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## Information and Notices

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### Contents

#### IV Notices

##### NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

##### **Court of Auditors**

2017/C 417/01	Summary of the results of the ECA's annual audits of the European Agencies and other bodies for the financial year 2016 . . . . .	1
2017/C 417/02	Report on the annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2016, together with the Agency's reply . . . . .	25
2017/C 417/03	Report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2016, together with the Office's reply . . . . .	31
2017/C 417/04	Report on the annual accounts of the Translation Centre for the Bodies of the European Union for the financial year 2016, together with the Centre's reply . . . . .	37
2017/C 417/05	Report on the annual accounts of the European Centre for the Development of Vocational Training for the financial year 2016, together with the Centre's reply . . . . .	42
2017/C 417/06	Report on the annual accounts of the European Union Agency for Law Enforcement Training for the financial year 2016, together with the Agency's reply . . . . .	47
2017/C 417/07	Report on the annual accounts of the Consumers, Health, Agriculture and Food Executive Agency for the financial year 2016, together with the Agency's reply . . . . .	52
2017/C 417/08	Report on the annual accounts of the Community Plant Variety Office for the financial year 2016, together with the Office's reply . . . . .	57
2017/C 417/09	Report on the annual accounts of the Education, Audiovisual and Culture Executive Agency for the financial year 2016, together with the Agency's reply . . . . .	63
2017/C 417/10	Report on the annual accounts of the European Aviation Safety Agency for the financial year 2016, together with the Agency's reply . . . . .	68

EN

2017/C 417/11	Report on the annual accounts of the Executive Agency for Small and Medium sized Enterprises for the financial year 2016, together with the Agency's reply . . . . .	74
2017/C 417/12	Report on the annual accounts of the European Asylum Support Office for the financial year 2016, together with the Office's reply . . . . .	79
2017/C 417/13	Report on the annual accounts of the European Banking Authority for the financial year 2016, together with the Authority's reply . . . . .	87
2017/C 417/14	Report on the annual accounts of the European Centre for Disease Prevention and Control for the financial year 2016, together with the Centre's reply . . . . .	92
2017/C 417/15	Report on the annual accounts of the European Chemicals Agency for the financial year 2016, together with the Agency's reply . . . . .	98
2017/C 417/16	Report on the annual accounts of the European Environment Agency for the financial year 2016, together with the Agency's reply . . . . .	104
2017/C 417/17	Report on the annual accounts of the European Fisheries Control Agency for the financial year 2016, together with the Agency's reply . . . . .	110
2017/C 417/18	Report on the annual accounts of the European Food Safety Authority for the financial year 2016, together with the Authority's reply . . . . .	115
2017/C 417/19	Report on the annual accounts of the European Institute for Gender Equality for the financial year 2016, together with the Institute's reply . . . . .	120
2017/C 417/20	Report on the annual accounts of the European Insurance and Occupational Pensions Authority for the financial year 2016, together with the Authority's reply . . . . .	126
2017/C 417/21	Report on the annual accounts of the European Institute of Innovation and Technology for the financial year 2016, together with the Institute's reply . . . . .	131
2017/C 417/22	Report on the annual accounts of the European Medicines Agency for the financial year 2016, together with the Agency's reply . . . . .	142
2017/C 417/23	Report on the annual accounts of the European Monitoring Centre for Drugs and Drug Addiction for the financial year 2016, together with the Centre's reply . . . . .	150
2017/C 417/24	Report on the annual accounts of the European Maritime Safety Agency for the financial year 2016, together with the Agency's reply . . . . .	156
2017/C 417/25	Report on the annual accounts of the European Union Agency for Network and Information Security for the financial year 2016, together with the Agency's reply . . . . .	160
2017/C 417/26	Report on the annual accounts of the European Union Agency for Railways for the financial year 2016, together with the Agency's reply . . . . .	166
2017/C 417/27	Report on the annual accounts of the European Research Council Executive Agency for the financial year 2016, together with the Agency's reply . . . . .	171
2017/C 417/28	Report on the annual accounts of the European Securities and Markets Authority for the financial year 2016, together with the Authority's reply . . . . .	176
2017/C 417/29	Report on the annual accounts of the European Training Foundation for the financial year 2016, together with the Foundation's reply . . . . .	181
2017/C 417/30	Report on the annual accounts of the European Union Intellectual Property Office for the financial year 2016, together with the Office's reply . . . . .	187

2017/C 417/31	Report on the annual accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2016, together with the Agency's reply . . . . .	194
2017/C 417/32	Report on the annual accounts of the European Agency for Safety and Health at Work for the financial year 2016, together with the Agency's reply . . . . .	201
2017/C 417/33	Report on the annual accounts of the Euratom Supply Agency for the financial year 2016, together with the Agency's reply . . . . .	207
2017/C 417/34	Report on the annual accounts of the European Foundation for the Improvement of Living and Working Conditions for the financial year 2016, together with the Foundation's reply . . . . .	212
2017/C 417/35	Report on the annual accounts of the European Union's Judicial Cooperation Unit for the financial year 2016, together with Eurojust's reply . . . . .	218
2017/C 417/36	Report on the annual accounts of the European Police Office for the financial year 2016, together with the Office's reply . . . . .	223
2017/C 417/37	Report on the annual accounts of the European Union Agency for Fundamental Rights for the financial year 2016, together with the Agency's reply . . . . .	228
2017/C 417/38	Report on the annual accounts of the European Border and Coast Guard Agency for the financial year 2016, together with the Agency's reply . . . . .	233
2017/C 417/39	Report on the annual accounts of the European GNSS Agency for the financial year 2016, together with the Agency's reply . . . . .	241
2017/C 417/40	Report on the annual accounts of the Innovation and Networks Executive Agency for the financial year 2016, together with the Agency's reply . . . . .	247
2017/C 417/41	Report on the annual accounts of the Research Executive Agency for the financial year 2016, together with the Agency's reply . . . . .	252
2017/C 417/42	Report on the annual accounts of the Single Resolution Board for the financial year 2016, together with the Board's reply . . . . .	256





## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## COURT OF AUDITORS

**Summary of the results of the ECA's annual audits of the European Agencies and other bodies for the financial year 2016**

(2017/C 417/01)

## CONTENTS

	<i>Page</i>
ACRONYMS OF THE AGENCIES AND OTHER BODIES OF THE EU . . . . .	3
EXECUTIVE SUMMARY . . . . .	5
WHO WE ARE . . . . .	5
WHAT WE AUDITED . . . . .	5
Different types of agencies are located across EU Member States . . . . .	5
Agencies' budgets and financing — increases in priority areas and in the importance of self-financing . . . . .	7
Staff increases in priority areas . . . . .	9
Audit arrangements . . . . .	9
WHAT WE FOUND . . . . .	10
Clean audit opinions on the reliability of the accounts for all agencies . . . . .	10
Clean audit opinions on the legality and regularity of the transactions underlying the accounts for all agencies, except for EASO . . . . .	10
Matters of specific importance highlighted by the ECA . . . . .	10
Other audit findings in various areas . . . . .	11
Human resources — a matter of concern in some cases . . . . .	11
Public procurement remains an error-prone area . . . . .	11
Diverse Agencies IT landscape despite mainly similar activities . . . . .	12
IT consultancy and project management at EMA to be improved . . . . .	13
Budgetary management improving with exceptions . . . . .	14
External evaluations are positive in general . . . . .	14

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	<i>Page</i>
IAS audit results reported to give a more comprehensive view .....	14
Follow-up of previous years' comments on track in most cases .....	14
 ANNEX I — Agencies' budget and staff .....	 16
ANNEX II — Comments made by the ECA not calling its opinions into question .....	19
ANNEX III — Follow-up of open comments not calling the ECA's opinions into question .....	22

## ACRONYMS OF THE AGENCIES AND OTHER BODIES OF THE EU

Acronym	Full name	Location
<b>ACER</b>	Agency for the Cooperation of Energy Regulators	Ljubljana, Slovenia
<b>BEREC</b>	Office of the Body of European Regulators for Electronic Communications	Riga, Latvia
<b>CdT</b>	Translation Centre for the Bodies of the European Union	Luxembourg, Luxembourg
<b>Cedefop</b>	European Centre for the Development of Vocational Training	Thessaloniki, Greece
<b>CEPOL</b>	European Union Agency for Law Enforcement Training	Budapest, Hungary
<b>CHAFEA</b>	Consumers, Health, Agriculture and Food Executive Agency	Luxembourg, Luxembourg
<b>CPVO</b>	Community Plant Variety Office	Angers, France
<b>EACEA</b>	Education, Audiovisual and Culture Executive Agency	Brussels, Belgium
<b>EASA</b>	European Aviation Safety Agency	Cologne, Germany
<b>EASME</b>	Executive Agency for Small and Medium-sized Enterprises	Brussels, Belgium
<b>EASO</b>	European Asylum Support Office	Valletta, Malta
<b>EBA</b>	European Banking Authority	London, United Kingdom
<b>ECDC</b>	European Centre for Disease Prevention and Control	Stockholm, Sweden
<b>ECHA</b>	European Chemicals Agency	Helsinki, Finland
<b>EEA</b>	European Environment Agency	Copenhagen, Denmark
<b>EFCA</b>	European Fisheries Control Agency	Vigo, Spain
<b>EFSA</b>	European Food Safety Authority	Parma, Italy
<b>EIGE</b>	European Institute for Gender Equality	Vilnius, Lithuania
<b>EIOPA</b>	European Insurance and Occupational Pensions Authority	Frankfurt, Germany
<b>EIT</b>	European Institute of Innovation and Technology	Budapest, Hungary
<b>EMA</b>	European Medicines Agency	London, United Kingdom
<b>EMCDDA</b>	European Monitoring Centre for Drugs and Drug Addiction	Lisbon, Portugal

Acronym	Full name	Location
<b>EMSA</b>	European Maritime Safety Agency	Lisbon, Portugal
<b>ENISA</b>	European Union Agency for Network and Information Security	Heraklion, Greece
<b>ERA</b>	European Union Agency for Railways	Valenciennes, France
<b>ERCEA</b>	European Research Council Executive Agency	Brussels, Belgium
<b>ESMA</b>	European Securities and Markets Authority	Paris, France
<b>ETF</b>	European Training Foundation	Turin, Italy
<b>EUIPO</b>	European Union Intellectual Property Office	Alicante, Spain
<b>eu-LISA</b>	European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice	Tallinn, Estonia
<b>EU-OSHA</b>	European Agency for Safety and Health at Work	Bilbao, Spain
<b>Euratom</b>	Euratom Supply Agency	Luxembourg, Luxembourg
<b>EUROFOUND</b>	European Foundation for the Improvement of Living and Working Conditions	Dublin, Ireland
<b>EUROJUST</b>	The European Union's Judicial Cooperation Unit	The Hague, Netherlands
<b>EUROPOL</b>	European Police Office	The Hague, Netherlands
<b>FRA</b>	European Union Agency for Fundamental Rights	Vienna, Austria
<b>Frontex</b>	European Border and Coast Guard Agency	Warsaw, Poland
<b>GSA</b>	European Global Navigation Satellite Systems Agency	Prague, Czech Republic
<b>INEA</b>	Innovation & Networks Executive Agency	Brussels, Belgium
<b>REA</b>	Research Executive Agency	Brussels, Belgium
<b>SRB</b>	Single Resolution Board	Brussels, Belgium

## EXECUTIVE SUMMARY

The European Court of Auditors (the ECA) has audited the accounts and underlying transactions of 41 European bodies, offices and agencies (agencies) for the financial year 2016. The ECA has issued unqualified (clean) audit opinions on the accounts of all agencies and on the underlying transactions for all agencies except one (EASO).

Although the agencies' accounts presented a fair view of their financial and economic situation and the transactions underlying the accounts were legal and regular in most cases, there is still room for improvement, as reported in some of the ECA's *emphasis of matter* and *other matter* paragraphs and through the *comments on audit findings not calling the audit opinions into question*.

This document provides a summary of the results of these audits. It aims to facilitate the analysis and comparison of the ECA's Specific Annual Reports (SARs) for these agencies. The ECA's opinions and comments, and the replies to them, can be found in the respective SARs. This summary is not an audit report or opinion.

## WHO WE ARE

The Court is the EU institution auditing the EU's finances. The Court's mission is to contribute to improving EU financial management, promote accountability and transparency, and act as the independent guardian of the financial interests of the citizens of the Union. The Court's role as the EU's independent external auditor is to check that EU funds are correctly accounted for, are raised and spent in accordance with the relevant rules and regulations and have achieved value for money. Within this mandate the Court annually examines the accounts and the transactions underlying them, for all EU institutions and agencies.

## WHAT WE AUDITED

### *Different types of agencies are located across EU Member States*

The agencies are distinct legal entities set up by an act of secondary legislation to carry out specific technical, scientific or managerial tasks that help the EU institutions design and implement policies. They are highly visible in the Member States and have significant influence on policy and decision making and programme implementation in areas of vital importance to European citizens' daily life, e.g. health, safety, security, freedom and justice. Depending on their set-up and tasks, a distinction can be made between decentralised agencies, other bodies, and Commission executive agencies. References to specific agencies in this summary are made by using abbreviations of their full names, which are provided in the list of acronyms at the beginning of the report.

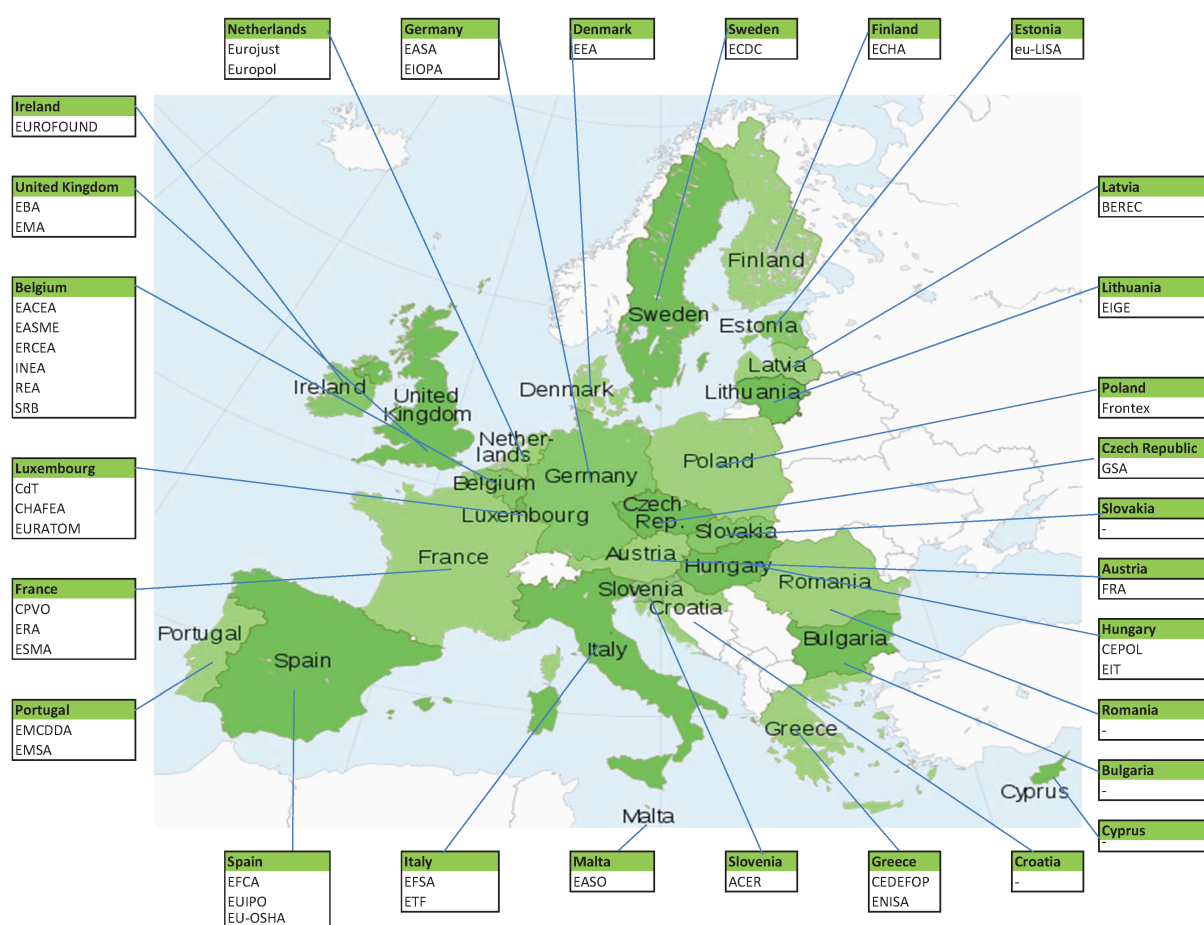
The **32 decentralised agencies** play an important role in preparing and implementing EU policies, especially for tasks of a technical, scientific, operational and/or regulatory nature. Their aim is to allow the Commission to concentrate on policy-making and to reinforce cooperation between the EU and national governments by pooling technical and specialist expertise from both sides. Decentralised agencies are set up for an indefinite period and are located across the EU (*see Figure 1*).

The three **other bodies** are the **EIT, Euratom and the SRB**. The EIT in Budapest is an independent, decentralised EU body which pools scientific, business and education resources to boost the Union's innovation capacity. Euratom in Luxembourg was created to support the aims of the European Atomic Energy Community Treaty. The SRB in Brussels is the key authority of the Single Resolution Mechanism in the European Banking Union. Its mission is to ensure the orderly resolution of failing banks, with as little impact as possible on the real economy and public finances of EU Member States and others.

The **six Commission executive agencies** are entrusted with tasks relating to the management of one or more Union programmes and are set up for fixed periods of time. They are located in Brussels (**EACEA, EASME, ERCEA, INEA, REA**) and Luxembourg (**CHAFEA**).

Figure 1

## Agencies' locations across Member States



**Agencies' budgets and financing — increases in priority areas and in the importance of self-financing**

The majority of agencies are almost fully financed by the EU general budget with some being fully or partially self-financed (see breakdown in Table 1). The **ERA** is due to become partially self-financed as of June 2019 at the latest.

