000.00	0.00		15,000.00
2010	Utilities	184,800.00	21,571.27		206,371.27
2011	Cleaning and maintenance	187,028.00	-12,731.38		174,296.62
2020	Insurance	20,000.00	-4,312.00		15,688.00
2030	Security and surveillance of buildings	156,800.00	-35,000.00		121,800.00
2031	Health and safety at work	4,500.00	0.00		4,500.00
2040	Other expenditure on buildings	248,500.00	-126,328.58		122,171.42
2042	Greening	9,000.00	-9,000.00		0.00
2100	Consumables	15,000.00	-14,413.65		586.35
2102	Subscriptions IT	500,000.00	161,310.00		661,310.00
2103	Disaster recovery site	45,500.00	-21,310.00		24,190.00
2210	Purchase of furniture	70,000.00	-7,680.00		62,320.00
2220	Transportation costs	70,135.00	-23,556.64		46,578.36
2230	Library acquisitions	160,000.00	104,000.00		264,000.00
2300	Stationery and office supplies	30,000.00	-20,221.00		9,779.00
2310	Bank charges	150.00	0.00		150.00
2320	Legal expenses	300,000.00	298,484.49		598,484.49
2325	External audit expenses	40,000.00	-23,000.00		17,000.00
2326	Information security	75,000.00	-15,796.57		59,203.43
2328	Data protection	70,000.00	0.00		70,000.00

2330	Administrative Board meetings	50,000.00	-20,000.00		30,000.00
2331	Board of Regulators meetings	56,630.00	32,850.38		89,480.38
2332	Board of Appeal	682,000.00	-226,695.80		455,304.20
2333	External participants to meetings	8,000.00	-3,000.00		5,000.00
2334	EU Agencies Network	5,500.00	-2,177.92		3,322.08
2400	Postal charges	15,800.00	-10,000.00		5,800.00
2410	Telecommunications subscriptions and charges	60,000.00	-4,803.89		55,196.11
2420	Hardware and other equipment	250,000.00	-27,347.46		222,652.54
3000	Representation expenses - Director	5,000.00	-4,056.00		944.00
3001	Representation expenses - Corporate Services	500.00	0.00		500.00
3002	Representation expenses - Electricity	1,000.00	-14.18		985.82
3003	Representation expenses - MIT	1,000.00	-1,000.00		0.00
3004	Representation expenses - IGR	1,000.00	0.00		1,000.00
3005	Representation expenses - MSC	1,000.00	-1,000.00		0.00
3100	Operational missions - IGR Department	40,000.00	0.00		40,000.00
3101	Operational missions - Electricity Department	50,000.00	-5,000.00		45,000.00
3102	Operational missions - MIT	30,000.00	-29,569.82		430.18
3103	Operational missions - MSC	25,000.00	-14,322.00		10,678.00
3200	Communication	384,700.00	-189,676.17		195,023.83
3300	Translation at CDT	325,000.00	-35,000.00		290,000.00
3400	Insurance	7,000.00	-7,000.00		0.00
3500	Infrastructure, hardware licenses, deployment, service desk and operations	2,005,000.00	264,526.21		2,269,526.21
3501	Software maintenance, development, testing and software licenses	1,475,000.00	36,506.40		1,511,506.40
3502	Surveillance and BI tools customisation, licenses and consultancy	900,000.00	402,874.92		1,302,874.92
3503	Studies, technical writing, coordination, QA and information security	500,000.00	0.00		500,000.00
3504	Specific data and information services	220,000.00	200,000.00		420,000.00
3505	Business enhancements and development of surveillance and conduct tools - Market Surveillance and Conduct Department	460,000.00	-175,000.00		285,000.00
3600	Expert consultations - MIT	550,000.00	0.00		550,000.00
3601	Expert consultations - IGR	210,492.00	-49,992.00		160,500.00
3602	Expert consultations - Electricity	192,000.00	-96,200.00		95,800.00
3603	Expert consultations - Corporate Services	250,000.00	-6,480.00		243,520.00
3604	Expert consultations - MSC	25,000.00	0.00		25,000.00
3605	IT projects for IGR and Electricity departments	492,000.00	-30,000.00		462,000.00
	Total	24,891,343.00	0.00	-63,500.00	24,827,843.00