Table 1

**The types and financing of agencies**

	Financed by		
	Mainly EU general budget	Mainly self-financed	EU budget, MS contributions and/or fees (partially self-financed)
Decentralised agencies	24	2 CPVO, EUIPO	6 EASA, EBA, ECHA, EIOPA, EMA, ESMA
Other bodies	2 EIT, Euratom	1 SRB	—
Commission executive agencies	6 EACEA, REA, ERCEA, EASME, INEA, CHAFAA	—	—

The total 2016 budget of all agencies (except the SRB, with its specific mandate and mechanism), amounted to some 3,4 billion euros (2015: 2,8 billion euros) which is equivalent to some 2,4 % of the 2016 EU general budget (2015: 2,0 %). The increase is mainly related to agencies working on matters related to Industry, Research and Energy (additional 358 million euros) and Civil liberties, Justice and Home Affairs (additional 174 million euros). Of the 3,4 billion euro budget, some 2,3 billion euros were financed by the EU general budget, whereas some 1 billion euros were financed by fees and also by direct contributions from Member States, EFTA countries, etc.

In addition, the **SRB**, which was established by the SRM Regulation supporting the Single Resolution Mechanism, budgeted some 11,8 billion euros in contributions from Credit Institutions in order to fully establish the Single Resolution Fund by 2023.

The total 2016 budget of all agencies including the SRB therefore amounted to some 15,2 billion euros. Details on individual agencies' budgets are provided in Annex I.

Figure 2  
Agencies' funding sources 2016

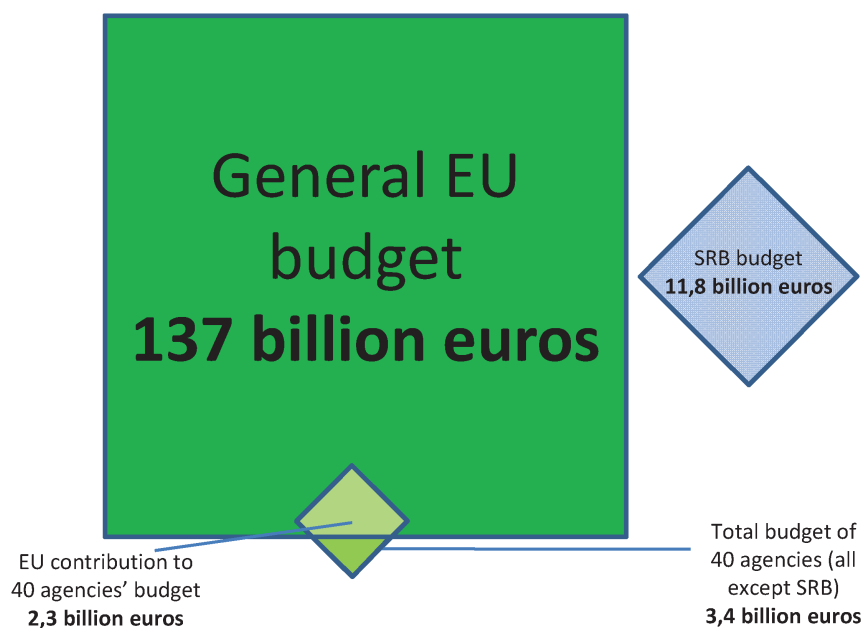
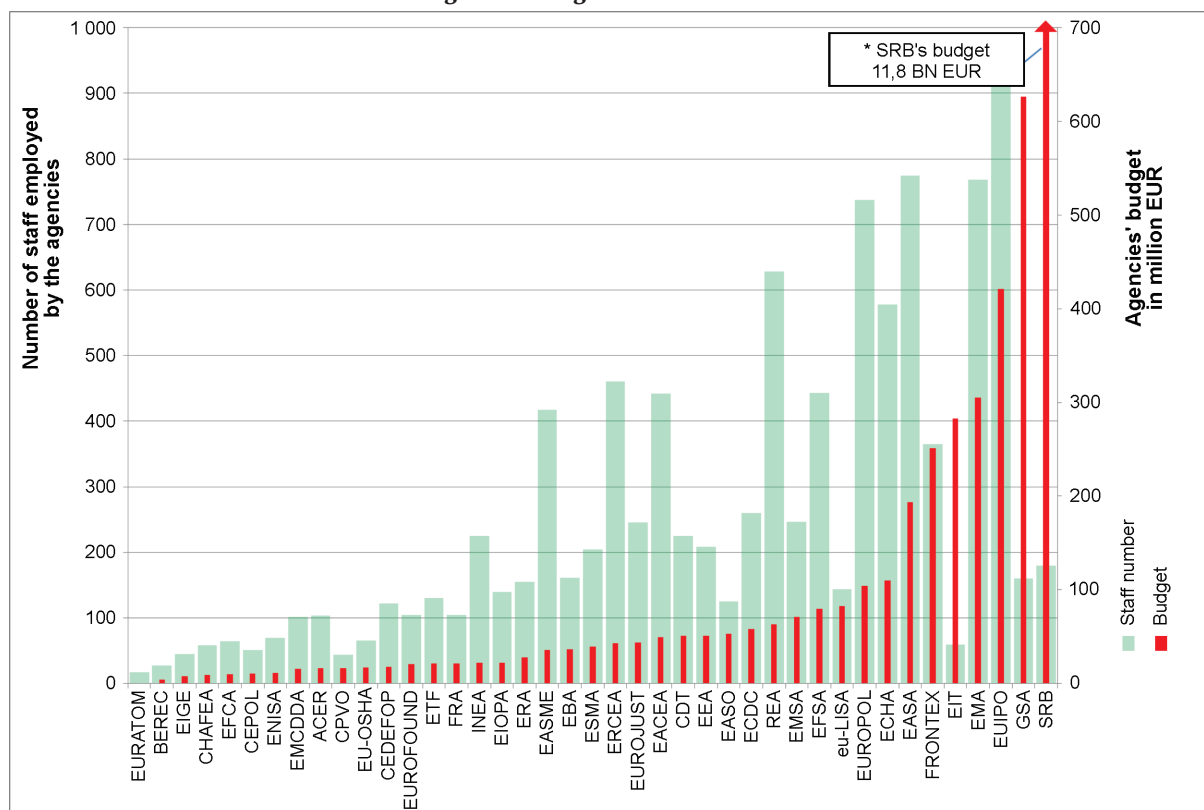


Figure 3  
Agencies budgets in million euros





### Staff increases in priority areas

At the end of 2016 the agencies employed 10 364 staff (2015: 9 848) <sup>(1)</sup> <sup>(2)</sup>. As in the previous year, the largest increase in staff numbers occurred in agencies dealing with matters related to Industry, Research and Energy (110), Civil liberties, Justice and Home Affairs (177) and Economic and Monetary Affairs (85). Details on the individual agencies' staff numbers are provided in *Annex I*.

### Audit arrangements

Article 287 of the Treaty on the Functioning of the European Union <sup>(3)</sup> lays down that the ECA must examine the accounts of all agencies set up by the Union in so far as the relevant constituent instrument does not preclude such examination. We therefore audited 41 agencies and issued opinions on the reliability of their accounts and on the legality and regularity of the underlying transactions for the financial year ended 31 December 2016.

The current legislative framework defines the audit arrangements for the agencies' accounts as presented in *Table 2*.

Table 2

#### Audit arrangements for the agencies' accounts

Agencies	Audited by	
	The ECA	Audit firm & the ECA
Decentralised agencies	2	30
Other bodies	1 <sup>(1)</sup>	2
Executive agencies	6	—

<sup>(1)</sup> Given the limited resources and operations of the Euratom Supply Agency, it is audited solely by the ECA.

The annual accounts of 32 agencies were verified by independent external auditors (audit firms) in accordance with Article 208(4) of the EU Financial Regulation <sup>(4)</sup> and Article 107(1) of the framework financial regulation for agencies <sup>(5)</sup>. We reviewed the work of the audit firms in accordance with international audit standards. This review provided adequate assurance for us to base our own audit opinions on the reliability of the accounts using the audit firms' work. For the remaining nine agencies, we alone audited the reliability of the accounts. As in prior years the ECA remained exclusively responsible for the audit of the legality and regularity of the transactions underlying the accounts of all agencies.

Apart from the agencies audited by the ECA, there are three agencies related to defence (the European Defence Agency, the European Institute for Securities Studies and the European Union Satellite Centre) which fall under the authority of the Council and are financed through Member States' contributions. These are not audited by the ECA, but by other independent external auditors. In our 2014 Landscape Review <sup>(6)</sup> on EU accountability and public audit arrangements we found that there was no compelling reason for the different audit mandates for these agencies.

<sup>(1)</sup> Staff members include officials, temporary and contract staff as well as seconded national experts.

<sup>(2)</sup> 2015 staff figures were updated based on data provided by the agencies.

<sup>(3)</sup> OJ C 326, 26.10.2012, p. 47.

<sup>(4)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

<sup>(5)</sup> Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

<sup>(6)</sup> ECA Landscape Review — Gaps, overlaps and challenges: a landscape review of EU accountability and public audit arrangements

## WHAT WE FOUND

### *Clean audit opinions on the reliability of the accounts for all agencies*

The final accounts of all 41 agencies present fairly, in all material respects, their financial position as at 31 December 2016 and the results of their operations and their cash flows for the year then ended, in accordance with the provisions of the applicable financial regulations and the accounting rules adopted by the Commission's Accounting Officer.

### *Clean audit opinions on the legality and regularity of the transactions underlying the accounts for all agencies, except for EASO*

We concluded that for 40 agencies, the transactions underlying the annual accounts for the year ended 31 December 2016 were legal and regular in all material respects.

We issued a qualified opinion on the legality and regularity of the transactions underlying the accounts of **EASO**. The qualification refers to two procurement procedures where compliance with public procurement principles was inadequate.

### *Matters of specific importance highlighted by the ECA*

We issued *emphasis of matter paragraphs* <sup>(7)</sup> for the two London-based agencies, **EBA** and **EMA**, concerning the United Kingdom's decision to withdraw from the European Union. The EBA's and EMA's accounts and related notes had been prepared on the basis of the limited information available at the date of their signature and did not yet provide a reliable estimate of future costs resulting from the cessation of activities in the United Kingdom and their subsequent move to other locations. We also referred to the risk of decreases in revenue following the United Kingdom's departure from the EU and the risk that the removal of these agencies will lead to a loss of expertise, causing a risk to business continuity.

We issued seven *other matter paragraphs* <sup>(8)</sup> on the possible impact of the United Kingdom's departure from the European Union on the revenue and activities of several non-London based agencies. **CPVO**, **EASA**, **ECHA**, **EIOPA**, **ESMA** and **EUIPO** may face a decrease in revenue as a direct result of reduced fee-generating activities in the United Kingdom. **GSA** operates technical units located in the United Kingdom, whose status has yet to be determined.

In the case of the **SRB** we issued an *emphasis of matter paragraph* on the control framework in place for the calculation of Credit Institutions' contributions to the Single Resolution Fund. We emphasised that Fund contributions are calculated on the basis of information provided by Credit Institutions to the Board through the national resolution authorities. However, the SRM Regulation does not provide for a comprehensive and consistent control framework to ensure the reliability of the information. Furthermore, we noted that the methodology for calculating contributions laid down in the legal framework is very complex, resulting in a risk to accuracy. Moreover, the Board cannot release details on the risk-assessed contribution calculations per Credit Institution as they are interlinked and include confidential information about other Credit Institutions. This affects the transparency of these calculations.

We also issued *other matter paragraphs* on weaknesses in the procurement procedures carried out by the Legal Entities of the **EIT's** Knowledge Innovation Centres, and on the EIT's human resources being too limited to deal with its expanded workload.

For the **CdT** we included an *other matter paragraph* on the fact that several agencies are making increasing use of in-house and other alternative translation solutions. This implies that the CdT's capacity is not being used to the greatest possible extent and that there is a duplication at European level of translation systems development and running costs. The increased use of alternative translation solutions by the other agencies puts the CdT's business model at risk.

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<sup>(7)</sup> *Emphasis of matter paragraphs* draw attention to important issues which are fundamental to the reader's understanding of the accounts.

<sup>(8)</sup> *Other matter paragraphs* are used to communicate important matters other than those presented or disclosed in the annual accounts.

### **Other audit findings in various areas**

We also reported a total of 115 audit findings ‘comments’ (2015: 90) affecting 34 agencies (2015: 37) to highlight matters of importance and to indicate room for improvement. An overview of the comments made for each of the agencies is provided in *Annex II*.

### **Human resources — a matter of concern in some cases**

Adequate staffing is a crucial element for the stability and efficiency of the agencies’ operations and their ability to implement their work programmes. We found that seven agencies were affected by human resource management issues and other staff matters, including high staff turnover, shortcomings in recruitment procedures and vacant posts which were occupied by interim staff for a long period of time.

Three agencies (**Frontex, CEPOL and BERE**C) experienced difficulties in finding suitable candidates with the required profile, which is possibly related to the salary correction coefficient applied for the hosting country (66,7 %, 69 % and 76,5 % respectively). Where suitable candidates were found, the number of staff that could be recruited from the host state was disproportionately higher than staff from other Member States. In order to attract candidates, Frontex recruited 14 members of staff at a grade higher than was allowed by the Staff Regulations. For the other two agencies a high turnover of staff was noticed, which may impact business continuity and the agencies’ ability to implement the activities planned in their work programmes. For CEPOL an additional possible reason for recruitment difficulties is competition with another EU body located in Budapest (EIT).

Three Agencies (**EMA, EIT, ECDC**) faced organisational challenges. EMA has undergone two major reorganisations since 2014, including the internal reallocation of top and middle management positions. The reallocation of key staff in the area of IT and administration was not successful, causing a material risk of instability to the Agency and its operations. The Director of the EIT changed four times between its creation in 2008 and July 2014. Since August 2014 the position of the Director, and, since February 2013, one other managerial position, have been filled on an ad interim basis, which contravenes the 1-year maximum period set for interim placements in the Staff Regulations. This is a cause of uncertainty for stakeholders and jeopardises strategic continuity. At the ECDC the Director ad interim was appointed in May 2015 and was still in place on 31 December 2016, thereby exceeding the maximum of 1 year. This ad interim appointment also resulted in 15 additional ad interim arrangements for other staff.

### **Public procurement remains an error-prone area**

The objective underlying public procurement is to ensure competition between economic operators to achieve the most economically advantageous purchase in a transparent, objective and consistent manner and on the basis of the applicable legal framework. We reported in the SARs for **EASO, EMCDDA, eu-LISA, EMA** and **BEREC** that agencies did not fully comply with the public procurement principles and rules laid down in the Financial Regulation. The comments address, mainly, inconsistencies in tender documents, non-compliance with the criteria set for the selection of economic operators, lack of formal procedures and lack of clear delegated authority to award and sign contracts.

The ECA appreciated the fact that agencies were making increasing use of interinstitutional framework contracts (FWC) for the procurement of goods and services, leading to administrative efficiency and economies of scales. However, for one interinstitutional FWC regarding software, IT licences and services, signed in 2014 between one contractor and the Commission on behalf of several Institutions and agencies, subsequent implementation by at least three agencies (**EMA, EEA, EASO**) was not optimal. The contractor acts as an intermediary between the Institutions and agencies and the potential suppliers that can address their needs. For these intermediary services the contractor is entitled to a mark-up of between two and nine percent of the suppliers’ prices. We noted for the audited payments under this FWC that the prices and mark-ups charged were not always systematically checked against the suppliers’ quotes and invoices, that the implementation of the FWC did not always ensure sufficient competition and, therefore, did not ensure that the most economical solution was chosen.

Weaknesses in public procurement procedures were also reported in relation to internal controls. In five cases in four agencies (**EASO, EIT, EMSA, EIGE**) we found that weak controls led to inefficiencies, for instance due to underestimated procurement needs at the time of the procedures.

Although performance aspects are not the focus of our annual agency audits, our auditors are expected to be mindful of the risks of weak performance and of risks relating to financial management. In seven cases in six agencies (**eu-LISA, Frontex, EU-OSHA, EEA, BEREC, EUIPO**) we commented on non-optimal public procurement arrangements that put best value for money at risk, and on weaknesses in monitoring contract implementation.

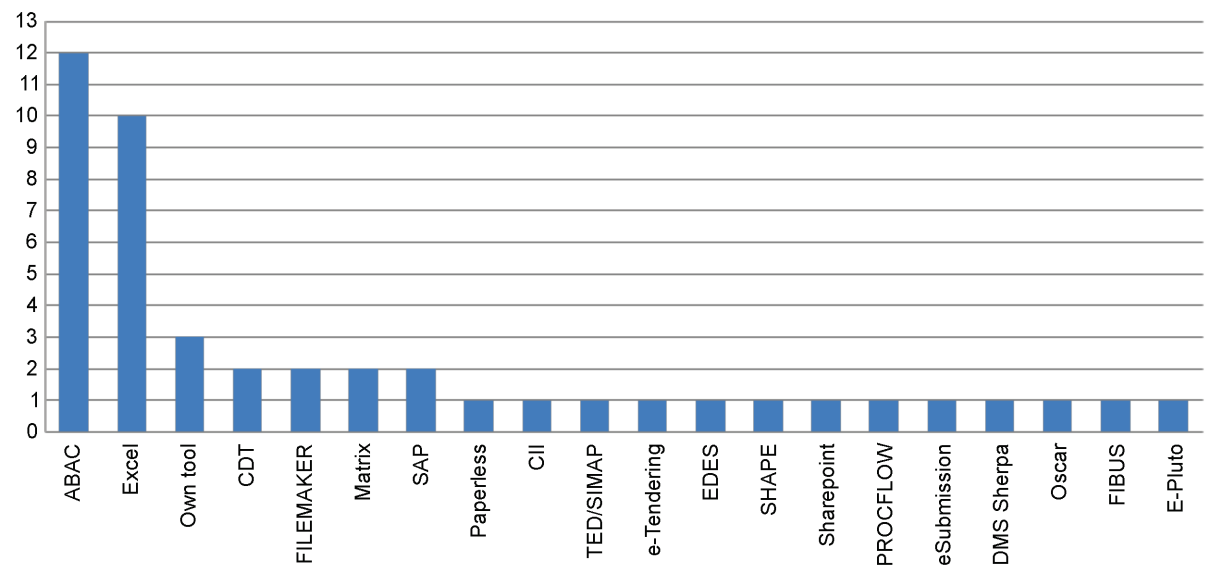
**Diverse IT landscape despite mainly similar activities**

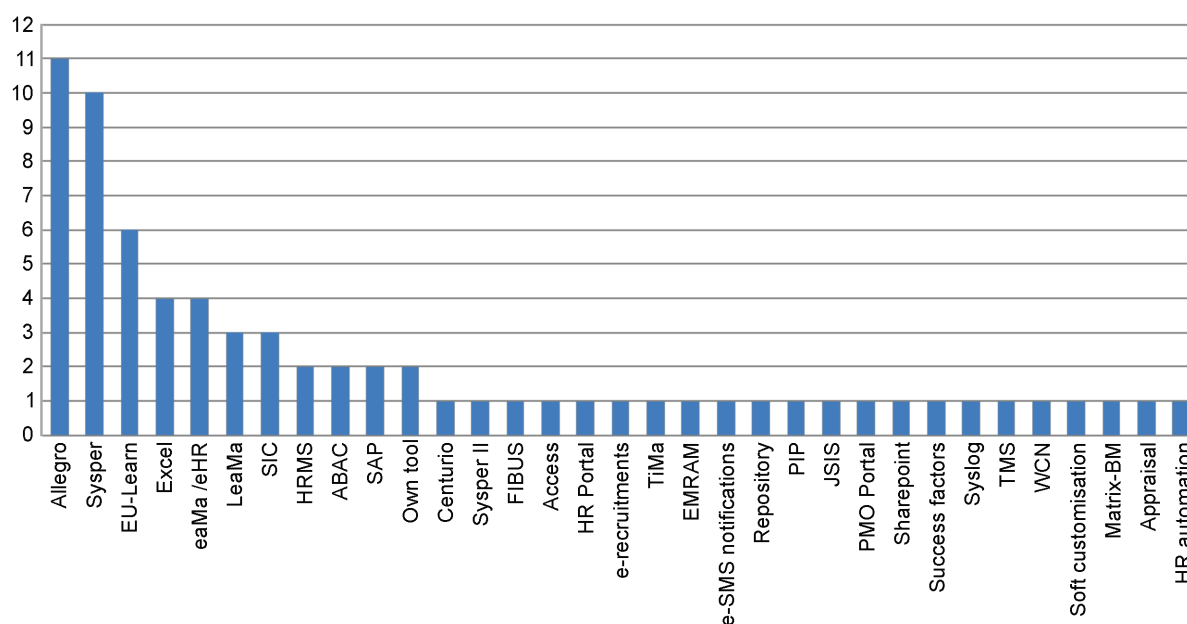
Agencies carry out a wide range of operational activities, requiring adequate and sometimes tailor-made IT solutions. However, key operational and administrative activities are implemented on the basis of the same legal framework, which suggests they have similar processes that can be supported by similar IT solutions. While the agencies have made very good progress in the use of similar budget management and accounting systems, there is still a multitude of IT solutions used in other key areas such as human resources management and procurement/contract management. Agencies should consider further harmonisation of IT solutions in these areas, too, as this would not only enhance cost-efficiency, but also reduce internal control risks and strengthen IT governance.

Other potential gains which could be achieved, for example, would be more harmonised management and stakeholder reporting, and the introduction of more automated audit procedures to increase audit efficiency. The EU Agencies Network is committed to further promoting interagency cooperation and cooperation with the Commission on such matters and, as far as the external audit is concerned, also with the ECA.

Figure 4  
Variety of IT solutions across the agencies

**HR management systems**



**Procurement/contract management systems****IT consultancy and project management at EMA to be improved**

In addition to the standard annual audit work covering all the agencies, we reviewed the hiring of IT consultants at the EMA in connection with two major IT projects (Pharmacovigilance and Clinical Trials), through which the Agency is addressing legislative obligations to establish complex pan-EU network systems requiring extensive IT development. As there was no expansion of the EMA's staff establishment plan to facilitate the build-up of in-house expertise in business and IT development, it commissioned consulting companies in these areas, which rendered it critically dependent on external expertise.

We also found that no methodology suited to such complex large-scale projects had been put in place before the projects began, and this may have affected management's ability to supervise and monitor project implementation and ensure the coherence of the projects. The EMA has continued to develop an adequate methodology with the latest refinement introduced in September 2016.

The EMA's ability to control the activity of its consultants and monitor the quality of delivery was also limited because of the type of consultancy contracts used (time and means) and also due to the fact that part of the consulting process is being carried out off-site and in another Member State. The EMA has experienced delays and escalating costs in implementing the projects. Frequent changes in project scope, budget and deadlines were due mainly to evolving system requirements which took into account the changing needs of Member States. There is no certainty yet regarding the final costs and go-live dates of the IT systems.

With regard to the results of this pilot audit of consultancy services at the EMA, the ECA will put the advanced methodology, knowledge and expertise acquired during this audit to good use in future, wherever appropriate.

### **Budgetary management improving — with exceptions**

The number of comments made in this area decreased considerably in 2016, but high carry-overs of committed budget appropriations remain the most frequent comment in the SARs and still concern 23 agencies. However, these carry-overs are usually explained by the multiannual nature of operations. We invited several agencies to consider introducing differentiated budget appropriations. This is the tool provided by the Financial Regulation to deal with such situations.

Cancellations of budget appropriations carried over from previous years, indicating an overestimation of budgetary needs and thus planning weakness, were reported in four cases (**Frontex**, **CPVO**, **CHAFEA**, **EASME**).

In response to the migration crisis faced by the Union, the tasks of **Frontex** and **EASO** increased considerably. As a consequence, the 2016 final budgets for EASO and Frontex were three times and 75 % higher respectively compared with the previous year. Both agencies were confronted with considerable administrative and operational challenges and high expectations to deliver results immediately without much time to adapt systems and procedures and to hire the necessary staff. Consequently, they faced problems absorbing the additional funds during the budgetary year, leading to considerable cancellations (Frontex) or high carry-overs (EASO) of funds. This was one reason for non-compliance with budgetary and public procurement rules in various cases and difficulties in implementing grant agreements with the Commission or beneficiaries in an optimal way.

### **External evaluations are positive in general**

For the first time we made explicit reference to the outcome of external evaluations of agencies' activities and overall performance in six cases. Evaluation results were positive in general and agencies prepared action plans to follow up issues raised in the evaluation reports. While most agencies' founding regulations provide for an external evaluation to be carried out periodically (usually every 4 to 6 years), we found that the founding regulations of six agencies (**EASO**, **eu-LISA**, **ETF**, **ENISA**, **EIGE**, **REA**) do not include such a provision, which is an issue that should be addressed. We also reported that **EMA's** founding regulation requires an external evaluation every 10 years and this is too long a time span for effective performance feedback to stakeholders.

### **IAS audit results reported to give a more comprehensive view**

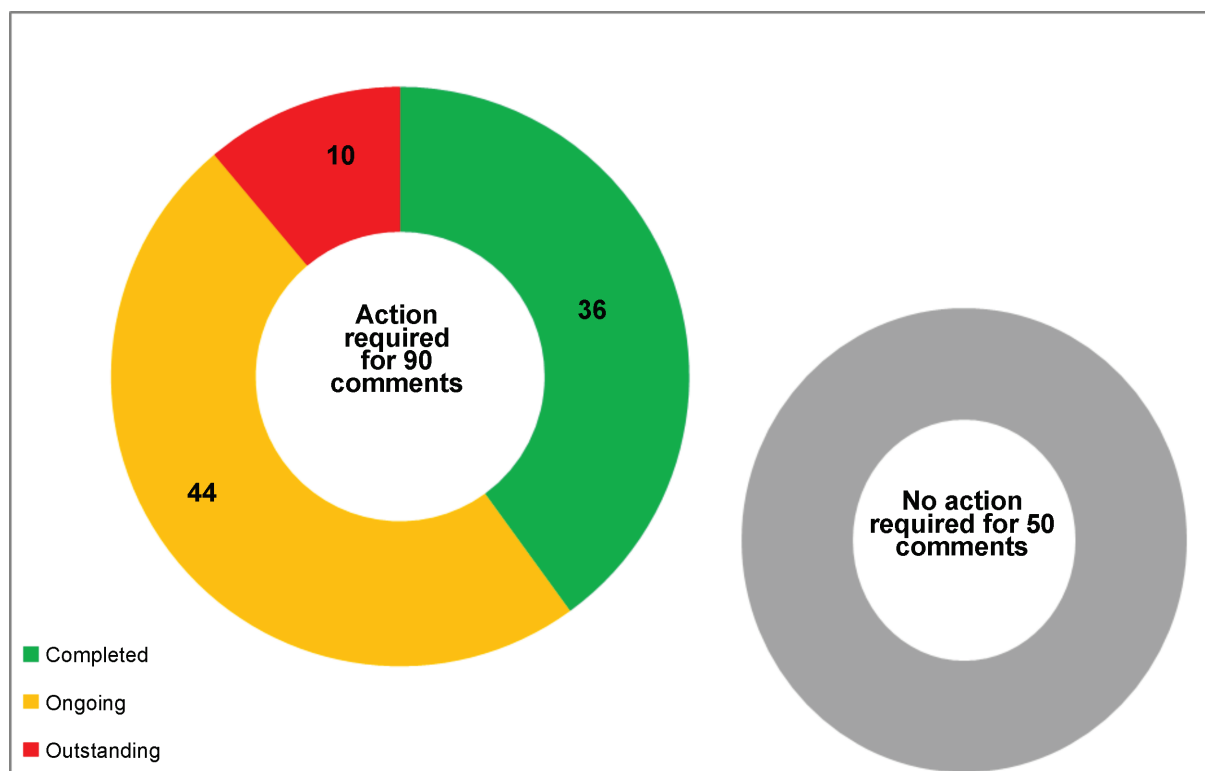
For 2016 we referred for the first time to audit conclusions drawn by the Commission's Internal Audit Service (IAS) in order to provide a more comprehensive view of the audit results. In total, reference was made to 14 IAS audit reports. In all instances the agencies had agreed with the IAS on plans to take corrective action.

### **Follow-up of previous years' comments on track in most cases**

Where applicable, we provided a progress report on follow-up actions taken by the agencies in response to comments from previous years. *Annex III* shows that for the 140 comments open at the end of 2015 (2014: 134), corrective action was completed or ongoing in most cases.

Figure 5

## Follow-up of previous years' comments



## ANNEX I

Agencies' budget and staff <sup>(1)</sup>

EP Standing Committees					Budget <sup>(1)</sup>		Staff <sup>(2)</sup>	
	Parent DG	Policy Area	2015 (million euros)	2016 (million euros)	2015	2016		
Decentralised Agencies								
eu-LISA  EASO  FRONTEX  EMCDDA  EUROPOL	Civil Liberties, Justice and Home Affairs	HOME	Home Affairs	71,7	82,3	134	144	
		HOME	Home Affairs	15,9	53,0	93	125	
		HOME	Home Affairs	143,3	251,0	309	365	
		HOME	Home Affairs	18,5	15,4	100	101	
		HOME	Home Affairs	95,0	104,0	666	737	
		JUST	Justice	21,6	21,6	107	105	
FRA  CEPOL  EUROJUST	HOME	Home Affairs	8,8	10,3	41	51		
	JUST	Justice	33,8	43,5	246	245		
EBA	Economic and Monetary Affairs	FISMA	Financial Services and Capital Markets	33,4	36,5	156	161	
EIOPA		FISMA	Financial Services and Capital Markets	20,2	21,8	133	139	
ESMA		FISMA	Financial Services and Capital Markets	36,8	39,4	202	204	
SRB <sup>(3)</sup>		FISMA	Financial Services and Capital Markets	22,0	11 865	108	180	

<sup>(1)</sup> Source: Data provided by the agencies



	EP Standing Committees	Parent DG	Policy Area	Budget <sup>(1)</sup>		Staff <sup>(2)</sup>	
				2015 (million euros)	2016 (million euros)	2015	2016
<b>EU-OSHA</b>	Employment and Social Affairs	EMPL	Employment and Social Affairs	16,9	16,7	65	65
<b>CEDEFOP</b>		EAC	Education and Culture	18,4	18,0	123	122
<b>EUROFOUND</b>		EMPL	Employment and Social Affairs	21,2	20,8	111	104
<b>ETF</b>		EAC	Education and Culture	21,0	21,0	129	130
<b>CDT</b>	Environment, Public Health and Food Safety	DGT	Language Services	49,6	50,5	218	225
<b>ECDC</b>		SANTE	Health and Consumer Protection	58,5	58,2	260	260
<b>ECHA</b>		GROW	Enterprise	114,8	110,1	572	578
<b>EEA</b>		ENV	Environment	49,2	50,5	219	208
<b>EFSA</b>		SANTE	Health and Consumer Protection	78,8	79,5	434	443
<b>EMA</b>		SANTE	Health and Consumer Protection	304,0	305,0	775	768
<b>EFCA</b>		MARE	Maritime Affairs & Fisheries	9,2	10,0	64	64
<b>CPVO</b>		SANTE	Agriculture and Rural Development	14,7	16,1	46	44
<b>EURATOM <sup>(3)</sup></b>		ENER & RTD	Energy and Innovation	0,1	0,1	17	17
<b>ACER</b>		ENER	Energy	11,3	15,9	80	103
<b>GSA</b>	Industry, Research and Energy	GROW	Enterprise	363,8	626,4	139	160
<b>EIT</b>		EAC	Innovation and Technology	232,0	283,0	50	59
<b>ENISA</b>		CNECT	Digital Single Market	10,0	11,0	69	69
<b>EUIPO</b>		GROW	Internal Market	384,2	421,3	848	910
<b>BEREC</b>		CNECT	Digital Single Market	4,0	4,2	26	27

	EP Standing Committees	Parent DG	Policy Area	Budget <sup>(1)</sup>		Staff <sup>(2)</sup>	
				2015 (million euros)	2016 (million euros)	2015	2016
<b>EASA</b>	Transport and Tourism	MOVE	Mobility and Transport	185,4	193,4	779	774
<b>EMSA</b>		MOVE	Mobility and Transport	64,8	71,1	246	246
<b>ERA</b>		MOVE	Mobility and Transport	26,3	27,5	157	155
<b>EIGE</b>	Women's Rights and Gender Equality	JUST	Justice	7,9	7,8	42	45
<b>Executive Agencies</b>							
<b>EACEA</b>		EAC & CNECT & HOME & ECHO	Education and Culture	46,9	49,1	441	442
<b>REA</b>		RTD & EAC & GROW & HOME & CNECT & AGRI	Research and Innovation	54,6	62,9	618	628
<b>ERCEA</b>		RTD	Research and Innovation	39,6	42,6	417	461
<b>EASME</b>		ENTR & RTD & & ENR & ENV & CLIMA & CNECT & MARE	Energy, Entrepreneurship and Innovation	36,4	35,8	373	417
<b>INEA</b>		MOVE & ENER & CNECT & RTD	Mobility and Transport	18,4	21,7	186	225
<b>CHAFEA</b>		SANTE & JUST & AGRI	Consumer Protection	7,4	8,7	49	58
<b>Total</b>				<b>2 770,40</b>	<b>15 182,70</b>	<b>9 848</b>	<b>10 364</b>
Without SRB's 'Budget of the Fund'				<b>2 770,04</b>	<b>3 382,70</b>	<b>9 848</b>	<b>10 364</b>

<sup>(1)</sup> Budget figures are based on payment appropriations

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts

<sup>(3)</sup> SRB and EURATOM are not consolidated in the EU accounts

### Comments made by the Court, not calling its opinions into question

[illegible]



	Total No of comments	Reliability of accounts	Legality/Regularity of transactions			Internal controls				Budgetary management			Sound Financial Management / Performance				Other comments		
			Procurement procedures	Recruitment, promotions and salaries	Other	Procurement procedures	Monitoring fin. implementation of contracts	Other	IAS findings	High carry-overs	High cancellations of 2015 carry-overs	Other	Procurement procedures	HR Management	External evaluation comments	Other	No effective requirement for external evaluation	Staff matters	Other
32	EASA	2			1													1	
33	EMSA	1				1													
34	ERA	0																	
35	EIGE	4				2					1				1				
	Executive agencies																		
36	CHAFEA	2									1	1							
37	EACEA	2						1			1								
38	EASME	2									1	1							
39	ERCEA	3						1	1		1								
40	INEA	1									1								
41	REA	3													1				
Subtotals:		115	5	4	2	5	2	7	14	23	4	5	7	2	6	9	6	6	6
Totals:			11			28				32			24				18		

## ANNEX III

## Follow-up of open comments not calling the Court's opinions into question

		Total	Completed	Ongoing	Outstanding	No action required
	<i>Decentralised Agencies</i>					
1	FRONTEX	11	2	7	1	1
2	EUROPOL	2	1			1
3	eu-LISA*	7	1	2	2	2
4	EASO	9	3	3	2	1
5	EUROJUST	2		1		1
6	EMCDDA	1		1		
7	FRA	1				1
8	CEPOL	2	1			1
9	EBA	3		1		2
10	EIOPA	2	1			1
11	ESMA	6	4			2
12	SRB	5		1		4
13	EU-OSHA	2				2

		Total	Completed	Ongoing	Outstanding	No action required
14	CEDEFOP	2	1			1
15	EUROFOUND	1				1
16	ETF	1	1			
17	CDT	5		1		4
18	ECDC	4		1		3
19	ECHA	3	1	1		1
20	EEA	4	4			
21	EFSA	2	1	1		
22	EMA	4	1	3		
23	EFCA	1	1			
24	CPVO	6		3	1	2
25	ACER	2			1	1
26	GSA	7	1	5		1
27	ENISA	2		1		1
28	EUIPO	6	5			1
29	BEREC	4	2		1	1
30	EASA	2	1			1

		Total	Completed	Ongoing	Outstanding	No action required
<b>31</b>	<b>EMSA</b>	0				
<b>32</b>	<b>ERA</b>	2	1	1		
<b>33</b>	<b>EIGE</b>	1				1
	<i>Executive Agencies</i>					
<b>34</b>	<b>EACEA</b>	1				1
<b>35</b>	<b>REA</b>	0				
<b>36</b>	<b>ERCEA</b>	1				1
<b>37</b>	<b>EASME</b>	4	1			3
<b>38</b>	<b>INEA</b>	1				1
<b>39</b>	<b>CHAFEA</b>	3		1		2
	<i>Other Bodies</i>					
<b>40</b>	<b>EIT</b>	17	2	10	2	3
<b>41</b>	<b>EURATOM</b>	1				1
	<b>Totals</b>	<b>140</b>	<b>36</b>	<b>44</b>	<b>10</b>	<b>50</b>



## REPORT

**on the annual accounts of the Agency for the Cooperation of Energy Regulators for the financial year 2016, together with the Agency's reply**

(2017/C 417/02)

## INTRODUCTION

1. The Agency for the Cooperation of Energy Regulators (hereinafter 'the Agency', aka 'ACER'), which is located in Ljubljana, was created by Regulation (EC) No 713/2009 of the European Parliament and of the Council <sup>(1)</sup>. The Agency's main task is to assist National Regulatory Authorities in exercising, at Union level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action. Under the REMIT regulation <sup>(2)</sup>, the Agency was given additional responsibilities, together with national regulatory authorities, regarding the monitoring of the European wholesale energy market.