Annex III: Organisational chart

The organisation chart below reflects the situation as of December 2022:

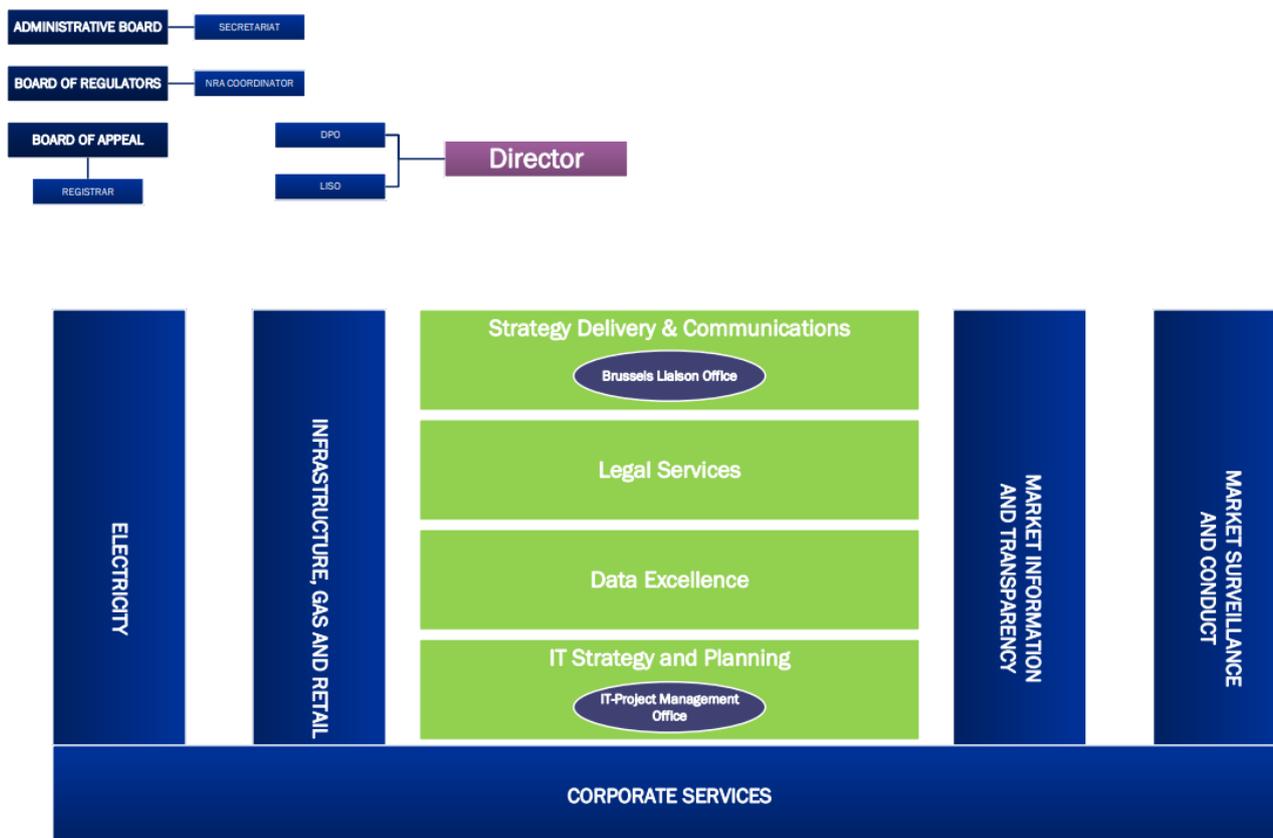


Figure 5: ACER's organisation chart

Number of staff in active service in the different departments as of December 2022

Contract type/ Department	SDC (+Dir)	LS	CS	IGR	ELE	MIT	MSC	Total
AD	6	5	6	11	12	9	13	62
AST		1	8	1	1	1		12
CA	2	2	8	4	5	10	2	33
SNE					2	3		5
Statutory Staff, SNEs	8	8	22	16	21	23	15	112
Interim	2		8	1	2	2	2	17
Trainee	1		2	4	4	4	1	16
GRAND TOTAL	11	8	32	21	28	29	19	145

Annex IV: Establishment plan and additional information on human resources management

Establishment plan

Human Resources	Year 2022		
	Authorised Budget	Actually filled as of 31/12/2022	Occupancy Rate %
Administrators (AD)	63	62	98%
Assistants (AST)	13	12	92%
Assistants/Secretaries (AST/SC)	0	0	n/a
ESTABLISHMENT PLAN POSTS	76	74	97.4%
Contract Agents (CA)	37	33	86.49%
Seconded National Experts (SNE)	10	5	50%
TOTAL EXTERNAL STAFF	39	33	84.62%
TOTAL STAFF	163	145	88.96%

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

Key functions (examples – terminology should be adjusted to each agency's job titles)	Type of contract (official, TA or CA)	Function group, grade of recruitment*	Indication whether the function is dedicated to administrative support or operations [subject to definitions used in screening methodology]
Director	TA	AD14	Operational
Head of Department	TA	AD11	Operational
Team Leader	TA	AD7-AD8	Administrative/ Operational/Neutral
Administrator	TA	AD5-AD8	Administrative/ Operational/ Neutral
Assistant	TA	AST1-4	Administrative/ Operational/ Neutral
FG IV	CA	FG IV	Administrative/ Operational/Neutral
FG III	CA	FG III	Administrative/ Operational/Neutral

Results of the 2022 job-screening exercise¹⁴

Job Type (sub) category	Year 2021	Year 2021 (%)	Year 2022	Year 2022 (%)
Administrative support and coordination	34	22.97%	26.15	16.04%
<i>Administrative support</i>	23	15.54%	21.35	13.10%
<i>Coordination</i>	11	7.43%	4.8	2.94%
Operational	102	68.92%	126.75	77.76%
<i>Top level operational coordination</i>	11	7.43%	15	9.20%
<i>Programme management & implementation</i>	0		0	
<i>Evaluation & impact assessment</i>	0		0	
<i>General operation</i>	91	61.49%	111.75	68.56%
Neutral	12	8.11%	10.10	6.20%
<i>Finance/control</i>	12	8.11%	10.10	6.20%
<i>Linguistic</i>	0		0	
Total:	148	100%	163	100%

¹⁴ Table as per Methodology for Agencies job screening (2014)

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	15
TA	AD	10	17.5
TA	AD	9	11
TA	AD	8	16.5
TA	AD	7	14.5
TA	AD	6	31
TA	AD	5	23.5
TA	AST	6	5
TA	AST	5	17.5
TA	AST	4	1.5
TA	AST	3	2.5
CA	FGIV	17	1.5
CA	FGIV	16	16.5
CA	FGIV	15	3
CA	FGIV	14	17
CA	FGIV	13	
CA	FGIII	8	
CA	FGIII	9	3
CA	FGIII	10	2
CA	FGII	2	
SNE	SNE		
TOTAL			206

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	
TOTAL			0

Annex V: Human and financial resources by activity

2022 Full Time Equivalents and budget - Breakdown per Activity

	ACTIVITIES	FTEs	2022 SPD	2022 final budget
1	Market Integrity and Transparency	24.8	7,964,071	10,529,607
2	Market Surveillance and Conduct	17.7	2,206,982	3,157,866
3	Internal Electricity Market	18.9	3,342,041	3,029,540
4	Internal Gas Market	9.1	1,469,029	1,458,667
5	Electricity and Gas Internal Market Monitoring	9	2,497,349	1,442,638
6	Infrastructure and Security of Supply	10.2	1,707,746	1,634,990
7	Administrative support and coordination categories	13.45	4,418,726	2,155,942
8	Neutral categories	8.85	1,285,400	1,418,594
	TOTAL	112	24,891,343	24,827,843