2. The *table* presents key figures for the Agency <sup>(3)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	11,3	15,9
Total staff as at 31 December <sup>(1)</sup>	80	103

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: budget published in OJ.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2016; and

<sup>(1)</sup> OJ L 211, 14.8.2009, p. 1.

<sup>(2)</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council (OJ L 326, 8.12.2011, p. 1), which assigns an important role to the Agency in supervising trading in wholesale energy markets across Europe.

<sup>(3)</sup> More information on the Agency's competences and activities is available on its website: [www.acer.europa.eu](http://www.acer.europa.eu)

<sup>(4)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(5)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

### ***Reliability of the accounts***

#### *Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

### ***Legality and regularity of the transactions underlying the accounts***

#### **Revenue**

#### *Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

#### **Payments**

#### *Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

### ***Responsibilities of management and those charged with governance***

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the Agency's financial reporting process.

***Auditor's responsibilities for the audit of the accounts and underlying transactions***

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(6)</sup>.

16. The comments which follow do not call the Court's opinion into question.

**COMMENTS ON INTERNAL CONTROLS**

17. In its audit report dated May 2016, the Commission's Internal Audit Service (IAS) highlighted a strong need to clarify roles and responsibilities and to analyse workload in the procurement cell in order to achieve more efficient processes and procedures. It also concluded that procurement planning and monitoring needs to be significantly improved. The Agency and IAS agreed on a plan to take corrective action.

**COMMENTS ON BUDGETARY MANAGEMENT**

18. The Agency carried over 4,9 million euro, i.e. 86 % of committed appropriations for Title III operational expenditure (2015: 1,4 million euro, i.e. 59 %). As was the case in previous years, carry-overs mainly relate to the implementation of the REMIT Regulation on wholesale energy market integrity and transparency <sup>(7)</sup> with 4,7 million euro in 2016 (2015: 1,1 million euro). For Title II administrative expenditure the Agency carried over 1 million euro, i.e. 38 % of committed appropriations (2015: 0,8 million euro, i.e. 35 %).

19. The increasing level of carry overs is a matter of concern and in contradiction with the budgetary principle of annuality. It is directly linked to a concentration of procurement procedures finalised and contracts signed late in the year, leading to deliveries and/or payments in the following year. In 2016, 98 out of 299 contracts were signed in November and December (5 976 122,47 euro or 40 % of the total value of contracts concluded in 2016). The Agency may consider introducing differentiated budget appropriations to better reflect the multiannual nature of operations and unavoidable delays between the signature of contracts, deliveries and payments.

<sup>(6)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

<sup>(7)</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council (OJ L 326, 8.12.2011, p. 1).

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

20. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2014	According to the Seat Agreement between the Agency and the Slovenian government a European School will be established in Slovenia. However, more than four years after the agreement no European School has been set up.	Outstanding
2015	The Agency carried over 1,36 million euro, i.e. 59 % of its committed appropriations for Title III operational expenditure (2014: 1,57 million euro, i.e. 62 %). These carry-overs were mainly related to the implementation of REMIT (1,1 million euro), a complex operational activity on wholesale energy market integrity and transparency of a multiannual nature. The Agency also carried over 0,79 million euro, i.e. 35 % (2014: 0,98 million euro, i.e. 41 %) of committed appropriations for Title II administrative expenditure, mainly related to studies and services not yet delivered in 2015.	N/A

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**THE AGENCY'S REPLY**

18. The Agency successfully implemented the actions, as mutually agreed with IAS. Out of the six recommendations, two very important and three important have already been closed. The Agency plans to close the last recommendation by October 2017.

19. The Agency acknowledges the high level of carried-over funds resulting from the multiannual nature of REMIT-related investments, which do not fit well with the budgetary principle of annuality. The high level of carry-overs is due to the timing of the annual contractual cycle which was established in 2013, when a substantial additional budget for the REMIT project was received by the Agency at the end of the year. However, it shall be noted that the commitment appropriation for the financial year 2016 under the budget Chapter of REMIT expenditure was implemented at the maximum 100 % level. The Agency will analyse the implementation of differentiated budget appropriations for Title III.

20. The Agency considers introducing differentiated budget appropriations for Title III better to reflect the multiannual nature of some of its operations, especially in the area of REMIT, provided that there is stability and predictability in the financial resources provided to the Agency.

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## REPORT

**on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2016, together with the Office's reply**

(2017/C 417/03)

## INTRODUCTION

1. The Office of the Body of European Regulators for Electronic Communications (hereinafter 'the Office'), which is located in Riga, was established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council <sup>(1)</sup>. The Office's main task is to provide professional and administrative support services to the Body of European Regulators for Electronic Communications (BEREC) and, under the guidance of the Board of Regulators, to collect and analyse information on electronic communications and to disseminate among National Regulatory Authorities regulatory best practices such as common approaches, methodologies or guidelines on the implementation of the EU regulatory framework.

2. The *Table* presents key figures for the Office <sup>(2)</sup>.

*Table*

**Key figures for the Office**

	2015	2016
Budget (million euro) <sup>(1)</sup>	4,0	4,2
Total staff as at 31 December <sup>(2)</sup>	26	27

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Office.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Office which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 337, 18.12.2009, p. 1.

<sup>(2)</sup> More information on the Office's competences and activities is available in its website: [www.berec.europa.eu](http://www.berec.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash-flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Office for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Office at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Office's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Office's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Office's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Office are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.



12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Office's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Office accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Office's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

17. In March 2016 the Office launched a procurement procedure with the aim to sign one framework contract (FWC) with the two existing international schools in Riga for the children of its staff. While the technical specifications of the tender state that the Office would establish one multiple framework contract in cascade with two economic operators, the award criteria state that the choice of the school is with the parents. Consequently, the 400 000 euro framework contract signed in July 2016 is based on contradicting concepts, causing legal uncertainty to the Office and the schools. Moreover, in this specific case a FWC was unnecessary.

18. Following reclassification, one staff member was assigned to a higher grade directly at step 2 instead of step 1, which is not in line with the EU Staff Regulations.

#### COMMENTS ON SOUND FINANCIAL MANAGEMENT AND PERFORMANCE

19. In March 2016 the Office signed a 60 000 euro for the provision of human resources related professional support and consultancy services. The procurement procedure was exclusively based on price. The engagement of a consultant without considering competence and expertise as award criteria does not ensure best value for money.

#### OTHER COMMENTS

20. In 2016, the average employment period in the Office was 2,58 years and staff turnover was high with 25 %. This situation affects the Office's efficiency and poses risks to the implementation of its work programmes. A possible reason is the salary correction coefficient applied for the host state (73 % as at 1 July 2016).

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

21. The Office's founding regulation does not require periodical external performance evaluations. The Office should, together with the Commission, consider commissioning such an evaluation at least every 5 years, as is the case for most of the other Agencies. Any future revision of the founding regulation should introduce such a requirement.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

22. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2014	The 2014 budget provision for contributions from EFTA's <sup>(1)</sup> national regulatory authorities having observer status at BEREC did not materialise in the absence of agreements with EFTA countries.	Outstanding
2015	In 2013 the Office signed a 4 year framework contract for the provision of professional event organisation services. However, it underestimated its needs and the contract had reached its maximum amount in December 2014. A procurement procedure to sign a new framework contract was launched, but only in August 2015. In the meantime the Office procured these services from the same provider using purchase orders and low-value contracts (negotiated procedures) <sup>(2)</sup> . The total amount of the services so procured exceeded the threshold value <sup>(3)</sup> . An open procurement procedure where all interested economic partners may submit a tender should have been used.	Completed
2015	The Office's audited budgetary implementation report differs from the level of detail provided by most other agencies which demonstrates the need for clear guidelines on the agencies' budget reporting.	Completed
2015	Carry-overs of committed appropriations for Title II (administrative expenditure) were high at 134 228 euro, i.e. 44 % (2014: 91 757 euro, i.e. 40 %). These carry-overs are mainly related to the delivery of services that go beyond 2015.	N/A

<sup>(1)</sup> European Free Trade Association.

<sup>(2)</sup> In the case of purchase orders and low-value contracts the procurement rules limit the competition to one and three candidates, respectively.

<sup>(3)</sup> The total value of the contracts signed amounts to around 80 000 euro, whereas the threshold established by Article 137 of Commission Delegated Regulation (EU) No 1268/2012 is 60 000 euro.

### THE BEREC OFFICE REPLY

18. The host Member State Latvia does not have an accredited European School. The establishment of a new accredited European School is a long process, and in the meantime the BEREC Office has established direct contracts with schools providing education in English, French and German as a main language of instruction as an interim measure to ensure international schooling for the pupils of the staff in line with the Commission guidelines on staff policy in the European Regulatory Agencies <sup>(1)</sup>. The BEREC Office agrees with the findings of the auditors that the use of framework service contracts is not appropriate for the BEREC Office's schooling situation and in future will use direct service agreements with the schools without procurement. The BEREC Office would appreciate updated Commission guidelines to take into account the specificities of schooling services.

19. On the basis of the recommendations made by the Joint Reclassification Committee and based on the files of all temporary staff eligible for the reclassification, the Appointing Authority adopted the list of temporary staff members reclassified.

In addition, on proposal from the Administrative Manager, the Appointing Authority agreed, after thorough consideration, to reclassify the jobholder in the step 2 of the higher grade instead of step 1, and respectively an *ex ante* exception has been registered according to the rules on handling deviations from the established financial rules and procedures.

20. The BEREC Office widely agrees with the comment on the framework contract for human resource management services. The implementation of the first specific contract has already demonstrated some difficulties related to the fact that the award of the contract was exclusively based on pricing and not on the consultant's professional qualification and experience.

In full agreement with the remarks of the auditors, the BEREC Office has terminated the framework contract and will put in place a different strategy to obtain the necessary services.

21. The BEREC Office recognises that the high staff turnover is a risk factor, which has been recorded in the risk register as a significant risk, especially taking into account the small size of the Agency, which makes that high turnover has a more negative impact (the BEREC Office is the smallest decentralized EU Agency).

The management is continuously working on the introduction of mitigation techniques but it must be emphasized that some structural and external horizontal elements affecting the turnover are outside the control of the BEREC Office, as they are stemming from the regional/local working environment of the BEREC Office.

The recent net salary decrease, a result of the continuous decreasing of the correction coefficient for Latvia, increased the risk factor.

Any action taken or planned by the BEREC Office to improve the situation can only mitigate the risk and in order to properly tackle the issue of the retention of staff, an external intervention, especially on the current system of correction coefficients, should be implemented.

22. The BEREC Office has cooperated with the Commission for the preparation of the evaluation report envisaged in Article 25 of its founding regulation and is ready to cooperate with the Commission for future evaluations. The BEREC Office will comply with any requirements in that area which could be introduced by the legislator. The BEREC regulation is currently under review and the Commission proposal includes a specific provision on recurring evaluation every five years.

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<sup>(1)</sup> COM(2005) 5304

## REPORT

**on the annual accounts of the Translation Centre for the Bodies of the European Union for the financial year 2016, together with the Centre's reply**

(2017/C 417/04)

## INTRODUCTION

1. The Translation Centre for the Bodies of the European Union (hereinafter 'the Centre', aka 'CDT'), which is located in Luxembourg, was created by Council Regulation (EC) No 2965/94<sup>(1)</sup>. The Centre's task is to provide any European Union institutions and bodies which call upon its services with the translation services necessary for their activities.

2. The *table* presents key figures for the Centre<sup>(2)</sup>.

*Table*

**Key figures for the Centre**

	2015	2016
Budget (million euro)	49,6	50,5
Total staff as at 31 December <sup>(1)</sup>	218	225

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

*Source:* data provided by the Centre.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Centre's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Centre which comprise the financial statements<sup>(3)</sup> and the reports on the implementation of the budget<sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 314, 7.12.1994, p. 1.

<sup>(2)</sup> More information on the Centre's competences and activities is available on its website: [www.cdt.europa.eu](http://www.cdt.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Centre for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Centre at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Centre's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Centre's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Centre's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Centre are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Centre's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Centre accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Centre's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

#### **Other matter**

16. The Centre's task is to provide the EU agencies and bodies with the translation services necessary for their activities in addition to doing so for the EU institutions which may call on its services. The founding Regulations of most of the agencies and bodies require them to use the Centre's translation services. Several of them (counting for more than half of the Centre's revenue) make increasing use of in-house and other alternative solutions. However, this means that the Centre's capacity is not used to the greatest possible extent, that there is a duplication of systems development and running costs at European level and that the Centre's business model and continuity could be at risk.

17. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

18. In 2016, cash and short-term deposits held by the Centre decreased to 34,2 million euro (38,3 million euro at the end of 2015) and reserves to 31,1 million euro (34 million euro at the end of 2015). This decrease results from a budgetary approach which intends to reduce the accumulated surplus from previous years.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

19. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 October 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2012	The Founding Regulation of 20 regulatory agencies audited by the Court in 2012 requires them to use the Centre for all their translation needs (the Centre's Founding Regulation stipulates the same for four other agencies). Other agencies are not obliged to use the Centre. For non-technical documents agencies could reduce their costs by using local services. In the Court's opinion the legislator should consider allowing all agencies to do so.	N/A [Recommendation not taken by the legislator]
2015	The Centre does not yet have a Business Continuity Plan in place. It is thus not complying with Internal Control Standard 10 <sup>(1)</sup> .	Ongoing
2015	At the end of 2015 cash and short-term deposits held by the Centre amounted to 38,3 million euro (44 million euro at the end of 2014) and its reserves amounted to 34 million euro (40,4 million euro at the end of 2014). This reflects the reduction of prices in 2015.	N/A
2015	The level of committed appropriations carried over was high for Title II (administrative expenditure) at 2 million euro, i.e. 29 % (2014: 1,5 million euro, i.e. 24 %). These carry-overs mainly concern the refurbishment of additional premises rented in 2015 as well as IT services not yet provided by the end of 2015.	N/A
2015	The Centre cancelled 5,9 million euro (12 %) of appropriations available at the end of 2015. These cancellations are related to the overestimation of the cost of external translators.	N/A

<sup>(1)</sup> The Centre's Internal Control Standards are based on the equivalent standards laid down by the Commission.



**THE CENTRE'S REPLY**

19. The Centre has taken various steps to reduce its budgetary surpluses. The budget 2016 was prepared as a deficitary budget in order to reduce the reserve for stability pricing. The balance of the budget outturn of the year, which amounted to EUR - 2,9 million, contributed to the decrease of the reserve for stability pricing as well as the cash balance.

It is envisaged that the decrease of the budgetary surpluses will be further accelerated in 2017 as a result of the implementation of the new pricing structure that will decrease the average price for translation paid by the Centre's clients.

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## REPORT

**on the annual accounts of the European Centre for the Development of Vocational Training for the financial year 2016, together with the Centre's reply**

(2017/C 417/05)

## INTRODUCTION

1. The European Centre for the Development of Vocational Training (hereinafter 'the Centre', aka 'Cedefop'), which is located in Thessaloniki, was established by Council Regulation (EEC) No 337/75 <sup>(1)</sup>. Its core mandate is to serve the development of vocational training at Union level. In order to achieve this objective, it has the task of compiling and disseminating documentation on vocational training systems.

2. The *table* presents key figures for the Centre <sup>(2)</sup>.

*Table*

**Key figures for the Centre**

	2015	2016
Budget (million euro) <sup>(1)</sup>	18,4	18,0
Total staff as at 31 December <sup>(2)</sup>	123	122

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Centre

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Centre's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Centre which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 39, 13.2.1975, p. 1.

<sup>(2)</sup> More information on the Centre's competences and activities is available on its website: [www.cedefop.europa.eu](http://www.cedefop.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Centre for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Centre at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Centre's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Centre's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Centre's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Centre are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Centre's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Centre accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Centre's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

16. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The level of committed appropriations carried over was high for Title II (administrative expenditure) at 477 994 euro, i.e. 28 % (2013: 425 877 euro, i.e. 24 %). This was driven in large part by the high volume of network and other IT equipment required for the refurbishment of the repaired areas of the Centre's building which had not yet been delivered or invoiced by the end of 2015.	N/A
2015	The building provided to the Centre by the Greek State is constructed on an active fault line, which resulted in structural damage to the building. Repair work and structural strengthening has been undertaken by the Greek authorities and was completed in 2015. In addition, the Centre is presently addressing various safety issues related to the construction of the building. A particular safety issue concerns the building's glass façade and the skylights of the Centre's conference rooms, and is affecting the availability of the Centre's facilities.	Completed

**THE CENTRE'S REPLY**

The Centre has taken note of the Court's report.