Annex VI: Contribution, grant and service level agreements & financial framework partnership agreements

The number, type and value of all procurement procedures concluded in 2022 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	11	10.89%	5,567.44	5,567.44
Negotiated – very low value	13	12.87%	120,442.32	120,442.32
Negotiated – low value – direct contract	4	3.96%	165,989.48	165,989.48
Negotiated – low value – FWC	0	0.00%	0.00	0.00
Negotiated – middle value – direct contract	1	0.99%	71,600.00	71,600.00
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	8	7.92%	499,699.20	499,699.20
Open – FWC (concluded in 2022)	0	0.00%	0.00	0.00
Specific contracts, following FWC	17	16.83%	3,974,931.26	3,974,931.26
Order forms, following FWC	47	46.53%	3,753,218.89	3,753,218.89
TOTAL	101	100%	8,591,448.59	8,591,448.59

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	15	10.34%	7,256.65	7,256.65
Negotiated – very low value	53	36.55%	309,124.93	309,124.93
Negotiated – low value – direct contract	0	0.00%	0.00	0.00
Negotiated – low value – FWC	0	0.00%	0.00	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	0	0.00%	0.00	0.00
Open – FWC (concluded in 2022)	0	0.00%	0.00	0.00
Specific contracts, following FWC	10	6.90%	1,113,747.87	1,113,747.87
Order forms, following FWC	67	46.21%	812,884.42	812,884.42
TOTAL	145	100%	2,243,013.87	2,243,013.87

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	26	10.57%	12,824.09	12,824.09
Negotiated – very low value	66	26.83%	429,567.25	429,567.25
Negotiated – low value – direct contract	4	1.63%	165,989.48	165,989.48
Negotiated – low value – FWC	0	0.00%	0.00	0.00
Negotiated – middle value – direct contract	1	0.41%	71,600.00	71,600.00
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	8	3.25%	499,699.20	499,699.20
Open – FWC (concluded in 2022)	0	0.00%	0.00	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
Specific contracts, following FWC	27	10.98%	5,088,679.13	5,088,679.13
Order forms, following FWC	114	46.34%	4,566,103.31	4,566,103.31
TOTAL	246	100%	10,834,462.46	10,834,462.46

Negotiated procedures

In 2022 there were no negotiated procedures under point 11.1(e) of Annex I FR carried out, as laid down in Article 74(10) FR.