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## REPORT

**on the annual accounts of the European Union Agency for Law Enforcement Training for the financial year 2016, together with the Agency's reply**

(2017/C 417/06)

## INTRODUCTION

1. The European Union Agency for Law Enforcement Training (hereinafter 'the Agency', aka CEPOL), located in Budapest, was established by Regulation (EU) 2015/2219 <sup>(1)</sup> of the European Parliament and of the Council replacing and repealing Council Decision 2005/681/JHA. The Agency's task is to function as a network and to bring together the national police training institutes in the Member States to provide training sessions, based on common standards, for senior police agents.

2. The Table below presents key figures for the Agency <sup>(2)</sup>.

Table

Key figures for the Agency

	2015	2016
Budget (million euro)	8,8	10,3
Total staff as at 31 December <sup>(1)</sup>	41	51

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

## OPINION

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> Regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL) and replacing and repealing Council Decision 2005/681/JHA (OJ L 319, 4.12.2015, p. 1).

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.cepol.europa.eu](http://www.cepol.europa.eu).

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's 'ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.



12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON BUDGETARY MANAGEMENT

17. Carry-overs of committed appropriations were high for Title II (expenditure for support activities) at 140 055 euro, i.e. 30 % (2015: 212 456 euro, i.e. 49 %). They mainly refer to IT consulting and IT related goods and services ordered late in the year.

#### OTHER COMMENTS

18. There is a high staff turnover which may impact business continuity and the Agency's ability to implement the activities foreseen in its work programme. In 2016, 11 staff members left the Agency, while 21 were recruited. The low number of applications, particularly from Member States other than the host state, puts at risk the Agency's ability to recruit suitable candidates. Between 2013 and 2016 staff from the host state increased from 1 to 16, representing 31 % of total staff in 2016. Possible reasons for the limited number of applications from other Member States are the salary correction coefficient applied for the host state (69 %) and competition with another EU body located in Budapest.

#### FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

19. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the Annex.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The Agency's audited budgetary implementation report differs from the level of detail provided by most other agencies which demonstrates the need for clear guidelines on the agencies' budget reporting.	Completed
2015	The level of committed appropriations carried over was high for Title II (administrative expenditure) at 212 456 euro, i.e. 49 % (2014: 383 940 euro or 59 %). This resulted from the Agency's relocation from the UK to Hungary in September 2014 and the consequential need to initiate new service and supply contracts. Most of the services procured under these annual contracts had not been provided by the end of 2015.	N/A

**THE AGENCY'S REPLY**

18. The Agency has taken note of the Court's comments. The carry-over rate for Title II is justified having in view IT consulting and IT related goods and services ordered late in the year. CEPOL further improved its budget management and commits to maintain compliance with the budgetary principle of annuality provided in the Financial Regulation.

19. The Agency has taken note of the Court's comments. As a consequence of the relocation from UK to Hungary, due to significantly lower correction coefficient applied to staff salaries, the number of resignation increased. The number of applications decreased compared to the period before relocation, however, this did not impact on the quality of applications received and the Agency's ability to recruit suitable candidates. The low grading of posts combined with low correction coefficient, does not encourage foreigners (especially from West and Northern Europe) to move to Hungary, therefore the geographical balance cannot be always ensured during the recruitment process. CEPOL will continue to implement staff retention and business continuity measures, however as long as the Agency cannot positively amend the grades, the staff turnover may keep its high trend.

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## REPORT

**on the annual accounts of the Consumers, Health, Agriculture and Food Executive Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/07)

## INTRODUCTION

1. The Consumers, Health, Agriculture and Food Executive Agency (hereinafter 'the Agency') was set up on 1 January 2005 (Public Health Executive Agency — PHEA — from 2005 to 2008, Executive Agency for Health and Consumers — EAHC — from 2008 to 2013 and Consumers, Health, Agriculture and Food Executive Agency — CHAFEA — as from 1 January 2014) <sup>(1)</sup>. The Agency is located in Luxembourg and its mandate has been extended until 31 December 2024. The Agency implements the EU Health Programme, the Consumer Programme and the Better Training for Safer Food initiative.

2. The *Table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	7,4	8,7
Total staff as at 31 December <sup>(1)</sup>	49	58

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> Commission Decision 2013/770/EU (OJ L 341, 18.12.2013, p. 69).

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: <http://ec.europa.eu/chafea/>

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

16. The Agency carried over 1,1 million euro, i.e. 48 % (2015: 0,9 million euro, i.e. 52 %) of committed appropriations for Title III (expenditure linked to the Agency's operations). They mainly relate to IT services and other studies contracted but not yet carried out or finished at the year end. Of the carry-overs made from 2015 to 2016, the Agency cancelled 0,2 million euro, i.e. 17 % indicating weak planning of needs.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

17. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comment	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The Agency carried over 0,5 million euro, i.e. 36,4 % (2014: 0,1 million euro, i.e. 13 %) of committed appropriations for Title II (administrative expenditure). These carry-overs are mainly related to the extension of the Agency's office space and the required fitting out of offices (0,3 million euro).	N/A
2015	The Agency carried over 0,9 million euro, i.e. 52 % (2014: 0,9 million euro, i.e. 50 %) of committed appropriations for Title III (expenditure linked to the Agency's operations). These carry-overs are mainly explained by the Commission's late issuing of the Agency's work plan in June 2015.	N/A
2015	The Agency cancelled 0,2 million euro, i.e. 18 % of its carry-overs to 2015 (2014: 0,1 million euro, i.e. 14 %), indicating weaknesses in their planning.	Ongoing

**THE AGENCY'S REPLY**

16. The Agency accepts the Court's comments. The Agency shall continue its efforts to further reduce the level of carry-over and C8 cancellation rate.

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## REPORT

**on the annual accounts of the Community Plant Variety Office for the financial year 2016, together  
with the Office's reply**

(2017/C 417/08)

## INTRODUCTION

1. The Community Plant Variety Office (hereinafter 'the Office', aka 'CPVO'), which is located in Angers, was created by Council Regulation (EC) No 2100/94 <sup>(1)</sup>. Its main task is to register and examine applications for the grant of Union industrial property rights for plant varieties and to ensure that the necessary technical examinations are carried out by the competent offices in the Member States.

2. The *Table* presents key figures for the Office <sup>(2)</sup>.

*Table*

**Key figures for the Office**

	2015	2016
Budget (million euro)	14,7	16,1
Total staff as at 31 December <sup>(1)</sup>	46	44

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Office.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Office which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 227, 1.9.1994, p. 1.

<sup>(2)</sup> More information on the Office's competences and activities is available on its website: [www.cpvo.europa.eu](http://www.cpvo.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash-flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Office for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Office at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Office's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Office's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Office's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Office are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we assess the Office's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Office accepts the justification by clearing the advance payment, whether in the same year or later.

#### **Other matter**

15. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. The Office's budget is fully self-financed, mainly by revenue from applicants for and holders of Community Plant Variety Rights. However, as only some 4 % of its revenue originates from clients located in the UK, the Office considers that it is unlikely that the departure of the UK will cause a significant risk to its revenue. The Office also considers that measures can be taken to ensure that suitable facilities are available for species examinations presently carried out in the UK; without notable risk to the Office's business continuity.

16. The comments which follow do not call the Court's opinion into question.

#### **Comments on budgetary management**

17. The level of committed appropriations carried over was high for Title II (administrative expenditure) at 788 540 euro, i.e. 40 % (2015: 395 882 euro, i.e. 28 %). This can mainly be attributed to ongoing building renovations (284 423 euro), IT projects (253 483 euro) and costs of audits and evaluations (137 098 euro) for which services will partly be delivered or invoices will only be received in 2017.

18. The cancellation rate of 2015 payment appropriations carried over to 2016 was also high for Title II at 17 % (2015: 20 %), pointing to a need to improve budget planning.

#### **Other comments**

19. The Office's founding Regulation does not require periodic external performance evaluations. Although the Office or the Commission carried out evaluations of specific topics on an ad-hoc basis, the Office should, together with the Commission, consider commissioning comprehensive external performance evaluations at least every 5 years, as is the case for most other Agencies. Any future revision of the founding Regulation should introduce such a requirement.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

20. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2014	The Office uses electronic banking for most of its payments. The Accounting Officer or her two deputies can sign the payments electronically. No signature of a second person is required, which represents a financial risk for the Office.	Outstanding
2014	Although the Office became operational in 1995, there is still no seat agreement signed with its host Member State that would clarify the conditions under which the Office can operate and that it can offer to its staff.	Ongoing
2015	The level of committed appropriations carried over was high for Title II (administrative expenditure) at 395 882 euro, i.e. 28 % (2014: 394 599 euro, i.e. 30 %). They mainly relate to IT projects (134 030 euro), mission costs (96 368 euro) and costs related to internal audit (82 070 euro) for which services will only be delivered or invoices received in 2016.	N/A
2015	The rate of cancelled 2014 carry-overs was high for Title II at 20 % (2014: 26 %) and indicates weaknesses in their planning.	Ongoing
2015	The expenditure for procedures associated with appeals was in principle to be covered by appeal fees <sup>(1)</sup> . However, these fees cover only a small part of the actual costs incurred. In 2015, the income derived from appeal fees totalled 11 000 euro (2014: 12 500 euro) whilst the costs of the board of appeal members amounted to some 62 037 euro (2014: 80 114 euro).	N/A
2015	As at 31 December 2015, the fees unpaid for more than 90 days (mostly annual fees) amounted to 240 766 euro. The Office did not use all options provided for in its Financial Regulation to recover unpaid fees, such as enforced recovery <sup>(2)</sup> .	Ongoing

<sup>(1)</sup> Recitals of Commission Regulation (EC) No 1238/95 (OJ L 121, 1.6.1995, p. 31).

<sup>(2)</sup> Article 53 of the Financial Regulation of the Office.

**THE OFFICE'S REPLY**

The Office takes note of the Court's comments.

17. The high level of carry-overs in 2016 related in large part to an ongoing building renovation and IT development project. The implementation of these projects, for operational reasons cannot be aligned with the calendar year.

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## REPORT

**on the annual accounts of the Education, Audiovisual and Culture Executive Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/09)

## INTRODUCTION

1. The Education, Audiovisual and Culture Executive Agency (hereinafter 'the Agency', aka 'EACEA'), which is located in Brussels, was established by Commission Implementing Decision No 2013/776/EU <sup>(1)</sup> repealing Decision No 2009/336/EC. The Agency's task is to manage programmes decided by the Commission in the educational, audiovisual and cultural fields, including undertaking the detailed implementation of technical projects.

2. The **Table** presents key figures for the Agency <sup>(2)</sup>.

Table

**Key figures for the Agency**

	2015	2016
Budget (million euro)	46,9	49,1
Total staff as at 31 December <sup>(1)</sup>	441	442

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 343, 19.12.2013, p. 46.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.eacea.ec.europa.eu](http://www.eacea.ec.europa.eu).

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.



12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON INTERNAL CONTROLS**

16. When conducting its annual asset inventory in 2016, the Agency was unable to locate 46 IT items having a total initial acquisition value amounting to approximately 22 000 euro, indicating weaknesses in the safeguarding of assets.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

17. Carry-overs of committed appropriations were high for Title III (support to agency operations) at 2,3 million euro, i. e. 47 % (2015: 2,8 million euro, i.e. 50 %). They mainly relate to ongoing project audits (0,8 million euro) and IT services (0,9 million euro) which were ordered in 2016 but not yet invoiced at year-end, or will only be delivered in 2017.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

18. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	Carry-overs of committed appropriations were high for Title III (support to agency operations) at 2,8 million euro, i.e. 50 % (2014: 3,2 million euro, i.e. 56 %). They mainly relate to ongoing project audits (1 million euro), IT services (0,8 million euro), information communication and publication services (0,5 million euro) as well as translations (0,2 million euro) which were ordered in 2015 but not yet invoiced at year-end or will only be delivered in 2016.	N/A

**THE AGENCY'S REPLY**

16. The value of unfound IT items during the 2015/2016 inventory exercise equals to only 0,64 % of the value of all IT items, which is in line with the results of previous years. To be noted that the residual book value of the unfound items is much lower (approx. 8 000 euro) than the initial acquisition costs.

The Agency will continue its regular inventory exercises ensuring the safeguarding of assets.

17. The Agency takes note of the Court's comments. The Agency will continue the efforts put in place to control the rate of carry-overs.

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## REPORT

**on the annual accounts of the European Aviation Safety Agency for the financial year 2016, together  
with the Agency's reply**

(2017/C 417/10)

## INTRODUCTION

1. The European Aviation Safety Agency (hereinafter 'the Agency', aka 'EASA'), which is located in Cologne, was established by Regulation (EC) No 1592/2002 of the European Parliament and of the Council <sup>(1)</sup> which was repealed by Regulation (EC) No 216/2008 <sup>(2)</sup>. The Agency has been given specific regulatory and executive tasks in the field of aviation safety.

2. The *table* presents key figures for the Agency <sup>(3)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	185,4	193,4
Total staff as at 31 December <sup>(1)</sup>	779	774

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 240, 7.9.2002, p. 1.

<sup>(2)</sup> OJ L 79, 19.3.2008, p. 1.

<sup>(3)</sup> More information on the Agency's competences and activities is available on its website: [www.easa.europa.eu](http://www.easa.europa.eu)

<sup>(4)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(5)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal control relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(6)</sup>.

#### **Other matter**

16. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. The Agency's 2016 budget was financed 70 % by fees from the aviation industry and 30 % from European Union funds. A future decrease of the Agency's revenue resulting from the UK's decision to leave the EU is possible.

17. The comments which follow do not call the Court's opinion into question.

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

18. Although 2016 industry-financed activities resulted in a deficit of 7,6 million euro, budgetary results fluctuate over the years <sup>(7)</sup> and the Agency has accumulated a 52 million euro surplus from this category of activity. The Agency's founding Regulation establishes that industry fees levied should be adequate to cover the Agency's cost for the related certification activities. It does not, however, foresee an accumulated surplus.

#### **OTHER COMMENTS**

19. Over the period 2014 to 2016, the Agency spent 9,4 million euro (4,4 million euro in 2016) from its accumulated surplus in financing the 12,4 million euro refurbishment (and removal) cost for the Agency's relocation to a new building. The Commission also contributed 3 million euro from the EU budget for this purpose. This financing split between industry and Union contributions was in line with the standard cost allocation methodology employed by the Agency and resulted in these works being financed, in large part from industry fees.

<sup>(6)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

<sup>(7)</sup> In 2014 and 2015, there were surpluses of 15,3 million and 16,9 million euro, respectively.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

20. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2013	The Agency became operational in 2004 and has, to date, worked on the basis of correspondence and exchanges with the host Member State. However, a comprehensive headquarters agreement between the Agency and the Member State has not been signed. Such an agreement would promote transparency in respect of the conditions under which the Agency and its staff operate.	Completed <sup>(1)</sup>
2015	Carry-overs of committed appropriations were high for Title II (administrative expenditure) at 4,4 million euro, i.e. 20,2 % (2014: 3,6 million euro, i.e. 22 %) and for Title III (operational expenditure) at 2 million euro, i.e. 32,0 % (2014: 2 million euro, i.e. 38,1 %). These carry-overs mainly relate to IT developments that were ordered near the end of the year, as well as rule-making activities and research projects which go beyond 2015.	N/A

<sup>(1)</sup> A Seat Agreement between the Agency and the Member State has been finalised and came into effect from 17 August 2017.



**THE AGENCY'S REPLY**

16. The Agency takes note of the Court's observation. A working group has been established to look into this matter and has performed a first analysis on the potential risks and impact of Brexit.

20. The founding and the financial regulations include provisions for the treatment of industry fees as assigned revenue. Consequently, the Agency accounts for any surplus or deficit related to the fees and charges activities in an accumulated surplus. This accumulated surplus fluctuates from year to year depending on the result of the financial year. Between 2010 and 2015 the surplus or deficit fluctuated between a 5,9 million deficit and a 16,9 million surplus. This accumulated surplus or buffer provides coverage for deficit and amounts to 6 months of continued operation. The Agency intends to amend both its Financial and Fees and charges regulations to better formalise this treatment of an accumulated surplus.

21. In accordance with Article 88 of the Agency's FR, the chair of the Agency's Management Board informed the Budgetary Authority (European Parliament and Council) on the project of the Agency's new headquarters. A detailed report, including in particular the funding scheme, was transmitted on 22 May 2013 and consequently:

- The Agency acted in accordance with the information communicated to the Budget authority.
  - There is an annual communication on the building in accordance with Article 87 of the FR which has been sent to the Budgetary Authority every year.
  - The EP approved the report and the funding mechanism in line with the funding scheme of the Agency.
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## REPORT

**on the annual accounts of the Executive Agency for Small and Medium sized Enterprises for the financial year 2016, together with the Agency's reply**

(2017/C 417/11)

## INTRODUCTION

1. The Executive Agency for Small and Medium-sized Enterprises (hereinafter 'the Agency', aka 'EASME'), which is located in Brussels, was established for the period 1 January 2014 to 31 December 2024 by Commission Implementing Decision 2013/771/EU <sup>(1)</sup>. Its main task is to manage, in close cooperation with seven Directorates General of the Commission, EU actions in the fields of research and innovation, competitiveness of SMEs, environment and climate action, maritime and fisheries.

2. The *Table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	36,4	35,8
Total staff as at 31 December <sup>(1)</sup>	373	417

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 341, 18.12.2013, p. 73.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.ec.europa.eu/easme/](http://www.ec.europa.eu/easme/)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON BUDGETARY MANAGEMENT

16. Carry-overs of committed appropriations were high for Title II (administrative expenditure) at 1 250 000 euro, i.e. 33 % (2015: 998 324 euro, i.e. 14 %) and for Title III (support to agency operations) at 2 550 000 euro, i.e. 62 % (2015: 4 million euro, i.e. 65 %). For Title II, they mainly relate to rent (0,6 million euro) and the acquisition of hardware not yet delivered by the year end (0,5 million euro). Carry-overs for Title III relate to external experts' evaluations and monitoring of the Life Programme (1,5 million euro), ongoing *ex-post* verifications (0,5 million euro) and IT services (0,5 million euro) which were ordered in 2016 but only partly delivered and not invoiced by the year end. The Agency may consider introducing differentiated budget appropriations to better reflect the multi annual nature of operations and unavoidable delays between the signature of contracts, deliveries and payments.

17. The cancellation of carry overs from previous year was high for Title I (staff expenditure) at 32 000 euro, i.e. 8,3 %, indicating an overestimation of budgetary needs.

#### FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

18. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2014	Although the Agency's initial budget was amended and reduced in September 2014 by 3 million euro, only 91 % of the reduced budget appropriations were committed by the Agency. This low implementation rate is mainly explained by organisational and operational challenges linked to the extended mandate of the Agency for the implementation of additional programmes and tasks in close cooperation with the Commission. Nonetheless, the significant under-consumption of the budget shows the need to improve the Agency's budget planning.	Completed
2014	This is also reflected in the high and increased level of committed appropriations carried over to 2015, amounting to 3,8 million euro, i.e. 17 % (2013: 1,3 million euro, i.e. 8 %), mainly related to title III (Programme Support Expenditure) with 2,6 million euro, i.e. 72 % (2013: 0,6 million euro, i.e. 35 %) which is at odds with the budgetary principle of annuality.	N/A
2015	Committed appropriations carried over for Title III (Programme Support Expenditure) amount to 4 million euro, i.e. 65 % (2013: 2,6 million euro, i.e. 72 %). The carry overs mainly relate to specific contracts for experts (3 million euro) and external audits (0,6 million euro), of which 0,8 million euro were signed late in 2015. These carry-overs are mainly for services to be provided in 2016.	N/A
2015	In December 2015 the Agency paid 2,2 million euro for the 2016 rent of its premises and associated expenses. These payments were made from the Agency's 2015 budget and therefore are in breach of the budgetary principle of annuality <sup>(1)</sup> .	N/A

<sup>(1)</sup> Article 7 of Commission Regulation (EC) No 1653/2004 (OJ L 297, 22.9.2004, p. 6).

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**THE AGENCY'S REPLY**

17. The Agency will undertake several measures contributing to the reduction of the carry overs of committed appropriations: (i) increasing the amounts of advance payments for services provided by OIB and DG HR (rent, security costs,...) to the extent possible; (ii) a closer monitoring of the budget implementation with the new IT tool Bluebell and (iii) transferring the budget expenditure of the external experts for the LIFE programme from the administrative to the operational budget as of 2018, which will consequently be managed as differentiated budget appropriations.

18. The cancellation of carry overs of 32,000 Euro or 8,3 % was limited to one particular budgetline within Title I (individual entitlements) and is impacted by the fluctuation in staff numbers. This variable is expected to be more stable in the future. The Agency will continue to keep the carry-overs as low as possible while maintaining a small reserve on all lines for which the final amounts to be paid are not accurately known when preparing the carry-over.

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## REPORT

**on the annual accounts of the European Asylum Support Office for the financial year 2016, together  
with the Office's reply**

(2017/C 417/12)

## INTRODUCTION

1. The European Asylum Support Office (hereinafter 'the Office', aka 'EASO'), which is located in Valletta, was established by Regulation (EU) No 439/2010 of the European Parliament and of the Council <sup>(1)</sup> with the aim of enhancing practical cooperation on asylum matters and helping Member States fulfil their European and international obligations to give protection to people in need. Since 2015, the Office provides support to Greece and Italy in the context of the migration crisis. In 2016, the European Commission proposed to enhance the Office's mandate and to considerably expand its tasks to address any structural weaknesses that arise in the application of the EU's asylum system <sup>(2)</sup>. Since March 2016, the Office's teams in the hotspots also work on the operational implementation of the EU-Turkey Agreement and support the Greek Asylum Service.

2. The *Table* presents key figures for the Office <sup>(3)</sup>.

*Table*  
**Key figures for the Office**

	2015	2016
Budget (million euro) <sup>(1)</sup>	15,9	53
Total staff as at 31 December <sup>(2)</sup>	93	125

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Office.

3. The table shows that the considerable increase of the Office's tasks resulted in a 2016 final budget which was more than three times higher than in the previous year. In addition the number of staff available in 2016 increased by 34 % and systems and procedures were still in the process of being adapted to cope with the new circumstances.

4. This report should be read in the context of these challenges and the Court's mandate which is governed by international audit standards.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

5. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

<sup>(1)</sup> OJ L 132, 29.5.2010, p. 11.

<sup>(2)</sup> COM(2016) 271 final

<sup>(3)</sup> More information on the Office's competences and activities is available on its website: [www.easo.europa.eu](http://www.easo.europa.eu)

**OPINION**

6. We have audited:

(a) the accounts of the Office which comprise the financial statements <sup>(1)</sup> and the reports on the implementation of the budget <sup>(2)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

**Reliability of the accounts***Opinion on the reliability of the accounts*

7. In our opinion, the accounts of the Office for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Office at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

8. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Basis of qualified opinion*

9. The Court made material findings in relation to two out of five significant procurement procedures from 2016 for which payments were incurred during the year, as set out in paragraphs 9.1 and 9.2. This demonstrates a lack of rigour in the Office's procurement procedures:

9.1. Two of the three tenderers participating in one audited procurement procedure for the provision of travel services under a framework service contract amounting to 4 million euro for the period 2016 to 2020 were asked to provide additional information in relation to the same selection criteria. Although neither of them submitted the requested information (CVs of the persons to perform the task at EASO's premises), only one of them was excluded from the procedure for this reason. The other one was awarded the contract on the basis that the relevant CVs would be provided following the award of the contract. The procurement procedure therefore did not comply with the principle of equal treatment and the contract was awarded to a tenderer who did not fulfil all selection criteria. The framework contract and associated 2016 payments, amounting to 920 561 euro, are therefore irregular.

9.2. In February 2016 the Office directly awarded a framework contract (FWC) for interim services to support it in its response to the migration crisis for a period of 12 months amounting to 3,6 million euro. The FWC was awarded to a single preselected economic operator without applying any of the procurement procedures laid down in the EU Financial Regulation <sup>(3)</sup>. The award was therefore not in compliance with the relevant EU rules and associated 2016 payments, amounting to 592 273 euro, are irregular.

10. The amounts involved in relation to the matters described in paragraphs 9.1 to 9.2 represent 2,9 % of the Office's total 2016 expenditure.

<sup>(1)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(2)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

<sup>(3)</sup> Article 104 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1), provides that procedures for awarding concession contracts or public contracts, including framework contracts shall take one of the forms listed in that article.



*Qualified opinion on the legality and regularity of payments underlying the accounts*

11. In our opinion, except for the effects of the matters described in the Basis of qualified opinion paragraph 9, the payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

***Responsibilities of management and those charged with governance***

12. In accordance with Articles 310 to 325 of the TFEU and the Office's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Office's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

13. In preparing the accounts, management is responsible for assessing the Office's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

14. Those charged with governance are responsible for overseeing the entity's financial reporting process.

***Auditor's responsibilities for the audit of the accounts and underlying transactions***

15. Our objectives are to obtain reasonable assurance about whether the accounts of the Office are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

16. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

17. For revenue, we verify the subsidy received from the Commission and assess the Office's procedures for collecting fees and other income, if any.

18. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Office accepts the justification by clearing the advance payment, whether in the same year or later.

19. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Office's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012.

20. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

21. In August 2016 the Office launched an open procedure (five lots) to award a FWC to cover its needs for cultural mediators/interpreters in different countries. The total amount of the FWC for the four lots signed and audited (Lots 2 to 5) was 60 million euro over four years. These four lots were awarded to the same tenderer as first contractor-in-cascade. This contractor met the financial requirements of the selection criteria (1 million euro annual turnover) except for one of the three prior years, for which an availment contract was signed with a non-profit organisation which committed to make its 'turnover' available to the contractor. The Financial Regulation permits reliance on financial and economic capacities of other entities. However, in this case it is not clear how the 'turnover' of this entity can be made available, nor given the nature of its activities whether it can support the delivery of the services to be provided. The Office should have rejected the offer as it did not demonstrate compliance with the tenderers economic and financial capacity requirements. In consequence the framework contract and all related payments are irregular (no payments made in 2016).

#### COMMENTS ON INTERNAL CONTROLS

22. The special meeting of the European Council on 23 April 2015 and the 10 point plan on migration adopted by the Foreign and Interior Affairs Ministers on 20 April 2015 called upon Member States to ensure fingerprinting of all migrants. To meet this requirement there was an urgent need to increase the fingerprinting capacity of the Greek authorities. The Commission assigned this task to the Office. It necessitated the purchase and subsequent donation to the Greek State of 90 fingerprint-scanning machines and 90 compatible computers (equipment) for an amount of 1,1 million euro under a grant agreement between the Commission and the Office. The grant agreement required delivery of the equipment to the IT Division of the police in Athens and from there distribution to the hotspots located on the Greek Islands. The description of the action required Office staff to be on the spot to ensure a proper delivery, installation and subsequent ownership transfer to the Greek police. However, Office staff were not on the spot to meet this requirement and confirmation from the relevant Greek authorities that the equipment had been delivered to the hotspots in February and early March 2016 and is being used for its intended purpose was only received in July 2017.

23. Contracting authorities shall request in writing details of the constituent elements of the price or cost, if these appear to be abnormally low, and shall give the tenderer the opportunity to present its observations <sup>(1)</sup>. For two of the lots (Lots 3 and 5) procuring cultural mediators/interpreters in different countries (see also paragraph 21), the Office received financial offers which were 50 % and 31 % respectively lower than the next lowest offers. Whilst this is indicative of the offers being abnormally low, the Office did not consider it necessary to request any further explanation from the tenderer in this regard.

24. In its audit report dated October 2016, the Commission's Internal Audit Service (IAS) highlighted that there is no adequate planning for procurement procedures for administrative expenditure and that the monitoring of procedures and specific contracts concluded under framework contracts is weak. The Office and the IAS agreed on a plan to take corrective action.

25. In 2016 the Office faced several challenges in its operating environment, including not only a substantial increase in its budget and expansion of its tasks, but also a significant increase in the number of transactions, a change of the accounting officer (accountant) with several interim solutions and the introduction of a paperless workflow system. This situation of considerable change and instability was neither mitigated by a re-validation of the accounting system nor by introducing a system of regular ex-post verifications of transactions <sup>(2)</sup>.

26. In 2014, the Commission on behalf of more than 50 EU Institutions and bodies including the Office signed a framework contract with one contractor for the acquisition of software licences and the provision of maintenance and support. The framework contractor acts as an intermediary between the Office and suppliers that can address the Office's needs. For these intermediary services the framework contractor is entitled to uplifts of two to nine percent of the suppliers' prices. In 2016, total payments to the framework contractor amounted to 534 900 euro. The Office did not systematically check prices and uplifts charged with the suppliers' quotes and invoices issued to the framework contractor.

<sup>(1)</sup> Article 151 of Commission delegated Regulation (EU) No 1268/2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

<sup>(2)</sup> Except for transactions made under delegation agreements with the Commission.

**COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE**

27. An external evaluation of the Office's performance in the period 2011 to 2014 was prepared on behalf of the Commission and the final report was delivered in December 2015. It confirmed the relevance of the Office's mission and tasks and concluded an overall effective implementation of its key tasks and that the majority of expected results had been achieved. The evaluation also referred to a need to increase the efficiency of operations and to further ensure cooperation and coherence of activities with other EU and international institutions and bodies working on migration issues. The Office is implementing an action plan agreed with the Management Board in the light of its extended mandate, with the final implementation report planned for June 2017.

28. The Office purchased and installed 65 containers to be used as mobile offices on the Greek and Italian hot-spots for a total amount of 852 136 euro. Some of the containers were placed in a location where similar containers not belonging to the Office were later destroyed by riots. The Office has not covered the containers against this risk with an insurance contract.

29. The Office has not recovered all its due receivables in a timely manner. VAT reimbursements for the years 2014 (180 919 euro) and 2015 (245 960 euro) remained unrecovered at the end of 2016.

**BUDGETARY MANAGEMENT**

30. The level of committed appropriations for Title II (administrative expenditure) carried over was high at 2,5 million euro, i.e. 43,9 % (2015: 1 076 583 euro, i.e. 36,9 %). The carry-overs mainly relate to IT infrastructure, translations and publications, business consultancy and Management Board meeting cost for which contracts were signed towards the end of 2016 and/or invoices were only issued in 2017.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

31. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 October 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2012	There is room to improve the transparency of recruitment procedures: there was no evidence that weightings and threshold scores to be invited for interviews and for being put on the reserve list were set before examination of the applications, or that questions for interviews and written tests were set before the examination of applications.	Completed
2013	Of the total number of payments, 446 (18 %) were made after the time limits set in the Financial Regulation. The average delay for late payments was 21 days.	Outstanding <sup>(1)</sup>
2013	Six of the 16 internal control standards have not been fully implemented.	Ongoing <sup>(2)</sup>
2013	There is room to improve the transparency of recruitment procedures: questions for interviews and written tests were drafted after examination of the applications, which increases the risk of questions being influenced by individual applications; the selection committees did not always award scores to all selection criteria included in the vacancy notices; the declaration of conflict of interest signed by selection committee members only considers a personal relationship to constitute a potential conflict of interest and explicitly excludes professional relationships; in the case of one specific recruitment procedure a discrepancy was noted between one eligibility criterion indicated in the vacancy notice and the corresponding selection criterion concerning the number of years of proven professional experience.	Completed
2014	The Office made 1 062 (28,6 %) payments after the time limits set in the Financial Regulation. The average delay for late payments was 24 days.	Outstanding <sup>(1)</sup>
2014	The Office has a high staff turn-over, 14 staff left the Office in 2014, including four in key positions. This high turn-over of staff causes a considerable risk to the achievement of the objectives set in the annual and multi-annual work programme.	Ongoing <sup>(3)</sup>

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2014	According to a decision by the Executive Director, participants in meetings organized by EASO are classified in one of the three categories (A, B or C) for cost reimbursements. Total 2014 reimbursements to meeting participants amounted to 997 506 euro. Category 'A' participants, who are supposed to assume a specific duty in the meetings, receive a flat rate reimbursement for travel and daily subsistence costs, whereas Category 'B' participants receive a flat rate reimbursement for travel costs only. Category 'C' participants are not eligible for any reimbursement. The number of participants classified as recipients of category 'A' reimbursements increased from 61 % in 2013 to 69 % in 2014. There is no documentation justifying the classification of participants in the three categories.	Ongoing <sup>(4)</sup>
2015	The Office committed only 14,5 million euro, i.e. 93,7 % of the approved budget (2014: 12,4 million euro, i.e. 84,7 %). The level of committed appropriations carried over for Title II (administrative expenditure) was high at 1 076 583 euro, i.e. 36,9 % (2014: 635 492 euro, i.e. 28,7 %). The carry-overs mainly relate to consulting services for ICT developments contracted in the last quarter of 2015 (0,4 million euro) and investments in IT infrastructure (0,3 million euro) in view of the expected recruitment of additional staff following the decision of the budget authority at the end of 2015 to increase the establishment plan.	N/A
2015	The Director of the Office approved a new policy for the recruitment of temporary and contract agents in November 2015. The new policy addresses most issues identified by the Court during past audits. Its implementation will be followed up in 2016 when a significant number of recruitments is expected.	Completed

<sup>(1)</sup> In 2016 the Office made 2 007, i.e. 41,29 % (2015: 1 024, i.e. 29,2 %) payments after the time limits set in the Financial Regulation. The average delay for late payments was 35 (2015: 29) days.

<sup>(2)</sup> At the end of 2016 one ICS remains to be implemented.

<sup>(3)</sup> 17 staff left the Office in 2016 and 70 new were recruited. The office received 50 new posts as per establishment plan for 2016.

<sup>(4)</sup> In 2015, reimbursements to meeting participants amounted to 987 515 euro. The number of participants classified as recipients of category 'A' reimbursements decreased from 69 % in 2014 to 52 % in 2015. In 2016, reimbursements to meeting participants amounted to 1 012 147 euro. The number of participants classified as recipients of category 'A' reimbursements decreased from 52 % in 2015 to 37 % in 2016.

### THE OFFICE'S REPLY

9.1. The Office takes note of the Court's observation however, EASO made its decision based on the fact that the awarded company was the only one with the existing capacity to fulfil the contractual obligations.

9.2. The Office takes note of the Court's observation and will ensure to avoid similar situations in the future. EASO's actions were in the context of extreme urgency linked to the refugee crisis which was at its peak at the time, compounded by the necessity to implement the decisions of the Council regarding the emergency tasks entrusted to the Office and to compensate for the shortage of Member States' experts.

The contractor chosen under these extreme circumstances was the same who was previously contracted by another EU agency located in Greece. EASO relied on the eligibility and financial capacity checks performed by that agency. The decision was documented and approved in an exception request.

In the meantime, EASO has launched a new open tender procedure to award a new framework contract.

21. The Office takes note of the Court's opinion. EASO endeavoured to operate within the applicable provision. Case law on reliance and separate entities leaves room for interpretation, and EASO believed it had acted in a compliant manner.

22. EASO responded to the urgent need to increase the fingerprinting capacity in Greece by procuring the equipment and delivering it to the Greek Police on 12 February 2016 and 2 March 2016.