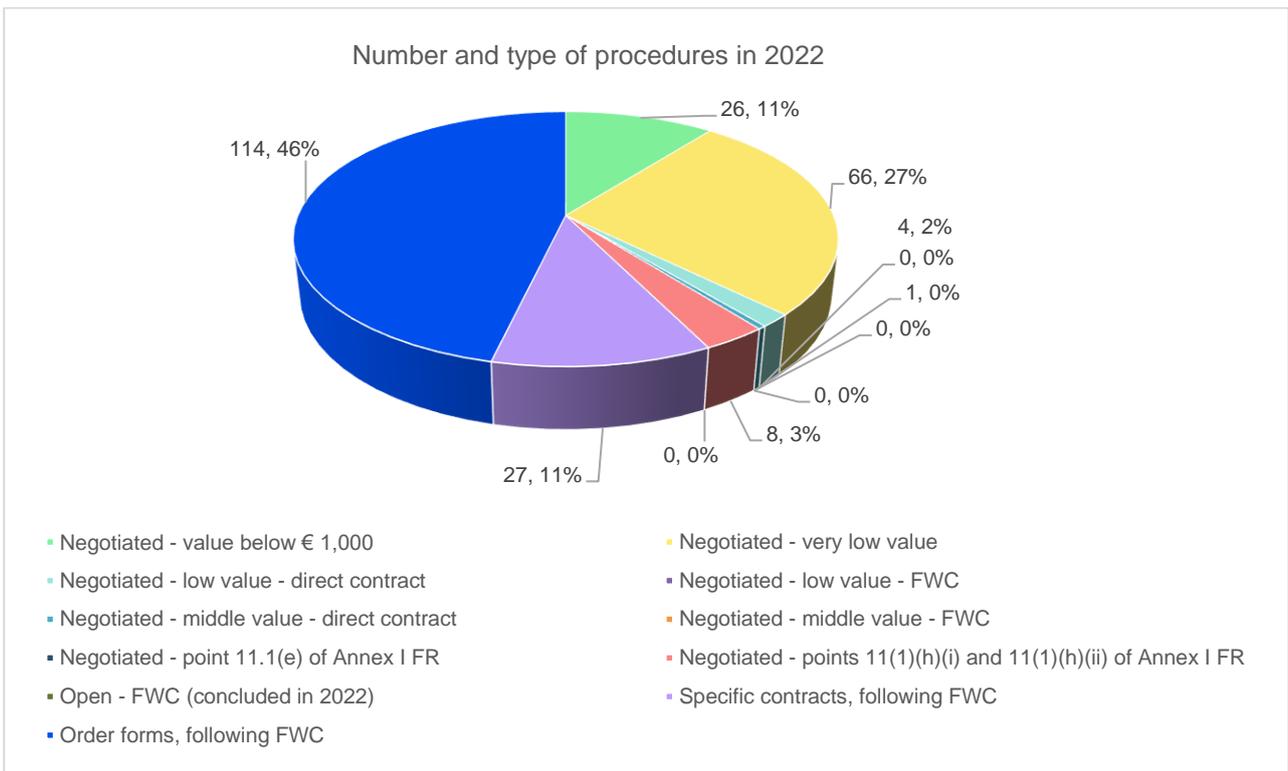


Figure 6: ACER's negotiated procedures

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, but due to the outcome of the market prospection decided to engage in negotiations with the current landlord at the end of 2022 as an interim solution. 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 which was finalized in Q1 2022.

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, in the beginning of each year since 2021 the electricity provider provides 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, which was concluded in Q4 2022.
- 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;
- In 2022 the Agency found solutions to implement e-signatory technology and adopted it, which reduced the use of paper;
- Introducing e-recruitment additionally 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 this objective, the Agency has improved its capabilities and facilities (Meeting rooms fully equipped with proper hardware to allow seamless use of cloud-based video conferencing and telepresence solutions) for telepresence and video conferencing.

Thematic domain 4:

In 2022 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.

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 more than 50% of 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 committed to 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 November 2022. Moreover, it participated in interinstitutional workshops on the introduction of climate neutrality in EU institutions.

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 implementation of EMAS in terms of human resources and technical resources needed to conduct its initial environmental review and in budgetary terms.

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

Finally, the post-COVID-19 pandemics new ways of working also affected the environmental impact of the Agency:

- There were only 26 on-site events in 2022 and thus the need for catering was minimal which resulted in a reduction in the overall energy, water and waste figures;
- Reduced office presence of staff due to teleworking resulted in a change of behaviour regarding printing and the use of paper, use of energy in the offices (power, heating), and waste;
- Increased usage and adoption of web conferencing and online communication tools replacing physical conferences.