It therefore had to start the procedure in advance of the signature of the grant contract which was signed on 3 March 2016. It was not possible for EASO staff to be on the spot to confirm the installation of the EURODAC devices because the grant was signed after the devices had been already delivered, and the police had already started the process of distributing them to the hotspots.

The Office had first formally requested confirmation on the delivery and installation of the equipment in the Hotspots on 23 May 2016 from the Greek authorities but only received it on 20 July 2017.

23. The Office takes note of the Court's observations.

24. The Office takes note of the Court's comment and refers to the fact that many of the actions included in the plan have already been implemented.

25. The Office takes note of the Court's comment but refers to the fact that a clean opinion on the accounts was issued by an independent external auditor. Nonetheless the re-validation of the accounting system is planned for 2017. An ex-post verification strategy will be considered in the medium term.

26. The Office takes note of the Court's comment and informs the Court that in line with ECA's view on the matter of introducing a systematic check, the Office will introduce systematic checks for every quotation above 135 000 euro from 1 January 2018.

28. The Office takes note of the Court's comment but refers to the fact that the EASO Management decided that it was not cost-effective to obtain insurance.

29. There was a change imposed by the National Authorities from annual to quarterly returns of VAT that resulted in a need to resubmit requests for VAT reimbursements for the years 2014 and 2015 on quarterly basis.

30. The Office takes note of the Court's comment but refers to the fact that due to budget amendments during the second half of the year, payments for the respective commitments accumulated over the last quarter and this resulted in the effects mentioned by the Court.

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## REPORT

**on the annual accounts of the European Banking Authority for the financial year 2016, together with the Authority's reply**

(2017/C 417/13)

## INTRODUCTION

1. The European Banking Authority (hereinafter 'the Authority', aka 'EBA'), which is located in London, was established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council <sup>(1)</sup>. The Authority's task is to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, to contribute to the consistent application of legally binding Union acts, to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities, to monitor and assess market developments in the area of its competence and to foster depositor and investor protection.

2. The *table* presents key figures for the Authority <sup>(2)</sup>.

*Table*  
**Key figures for the Authority**

	2015	2016
Budget (million euro)	33,4	36,5
Total staff as at 31 December <sup>(1)</sup>	156	161

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Authority.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Authority which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 331, 15.12.2010, p. 12.

<sup>(2)</sup> More information on the Authority's competences and activities is available on its website: [www.eba.europa.eu](http://www.eba.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.



**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Authority for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Authority at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Authority's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Authority's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Authority are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.



12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Authority's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Authority accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Authority's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

#### **Emphasis of matter**

16. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. The provisional accounts and related notes of the Authority, which is located in London, were prepared using the limited information available at the date of signature (28 February 2017).

17. In view of upcoming decisions on the future location of the Authority, it has disclosed as contingent liabilities in the Financial Statements its residual 14 million euro cost related to the office lease contract (assuming its cancellation by the end of 2020) and the fact that other potential cost associated with a removal such as, for example, the relocation of staff together with their families cannot yet be estimated. Furthermore, the Authority's budget is financed by 40 % from European Union funds and by 60 % through direct contributions from EU Member States. A future decrease of the Authority's revenue resulting from the UK's decision to leave the EU is possible.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

18. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2012	In order to cover higher school fees, the Authority grants staff whose children attend primary or secondary school an education contribution in addition to the education allowances provided for in the Staff Regulations. Total 2012 education contributions amounted to some 76 000 euro. They are not covered by the Staff Regulations and therefore irregular.	Ongoing <sup>(1)</sup>
2015	Carry-overs of committed appropriations for Title II (administrative expenditure) were high at 1 487 794 euro, i.e. 28 % of the total committed appropriations under this title (2014: 3 431 070 euro, i.e. 48 %). These include an unresolved issue regarding the outstanding VAT to be paid on the balancing charge of the Authority's new building and an invoice concerning business rates by the UK Valuations Office (combined value 538 938 euro).	N/A
2015	Weaknesses were noted in the estimation of IT needs, in particular concerning outsourced services, which affect the Authority's budgetary management of related expenses.	N/A

<sup>(1)</sup> As at the end of 2016 the Authority had signed contracts with 23 schools attended by children of staff members.

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**THE AUTHORITY'S REPLY**

The Authority has taken note of the Court's report.

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## REPORT

**on the annual accounts of the European Centre for Disease Prevention and Control for the financial year 2016, together with the Centre's reply**

(2017/C 417/14)

## INTRODUCTION

1. The European Centre for Disease Prevention and Control (ECDC — hereinafter 'the Centre'), which is located in Stockholm, was established by Regulation (EC) No 851/2004 of the European Parliament and of the Council<sup>(1)</sup>. The Centre's main tasks are to collect and disseminate data on the prevention and control of human diseases and to provide scientific opinions on this subject. It is also required to coordinate the European network of bodies operating in this field.

2. The *Table* presents key figures for the Centre<sup>(2)</sup>.

*Table*

**Key figures for the centre**

	2015	2016
Budget (million euro)	58,5	58,2
Total staff as at 31 December <sup>(1)</sup>	260	260

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Centre.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Centre's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Centre which comprise the financial statements<sup>(3)</sup> and the reports on the implementation of the budget<sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 142, 30.4.2004, p. 1.

<sup>(2)</sup> More information on the Centre's competences and activities is available on its website: [www.ecdc.europa.eu](http://www.ecdc.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

***Reliability of the accounts****Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Centre for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Centre at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

***Legality and regularity of the transactions underlying the accounts*****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

***Responsibilities of management and those charged with governance***

8. In accordance with Articles 310 to 325 of the TFEU and the Centre's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Centre's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Centre's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

***Auditor's responsibilities for the audit of the accounts and underlying transactions***

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Centre are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Centre's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Centre accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Centre's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

17. In May 2015, the Centre's Director ad interim was appointed by a Management Board decision. As of 31 December 2016, this posting exceeded the one year maximum period stipulated in the Staff Regulations by eight months. This has also resulted in 15 additional ad interim arrangements for other staff.

#### COMMENTS ON INTERNAL CONTROLS

18. In its audit report dated October 2016, the Commission's Internal Audit Service (IAS) highlighted that, while acknowledging the Centre's ongoing efforts to strengthen its internal procurement controls, there are still significant weaknesses in the procurement process. The IAS concluded that the planning and the monitoring of procurements are weak and that procurements are not always covered by the Annual Work Programme or financing decision. Reference is also made to the Court's Report on the annual accounts of the Centre for the financial year 2015 and the reported weaknesses affecting the transparency of procurement procedures. The Centre and IAS agreed on a plan to take corrective action.

#### COMMENTS ON BUDGETARY MANAGEMENT

19. As in previous years carry-overs of committed appropriations were high for Title III (operating expenditure) at 7,9 million euro, i.e. 41 % (2015: 7,5 million euro, i.e. 42 %). The carry-overs mainly relate to multiannual projects in the areas of scientific advice (2,4 million euro), surveillance (1,3 million euro), public health training (1,4 million euro) and public health IT (2,1 million euro). The Centre may consider introducing differentiated budget appropriations to better reflect the multi annual nature of operations and unavoidable delays between the signature of contracts, deliveries and payments.

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

20. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The Court found various weaknesses affecting the transparency of the audited procurement procedures, such as lack of a clear link with the Centre's annual work programme, insufficient substantiation of the estimated contract value or absence of a financial benchmark (threshold) to assess the tenderer's financial capacity.	Ongoing <sup>(1)</sup>
2015	The overall budget execution rate was at 94 % (99 % in 2014). The decrease is related to the lower weighting factor applied to remunerations in Sweden as of 1 June 2014 and to delays in recruitments which resulted in lower than anticipated staff costs.	N/A
2015	Carry-overs of committed appropriations were high for Title II (administrative expenditure) at 1,6 million euro, i.e. 23 % (2014: 1,5 million euro, i.e. 25 %). These carry-overs mainly relate to the procurement of IT hard- and software (0,8 million euro), as well as, for real estate consultancy services for new premises (0,3 million euro) for which payments are only due in 2016.	N/A
2015	Carry-overs of committed appropriations were high for Title III (operational expenditure) at 7,5 million euro, i.e. 42 % (2014: 8,1 million euro, i.e. 49 %). The carry-overs mainly relate to multi-annual projects (5 million euro) and IT support for operational activities (1,7 million euro) which were provided and paid as planned.	N/A

<sup>(1)</sup> In 2016 two specific contracts for a total amount of 79 000 euro were signed without a supporting financing decision.



**THE CENTRE'S REPLY**

18. The Centre wishes to clarify that the Director's acting appointment was done in accordance with the Staff Regulations as well as the Centre's Founding Regulation. The initial recruitment for the post of Director was unsuccessful and, for operational continuity purposes, the acting arrangement was extended beyond the 12 months limit. During this extension, at the request of the Management Board the staff member accepted to forego the financial compensation foreseen in the Staff Regulations while temporarily occupying a post with a higher grade.

19. ECDC has reworked the format of its Financing Decision for procurement in its Work Programme 2017. A standardized procedure has been put in place for internal approval of new procurements, ensuring that any updates to the Financing Decision are approved by ECDC's Management Board prior to the launch of the procedure. ECDC is also following up on the general recommendations of the IAS by reviewing its internal procedures and guidance materials.

20. The Centre will carefully analyse the advantages/disadvantages, in liaison with the Court of Auditors, of introducing differentiated budget appropriations, including the risks of added complexity and additional resources needed.

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## REPORT

**on the annual accounts of the European Chemicals Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/15)

## INTRODUCTION

1. The European Chemicals Agency (hereinafter 'the Agency', aka 'ECHA'), which is located in Helsinki, was set up by Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(1)</sup>. Its main tasks are to ensure a high level of protection of human health and the environment as well as the free movement of substances on the internal market while enhancing competitiveness and innovation. The Agency also promotes the development of alternative methods for the assessment of hazards relating to substances.

2. The *table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro) <sup>(1)</sup>	114,8	110,1
Total staff as at 31 December <sup>(2)</sup>	572	578

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 396, 30.12.2006, p. 1.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.echa.europa.eu](http://www.echa.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

#### **Other matter**

16. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. ECHA's budget is partly financed by fees from EU economic operators. The amount of fees fluctuates every year depending on the volume of registrations of substances. A future decrease of the Agency's revenue resulting from the UK's decision to leave the EU is possible.

17. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

18. Carry-overs of committed appropriations remained high for Title III (REACH operational expenditure) at 10,1 million euro, i.e. 39 % (2015: 7,3 million euro, i.e. 32 %) and are even higher for Title IV (Biocides operational expenditure) at 1,3 million euro, i.e. 68 % (2015: 1,5 million euro, i.e. 74 %). Such high level of carry-overs is in contradiction with the budgetary principle of annuality. The Agency may consider increasing the use of differentiated budget appropriations to better reflect the multiannual nature of operations and unavoidable delays between the signature of contracts, deliveries and payments.

#### **COMMENTS ON INTERNAL CONTROL**

19. Under the Biocidal Products Regulation, ECHA contributes to the functioning of the market for biocidal substances and products. In its audit report dated November 2016 the Commission's Internal Audit Service (IAS) concluded that the design and practical implementation of the internal control system in ECHA in relation to the Agency's processes and activities under the Biocidal Product Regulation is effective and efficient. Although no major weaknesses were identified, the IAS identified some scope for further improvement. The Agency and IAS agreed on a plan to take corrective action.

#### **OTHER COMMENTS**

20. Different from most other agencies, ECHA's founding regulation does not explicitly require periodical external evaluations of its activities, which are key elements to assess performance.

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

21. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comment	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2014	The expenditure for procedures associated with one new specific activity of the Agency, the implementation of the Regulation concerning biocidal products, was to be, in principle, covered by application fees for the registration of these products. However, fees collected in 2014 covered only 17 % of this expenditure and the remaining part was in fact financed by contributions to the Agency's budget from the Union (6,3 million euro) and EFTA countries (0,2 million euro) <sup>(1)</sup> .	Ongoing
2015	The Agency pays 50 % of the cost for after-school care of staff children in the European School in Helsinki. Its contribution is limited to 1 000 euro per child per annum and in total amounted to some 95 000 euro in 2015. This measure of a social nature was approved in 2008 by the Agency's Director but has not been communicated to the budgetary authority in the framework of the budget procedure <sup>(2)</sup> .	Completed
2015	Carry-overs of committed appropriations were high for Title IV (Biocides operating expenditure) at 1,5 million euro, i.e. 74 %. They mainly concern a large-scale IT project (1,4 million euro). This project could only be started in the second half of 2015 when sufficient fee income for its funding had been collected.	N/A

<sup>(1)</sup> Fees collected in 2015 covered 62 % of this expenditure.

<sup>(2)</sup> Article 1e of Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385/62).

**THE AGENCY'S REPLY**

19. The highest carry-over amounts stem from multiannual IT development projects and rapporteur contracts for substance evaluation which entail a statutory 12-month period starting from the adoption of the Community rolling action plan in March. For the latter, the Agency has already created a differentiated budget line for 2017, which will reduce the nominal carry-over rate for 2017 and beyond. For IT expenditure, ECHA will also consider the possibility of using differentiated budget lines going forward.

20. Noted.

21. ECHA's founding regulation scheduled a first external evaluation of the Agency for 2012, see Article 75(2). The Commission duly undertook this review with the support of an external contractor (PwC). Although not explicitly required by ECHA's founding regulation, in accordance with the Better Regulation EU Evaluation Guidelines, the Commission commissioned another external ECHA performance evaluation study (Deloitte and VVA) in 2016. The consultants' report is available here:

[https://ec.europa.eu/growth/sectors/chemicals/reach\\_en](https://ec.europa.eu/growth/sectors/chemicals/reach_en)

As soon as the Commission adopts its own report on the REACH review in 2017, appropriate follow-up actions will be put in place by ECHA to address the recommendations stemming from the formal Commission's report.

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## REPORT

**on the annual accounts of the European Environment Agency for the financial year 2016, together  
with the Agency's reply**

(2017/C 417/16)

## INTRODUCTION

1. The European Environment Agency (hereinafter 'the Agency', aka 'EEA'), which is located in Copenhagen, was established by Council Regulation (EEC) No 1210/90 <sup>(1)</sup>. It is responsible for setting up an observation network to provide the Commission, the Parliament, the Member States and, more generally, the public with reliable information on the state of the environment. This information should, in particular, enable the European Union and the Member States to take action to safeguard the environment and assess the effectiveness of such action.

2. The *Table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	49,2	50,5
Total staff as at 31 December <sup>(1)</sup>	219	208

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency; includes both core and non-core budget.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 120, 11.5.1990, p. 1.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.eea.europa.eu](http://www.eea.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.



**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON INTERNAL CONTROLS

17. The Agency updated its Security Policy in 2016 but many other internal procedures are outdated. The senior management approved an action plan which includes the review and update of the business continuity plan. The Agency also intends to review its document management policy which it adopted in 2009 in line with the new Security Policy. Similarly, the Agency envisages to review and update its internal control standards, where necessary.

18. The Commission's Internal Audit Service (IAS) carried out a performance audit on the 2015 State of the Environment Report (SOER) preparation processes. In its audit report of July 2016, the IAS concluded that the SOER processes were generally fit for purpose. The Agency and the IAS however agreed on a plan to further improve them.

#### COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE

19. In 2014 the Commission, on behalf of more than 50 EU Institutions and bodies (including the Agency) signed a framework contract (FWC) with one contractor for the acquisition of software, licences and the provision of related IT maintenance and consultancy. The framework contractor acts as an intermediary between the Agency and suppliers that can address the Agency's needs. For these intermediary services the framework contractor is entitled to uplifts of two to nine percent of the suppliers' prices. The FWC explicitly stipulates that it does not confer any exclusive right to the contractor. In 2016 the Agency used this FWC to purchase software licences for a total of 442 754 euro. Most of these purchases were for products belonging to a particular category that should only be used on an exceptional basis, for which prices were neither quoted during the tender process nor in the FWC. This procedure does not ensure sufficient competition and the application of the most economical solution. Moreover the uplifts charged by the framework contractor were not adequately checked. The largest order concerned the renewal of software licences provided by an exclusive Scandinavian reseller (112 248 euro). In this instance, there was no justification for the use of the FWC which resulted in an unnecessary uplift cost.

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

20. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2012 and 2013	(Ex ante) On-the-spot verifications of costs claimed under the grant programmes at beneficiary level are rare <sup>(1)</sup> . Existing controls therefore provide only limited assurance on the eligibility and accuracy of the costs claimed by beneficiaries.	Completed <sup>(2)</sup>
2014	Furthermore, the internal auditor was involved in both <i>ex ante</i> and <i>ex post</i> verifications: these are incompatible tasks. It should be noted that the system of <i>ex ante</i> controls has been the subject of discussion between the Court and the Agency since 2012.	Completed
2014	The Agency has contracted backup services, including email services, with a cloud services provider using an interinstitutional contract procured by DIGIT. The conditions of the contract do not adequately define the location of the Agency's data. The contractor has reserved the right to transfer the Agency's data outside the geographic area of the European Union without notice, e.g. to address latency issues, routing data may need to be copied to different data centres in different regions. Consequently the Agency has not ensured that the privileges and immunities of the European Communities, to which it is subject, are guaranteed and that the service provider fully respects the privacy guarantees granted by Article 7 of the EU Charter of Fundamental Rights.	Completed <sup>(3)</sup>
2015	The audited procurement procedures showed that the Agency signed framework contracts with a single contractor, which are used for various services under fixed-price specific contracts. As a consequence of requesting a fixed-price offer from a single contractor under these contracts, competition on price is neutralised and dependence upon the contractor is increased. The Agency should conclude agreements with multiple suppliers with reopening of competition or direct service contracts, whenever possible.	Completed

<sup>(1)</sup> In 2012 and in 2011 one *ex ante* verification was carried out to check one beneficiary's control systems. In 2010 one *ex ante* verification had been carried out to check the eligibility of expenditure declared by one beneficiary.

<sup>(2)</sup> In 2016, the Agency carried out two on-the-spot *ex-post* verifications of ETC grant beneficiaries.