Annex VIII: Annual accounts

BALANCE SHEET

EUR '000

	Note	31.12.2022	31.12.2021
NON-CURRENT ASSETS			
Computer Software	2.1	945	30
Property, plant and equipment	2.2	1 350	782
		2 294	812
CURRENT ASSETS			
Exchange receivables and non-exchange recoverables	2.3	9 090	8 803
Cash and cash equivalents	2.4	0	1
		9 090	8 804
TOTAL ASSETS		11 384	9 616
CURRENT LIABILITIES			
Payables	2.5	(485)	(1 529)
Accrued charges	2.6	(1 594)	(1 360)
		(2 079)	(2 889)
TOTAL LIABILITIES		(2 079)	(2 889)
NET ASSETS		9 305	6 727
Accumulated surplus		6 727	3 619
Economic result of the year		2 578	3 108
NET ASSETS		9 305	6 727

STATEMENT OF FINANCIAL PERFORMANCE

EUR '000

	Note	2022	2021
REVENUE			
Revenue from non-exchange transactions			
Funds from the Commission	3.1	14 687	13 290
		14 687	13 290
Revenue from exchange transactions			
Other	3.2	9 666	8 796
		9 666	8 796
Total revenue		24 353	22 086
EXPENSES			
Operating costs	3.3	(4 849)	(4 022)
Staff costs	3.4	(10 499)	(9 740)
Other expenses	3.5	(6 427)	(5 215)
Total expenses		(21 775)	(18 978)
ECONOMIC RESULT OF THE YEAR		2 578	3 108

CASHFLOW STATEMENT¹⁵

	EUR '000	
	2022	2021
<i>Economic result of the year</i>	2 578	3 108
Operating activities		
<i>Depreciation and amortization</i>	745	355
<i>(Increase)/decrease in exchange receivables and non-exchange recoverables</i>	(287)	(4 752)
<i>Increase/(decrease) in payables and other liabilities</i>	(1 044)	1 215
<i>Increase/(decrease) in accrued charges</i>	234	376
Investing activities		
<i>(Increase)/decrease in intangible assets and property, plant and equipment</i>	(2 227)	(302)
NET CASHFLOW	–	–
<i>Cash and cash equivalents at the beginning of the year</i>	1	1
<i>Cash and cash equivalents at year-end</i>	–	1

STATEMENT OF CHANGES IN NET ASSETS

	EUR '000		
	Accumulated Surplus/ (Deficit)	Economic result of the year	Net Assets
BALANCE AS AT 31.12.2020	3 156	462	3 619
<i>Allocation 2020 economic result</i>	462	(462)	–
<i>Economic result of the year</i>	–	3 108	3 108
BALANCE AS AT 31.12.2021	3 619	3 108	6 727
<i>Allocation 2021 economic result</i>	3 108	(3 108)	–
<i>Economic result of the year</i>	–	2 578	2 578
BALANCE AS AT 31.12.2022	6 727	2 578	9 305

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.

¹⁵ 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.

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	31.12.2022	31.12.2021	Currency	31.12.2022	31.12.2021
BGN	1.9558	1.9558	PLN	4.6808	4.5969
CZK	24.1160	26.8580	RON	4.9495	4.9490
DKK	7.4365	7.4364	SEK	11.1218	10.2503
GBP	0.88693	0.84028	CHF	0.9847	1.0331
HRK	7.5345	7.5156	JPY	140.6600	130.3800
HUF	400.8700	369.1900	USD	1.0666	1.1326

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, financial risk of accounts receivable and the amounts disclosed in the notes concerning financial instruments, impairment allowance for financial assets at amortised cost and for financial guarantee contract liabilities, accrued revenue and charges, provisions, degree of impairment of intangible assets and property, plant and equipment, net realisable value of inventories, contingent assets and liabilities. 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 amended European Union Accounting Rules (EAR)

New EAR which are effective for annual periods beginning on or after 1 January 2022

There are no new EAR which became effective for annual periods beginning on or after 1 January 2022.

New EAR adopted but not yet effective at 31 December 2022

There are no new EAR adopted during 2022.

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. Financial assets

The classification of the financial instruments is determined at initial recognition. Based on the management model and the asset contractual cash-flow characteristics the financial assets can be classified in three categories: Financial assets at amortised cost ('AC'), financial assets at fair value through net assets/equity ('FVNA') or financial assets at fair value through surplus or deficit ('FVSD'). Based on this classification, the entity has only 'financial assets at amortised cost', which are exchange receivables.

Financial assets at amortised cost are non-derivative financial assets that meet two conditions: 1) The entity holds them in order to collect the contractual cash flows. 2) On specified days, there are contractual cash flows that are solely payments of the principal and interest on the outstanding principal.

Financial assets at amortised cost are included in current assets, except for those with maturity of more than 12 months from the balance sheet reporting date.

Initial recognition and measurement

Financial assets at amortised cost are initially recognised at their fair value plus the transaction costs.

Subsequent measurement

Financial assets at amortised cost are carried at amortised cost, which is the amount initially recognised minus the principal repayments, plus or minus the cumulative amortisation of the interests using the effective interest method. In addition, the entity recognises a loss allowance for expected credit losses over the lifetime of the financial assets. At each reporting date, the annual movement in the loss allowance adjusts the carrying amount of the financial asset. In the statement of financial performance, the entity recognises an impairment gain or loss for the adjustment of the loss allowance.

De-recognition

Financial assets at amortised cost are derecognised either when the rights to receive cash flows from the investments have expired or are waived, or when the entity has transferred substantially all risks and rewards of ownership to another party.

1.3.5. 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.

1.3.6. Cash and cash equivalents

Cash and cash equivalents are financial assets at amortised cost 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.

1.3.7. 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.

1.3.8. 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
	TOTAL
Gross carrying amount at 31.12.2021	5 165
Additions	1 077
Gross carrying amount at 31.12.2022	6 242
Accumulated amortisation at 31.12.2021	(5 134)
Amortisation charge for the year	(163)
Accumulated amortisation at 31.12.2022	(5 297)
NET CARRYING AMOUNT AT 31.12.2022	945
NET CARRYING AMOUNT AT 31.12.2021	30

The above amounts relate to the REMIT Portal, an IT platform built to assist the agency with the monitoring of the wholesale energy markets, and other computer software that is amortized at 25% amortisation rate per year. The increase under this heading is due to the new functionalities and new versions of ARIS application.

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	TOTAL
Gross carrying amount at 31.12.2021	4	204	2 555	294	3 057
Additions	–	9	1 016	125	1 150
Gross carrying amount at 31.12.2022	4	213	3 571	419	4 207
Accumulated depreciation at 31.12.2021	(2)	(115)	(1 887)	(271)	(2 276)
Depreciation charge for the year	(1)	(15)	(541)	(25)	(582)
Accumulated depreciation at 31.12.2022	(3)	(131)	(2 429)	(295)	(2 858)
NET CARRYING AMOUNT AT 31.12.2022	2	82	1 142	124	1 350
NET CARRYING AMOUNT AT 31.12.2021	2	89	668	23	782

The increase under this heading is in line with the life cycle of the Agency, who continued to upgrade its IT infrastructure, in the operational area, with the necessary software and hardware in line with the growth in the number of staff. During the year, the Agency also acquired other equipment for the security architecture so as to reduce risks and prevent data loss, as well as for the continuity of the growing operational activity.

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 2022 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

	31.12.2022	31.12.2021
Recoverables from non-exchange transactions		
<i>Member States</i>	39	89
	39	89
Receivables from exchange transactions		
<i>Central treasury liaison accounts</i>	7 650	8 074
<i>Deferred charges relating to exchange transactions</i>	1 352	614
<i>Customers</i>	21	12
<i>Other</i>	28	15
	9 051	8 714
Total	9 090	8 803

The heading Recoverables from Member States contains 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.

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. The slight decrease of the balance on the Central treasury accounts in 2022 is a result of higher payments for ongoing projects and thus a decrease of cash available to the agency.

The deferred charges consist of pre-payments made during the year for services that will be delivered in 2023. The title increased by 120% mainly due to a significant investment in the licences needed for the operation of the different parts of the REMIT system. The validity of some of these licences extends over to 2023. In addition, the licences to access the magazines and specialised databases from specialised publications to which the Agency subscribed during the year are still valid in 2023.

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

	31.12.2022	31.12.2021
<i>Imprest accounts</i>	0	1

The amounts remaining under this heading (EUR 309) 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>	
	31.12.2022	31.12.2021
<i>Commission subsidy</i>	477	1 529
<i>Sundry payables</i>	8	-
Total	485	1 529

The heading comprises mostly the unused pre-financing amounts received from the Commission in 2022, known as the balancing subsidy. The outstanding amount will be returned to the Commission upon request in the course of the year 2023.

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>	
	31.12.2022	31.12.2021
<i>Accrued charges</i>	1 594	1 360

The most material accrued expenses included under this heading are operating expenses (kEUR 827), staff expenses for untaken leave (kEUR 315), non-IT services (kEUR 169), office supplies and maintenance (kEUR 87), training costs (kEUR 70), land and the building's operating lease (kEUR 55).

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>	
	2022	2021
<i>Funds from the Commission</i>	14 687	13 290

This revenue comprises the contribution received from the general budget of the Union, i.e. the balancing subsidy, which has been used during 2022 for the activities of the agency. The unused amount of kEUR 477 is recorded under accounts payable and will be reimbursed to the Commission in 2023. Please refer to the section "Budgetary implementation reports" below for more information on the use of ACER's budget.

EXCHANGE REVENUE

3.2. OTHER EXCHANGE REVENUE

	<i>EUR '000</i>	
	2022	2021
<i>Fees income</i>	9 664	8 772
<i>Other</i>	2	25
Total	9 666	8 796

The fees income comprises Registered Reporting Mechanisms (RRMs) fees that the Agency charges for the collection, handling and analysing of data reported by the energy market participants through the RRM. 2022 was the second year in which these fees were collected.

EXPENSES

3.3. OPERATING COSTS

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

	<i>EUR '000</i>	
	2022	2021
<i>Operating costs</i>	4 849	4 022

Included under operating cost are amounts spent on operational missions, workshops, public hearings, REMIT project 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	
	2022	2021
<i>Staff costs</i>	10 499	9 740

The increase of staff costs in 2022 is a combined effect of an increase in the number of staff and annual indexation of salaries granted in June and December 2022.

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	
	2022	2021
<i>External non IT services</i>	1 635	2 097
<i>Operating leasing expenses</i>	1 093	976
<i>Administrative expenses with EU entities</i>	1 018	844
<i>Office Supplies & maintenance</i>	811	541
<i>Legal Expenses</i>	474	32
<i>Property, plant and equipment related expenses</i>	745	504
<i>Training costs</i>	252	139
<i>Other</i>	247	-
<i>Missions</i>	88	23
<i>Communications & publications</i>	52	56
<i>Recruitment costs</i>	12	3
Total	6 427	5 215

The increase of the office supplies, maintenance and administrative expenses with EU entities is related to the increased involvement of the Agency in finding solutions to the energy crisis which generated a larger need for energy specific information obtained from specialised publications to which the Agency subscribed during the year. The increase in legal expenses was mainly incurred in defending the appeals against the Agency's decision in the Electricity operational area and the related translations of those decisions. Mission's expenditure had returned to normal levels after two years of travel restrictions. The increase of the recruitment costs and training costs corresponds to the gradual growth of the Agency aimed at increasing the staff of ACER by 20 members by 2023.

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			EUR '000
	< 1 year	1- 5 years	> 5 years	Total
<i>Buildings</i>	1 114	95	-	1 209

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.

	EUR '000	
	31.12.2022	31.12.2021
<i>Outstanding commitments not yet expensed</i>	5 639	5 494

4.2. SERVICES IN KIND

During 2022 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.

	31.12.2022	31.12.2021
<i>Director</i>	AD 14	AD 14

4.5. OTHER EVENTS

At the end of the financial year 2022, the Agency had seventeen legal cases ongoing before the Board of Appeal (six), General Court (nine) and European Court of Justice (two) requesting annulment of decisions taken by the Agency. 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 cash flows 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.