<sup>(3)</sup> The Agency is monitoring the new developments on an ongoing basis.

## THE AGENCY'S REPLY

### COMMENTS ON INTERNAL CONTROLS

18. The Agency maintains a significant number of regularly updated procedures that are made available to all staff via the intranet. In the latter half of 2016, the section dedicated to Quality Management was revised, including the register of the procedures. In the course of 2017 all procedures in the register will be reviewed and updated if necessary.

19. The EEA takes note of the Court's reply.

### COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE

20. The framework service contract at stake is indeed the result of an inter-institutional procurement procedure carried out by the European Commission for the very purpose of realising efficiency gains, as provided for in Article 104a(1) of the financial regulation, and as such, it is primarily and directly concerned with the principle of sound financial management. In accordance with the applicable rules pertaining to the organisation and management of inter-institutional procurement procedure, the Agency commits when taking part in this inter-institutional call for tenders that it will then renounce to procure the same services through another contract. This commitment is meant to ensure not only transparency towards participating tenderers but also and foremost the respect of the principle of sound financial management, in particular with regard to the principles of economy and efficiency in terms of resources used. This commitment alone provides an adequate justification for the use of the framework contract. Furthermore it should be noted that the uplift applied on the channel products is contractually agreed between the parties whereas the contractor is contractually responsible for providing the products and services at a price whose relationship to the prevailing market price for equivalent items remains constant. The Agency will enquire to the Commission whether on the basis of the aggregated volume of licenses purchased they could be promoted to the local or corporate category of the framework service contract.

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## REPORT

**on the annual accounts of the European Fisheries Control Agency for the financial year 2016,  
together with the Agency's reply**

(2017/C 417/17)

## INTRODUCTION

1. The European Fisheries Control Agency (hereinafter 'the Agency', aka 'EFCA'), which is located in Vigo, was established by Council Regulation (EC) No 768/2005 <sup>(1)</sup>. The Agency's main task is to organise the operational coordination of fisheries control and inspection activities by the Member States in order to ensure an effective and uniform application of the rules of the common fisheries policy.

2. The *Table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro) <sup>(1)</sup>	9,2	10,0
Total staff as at 31 December <sup>(2)</sup>	64	64

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 128, 21.5.2005, p. 1.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.efca.europa.eu](http://www.efca.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

16. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).



## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The Agency is not yet fully complying with Internal Control Standards 10 (Business Continuity), 11 (Document Management) and 12 (Information and Communication) <sup>(1)</sup> .	Completed

<sup>(1)</sup> The Agency's Internal Control Standards are based on the equivalent standards laid down by the Commission.

**THE AGENCY'S REPLY**

The Agency has taken note of the Court's report.

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## REPORT

**on the annual accounts of the European Food Safety Authority for the financial year 2016, together  
with the Authority's reply**

(2017/C 417/18)

## INTRODUCTION

1. The European Food Safety Authority (hereinafter 'the Authority', aka 'EFSA'), which is located in Parma, was established by Regulation (EC) No 178/2002 of the European Parliament and of the Council <sup>(1)</sup>. The Authority's main tasks are to supply the scientific information needed for Union legislation to be drawn up concerning food and food safety, to collect and analyse data that allow risks to be identified and monitored, and to provide independent information on these risks.

2. The *Table* presents key figures for the Authority <sup>(2)</sup>.

*Table*

**Key figures for the Authority**

	2015	2016
Budget (million euro) <sup>(1)</sup>	78,8	79,5
Total staff as at 31 December <sup>(2)</sup>	434	443

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Authority.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Authority which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1.

<sup>(2)</sup> More information on the Authority's competences and activities is available on its website: [www.efsa.europa.eu](http://www.efsa.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash-flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Authority for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Authority at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Authority's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Authority's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Authority are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Authority's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Authority accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Authority's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON INTERNAL CONTROLS

17. In its audit report dated November 2016 the Commission's Internal Audit Service (IAS) concluded that the controls in place for IT project management are adequate, but referred to significant weaknesses in relation to IT governance. It recommended updating EFSA's IT governance policy, to introduce an organisation-wide IT risk management framework and risk register and to separate the information security function from the IT Unit. EFSA agreed with the IAS on a plan to take corrective actions.

#### FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

18. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 October 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2012	Following high level risk assessments carried out by an external consultation 2012 and by the Commission's Internal Audit Service in February 2013 a number of potential critical risks were identified in the operation of the Authority's internal controls, particularly in the areas of data management, business continuity and IT security. The Authority started a comprehensive self-assessment of its internal control system in 2012. The process is on-going and implementation of corrective actions is planned for 2013.	Completed
2015	The Authority has not yet put in place a clear and comprehensive financial <i>ex post</i> control strategy covering all areas of operations and specifying the frequency and scope of such controls.	Ongoing <sup>(1)</sup>

<sup>(1)</sup> EFSA is in the process of developing an improved assurance governance and is fine tuning its Internal Control Framework. In particular, the EFSA approved and implemented a revised control strategy using a risk-based assessment for the mass payments made for scientific meetings and missions that will be incorporated in an EFSA procedure on financial *ex ante* and *ex post* control.

**THE AUTHORITY'S REPLY**

5. EFSA welcomes the unqualified opinions issued by ECA on the reliability of the accounts and on the legality and regularity of the transactions underlying the accounts. This evidences that the control system in place at EFSA adequately ensures overall compliance.

17. EFSA will duly implement the action plan following the IAS IT Governance audit. All actions concerning the positioning of the Information Security Function, the Business participation and the IT Strategy have been fully implemented. For the IT Governance, the majority of actions have been implemented and the remaining actions are planned to be implemented by the end of 2017.

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## REPORT

**on the annual accounts of the European Institute for Gender Equality for the financial year 2016,  
together with the Institute's reply**

(2017/C 417/19)

## INTRODUCTION

1. The European Institute for Gender Equality (hereinafter 'the Institute', aka 'EIGE'), which is located in Vilnius, was established by Regulation (EC) No 1922/2006 of the European Parliament and of the Council <sup>(1)</sup>. The Institute's task is to collect, analyse and disseminate information as regards gender equality and to develop, analyse, evaluate and disseminate methodological tools in order to support the integration of gender equality into all Union policies and the resulting national policies.

2. The Table presents key figures for the Institute <sup>(2)</sup>.

*Table*

**Key figures for the Institute**

	2015	2016
Budget (million euro)	7,9	7,8
Total staff as at 31 December <sup>(1)</sup>	42	45

<sup>(1)</sup> Staff includes officials, temporary and contract agents and seconded national experts.

Source: data provided by the Institute.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Institute's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Institute which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 403, 30.12.2006, p. 9.

<sup>(2)</sup> More information on the Institute's competences and activities is available on its website: [www.eige.europa.eu](http://www.eige.europa.eu).

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.



**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Institute for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Institute at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Institute's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Institute's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Institute's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Institute are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Institute's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Institute accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Institute's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON BUDGETARY MANAGEMENT

17. The level of committed appropriations carried over remained high for Title III (operational expenditure) at 1,7 million euro, i.e. 51 % (2015: 2,2 million euro, i.e. 60 %), mainly in relation to studies going beyond the year end. The Institute may consider introducing differentiated budget appropriations to better reflect the multi annual nature of operations and unavoidable delays between the signature of contracts, deliveries and payments.

#### COMMENTS ON INTERNAL CONTROLS

18. In 2016 the Institute launched an open call for tender for a framework contract on the maintenance and update of its gender statistics tools and resources for a maximum amount of 1,6 million euro. The call was split into two lots without indicating the respective amounts per lot. Following a question from one tenderer, the Institute clarified on its website that the maximum amount per lot was estimated at 800 000 euro. However, two separate framework contracts were signed with the same tenderer for a maximum amount of 1,6 million euro per lot and an option to further increase the amounts by up to 50 % per lot, allowing the Institute to sign specific contracts over the maximum duration of the FWC (four years) for up to 4,8 million euro or three times the amount announced in the contract notice. Furthermore, price competition in the call for tender was based on daily rates only and not also on the time needed to complete the tasks, not allowing to identify and choose the most economically advantageous offers and to ensure best value for money. These weaknesses might have affected competition. Payments made in 2016 amounted to 87 920 euro. In reaction to the audit, the Institute signed amendments to both FWC, reducing the maximum amounts to 800 000 euro each (with a potential increase by maximum 50 %).

19. The invitation to tender under a negotiated procedure with a single tenderer to procure maintenance and support for IT tools and databases capped the maximum price for all three defined outputs at 81 000 euro (excluding VAT), specifying that any offer exceeding this amount would not be considered. Having received a tender for two of the three requested outputs, the Institute signed a service contract for a price of 97 410 euro. Payments made in 2016 amounted to 73 057 euro.

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE**

20. In January 2016, the Institute published its external evaluation. It concluded that the Institute's activities were consistent with its mandate and that its administration scores relatively well in terms of governance and efficiency. However, the evaluation included several recommendations to improve the Institute's operations, for instance by setting clearer priorities, better targeting its outputs, developing synergies with relevant external actors and also by strengthening the role of its Management Board and clarifying the role of the Experts' Forum. The Institute has started to implement an action plan addressing the recommendations.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

An overview of the corrective actions taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The level of committed appropriations carried over under Title III remained high at 61 % (2014: 54 %). This mainly results from the nature of activities of the Institute which involve procuring studies that span over many months, often beyond year-end.	N/A

### THE INSTITUTE'S REPLY

18. The level of carry-overs in Title III remained at the given level due to significant challenges imposed on the subject five projects, which caused them to be carried forward to 2017. Two of those projects were impacted by the delays in the decision of the Council Presidency (after switch from the UK to EE) and in the long consultations with the Commission. Other projects started later than expected due to late deliveries of previous projects and studies on which the new projects were based, and because unsuccessful candidates challenged the award decision and new evaluations had to be carried out.

EIGE considers the fact that despite all the challenges caused by 'force majeure' factors, that impacted negatively on the implementation of EIGE's budget, EIGE managed to decrease the operational (C1) carry-overs down by more than 9 % is a good achievement worth mentioning.

Regarding differentiated appropriations, it is important to note that in the past EIGE was discouraged from introducing this approach because of the annuality principle of the budget, despite that it will carry out a feasibility analysis to develop a solid basis for taking a future decision on introducing or not differentiated appropriations.

19. The Institute takes note of the Court's comment on the matter which was caused by an administrative error due to which the amount specified in the framework contract for each lot was not amended accordingly. The signed framework contracts have no budget implication, both lots have been awarded to the same contractor and the candidates were duly informed during the tendering phase.

EIGE preferred to proceed with the single FWC because of a very small market of specific competition limiting the number of qualified and strong contractors. The solution of a single FWC gave a stronger guarantee of quality and continuity, for this very specific project, which could be at risk if a cascade approach or reopening of competition under a multiple FWC were chosen.

In order to conform to the principle of sound financial management, EIGE has amended the relevant templates of technical specifications. In the meantime, EIGE will mitigate the risk by putting a maximum number of working days in future requests for specific services.

20. The Institute takes note of the Court's comment. Due to the fact that the tenderer has exclusive rights to the software used by EIGE, an exceptional negotiated procedure with one invitee was chosen. During the negotiation procedure adjustments were made to the original request with additional services foreseen to meet EIGE's increased needs and budget availability and due to the fact that one of the three deliverables initially requested by EIGE could not have been implemented by the tenderer.

21. The Institute takes note of the Court's comment. Some early actions have already been implemented such as the Knowledge Management and Communications Strategy 2016-2018 as adopted by the Management Board on 18 May 2016, the Single Programming Document includes detailed actions on communication and increased uptake monitoring, baselines for measuring output indicators were established in 2016.

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## REPORT

**on the annual accounts of the European Insurance and Occupational Pensions Authority for the financial year 2016, together with the Authority's reply**

(2017/C 417/20)

## INTRODUCTION

1. The European Insurance and Occupational Pensions Authority (hereinafter 'the Authority', aka 'EIOPA'), which is located in Frankfurt, was established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council <sup>(1)</sup>. The Authority's task is to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, to contribute to the consistent application of legally binding Union acts, to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities, to monitor and assess market developments in the area of its competence and to foster the protection of policyholders, pension scheme members and beneficiaries.

2. The *table* presents key figures for the Authority <sup>(2)</sup>.

*Table*

**Key figures for the Authority**

	2015	2016
Budget (million euro)	20,2	21,8
Total staff as at 31 December <sup>(1)</sup>	133	139

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

*Source:* data provided by the Authority.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Authority which comprise the financial statements <sup>(1)</sup> and the reports on the implementation of the budget <sup>(3)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 331, 15.12.2010, p. 48.

<sup>(2)</sup> More information on the Authority's competences and activities is available on its website: [www.eiopa.europa.eu](http://www.eiopa.europa.eu)

<sup>(1)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(3)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Authority for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Authority at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Authority's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Authority's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Authority are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Authority's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Authority accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Authority's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

#### **Other matter**

16. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. EIOPA's budget is financed by 40 % from European Union funds and by 60 % through direct contributions from EU Member States. A future decrease of the Authority's revenue resulting from the UK's decision to leave the EU is possible.

17. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the Annex.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).



## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2014	The overall level of committed appropriations was high at 95 %. The level of committed appropriations carried over also remained high at 5,6 million euro, i.e. 26 % (2013: 5,2 million euro, i.e. 28 %), particularly for the operational budget (Title III) at 4,7 million euro, i.e. 66 % (2013: 3,7 million euro or 85 %). Carry-overs are mainly related to specific contracts with a cumulative value of 2,4 million euro signed late in the year, particularly for the ongoing development and maintenance of a database (1,8 million euro) and other IT services to be provided in 2015. Part of the committed appropriations carried over are related to budget transfers made in November and December 2014, when the Authority increased the operational budget (Title III) by 1,1 million euro (19 %) <sup>(1)</sup> through transfers from the staff budget (Title I) of 858 828 euro <sup>(2)</sup> and from administrative expenditure (Title II) of 266 360 euro <sup>(3)</sup> . The transfers were intended to compensate for shortfalls in the Authority's 2015 budget following substantial budget cuts decided by the discharge authorities. These shortfalls would not have allowed the Authority to continue implementing its multiannual IT strategy, which was one of its core operational activities.	N/A
2014	Although budget transfers, carry-overs and related commitments are in line with the specific provisions of the EU Financial Regulation and were executed following Management Board decisions, the extent to which 2015 activities will be covered by 2014 appropriations is at odds with the budgetary principle of annuality. There is a need to better align the funds made available in the agency's annual budgets with the financial needs for the implementation of its multiannual IT strategy.	Completed

<sup>(1)</sup> 2015: 0,6 million euro (16 %).

<sup>(2)</sup> 2015: 317 737 euro.

<sup>(3)</sup> 2015: 322 737 euro.

**THE AUTHORITY'S REPLY**

The Authority has taken note of the Court's report.

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## REPORT

**on the annual accounts of the European Institute of Innovation and Technology for the financial year 2016, together with the Institute's reply**

(2017/C 417/21)

## INTRODUCTION

1. The European Institute of Innovation and Technology (hereinafter 'the Institute', aka 'EIT'), which is located in Budapest, was created by Regulation (EC) No 294/2008 of the European Parliament and of the Council <sup>(1)</sup>. The Institute's objective is to contribute to sustainable European economic growth and competitiveness by reinforcing the innovation capacity of the Member States and the European Union. The Institute awards grants to an increasing number of 'Knowledge and Innovation Communities' (KICs), linking the higher education, research and business sectors with one another and aiming thereby to boost innovation and entrepreneurship. KICs coordinate the activities of hundreds of partners. The grants provided by the Institute reimburse partners' costs and costs stemming from the KICs' coordination activities.

2. Tables 1 to 3 present key figures on the evolution of budget and staff figures for the Institute <sup>(2)</sup>.

Table 1

## Key figures for the Institute

	2015	2016
Budget (million euro) <sup>(1)</sup>	232	283
Total actual staff as at 31 December <sup>(2)</sup> (established posts)	50 (62)	59 (63)

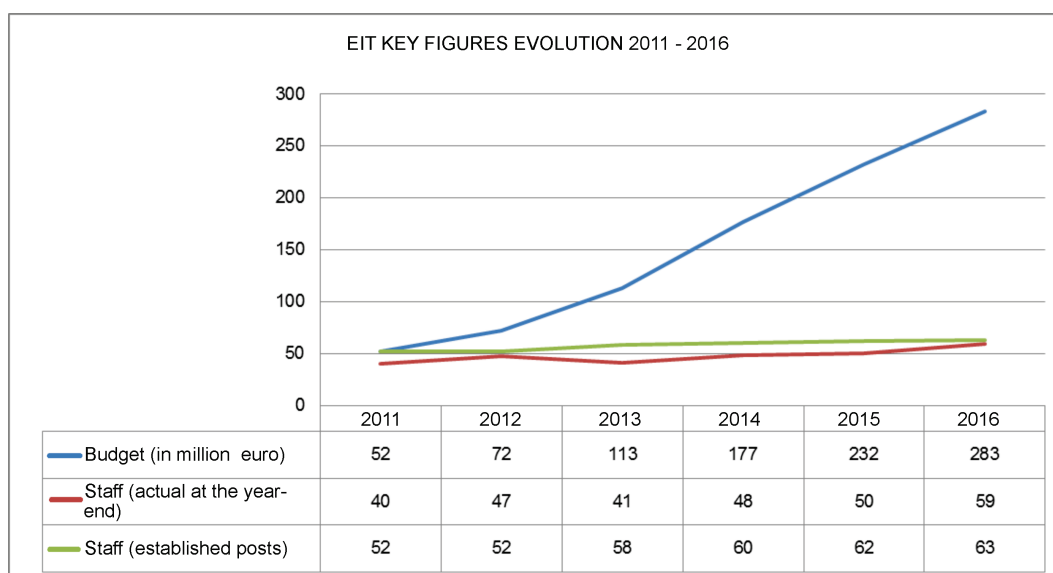
<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Institute

Table 2

## Evolution of key figures since 2011

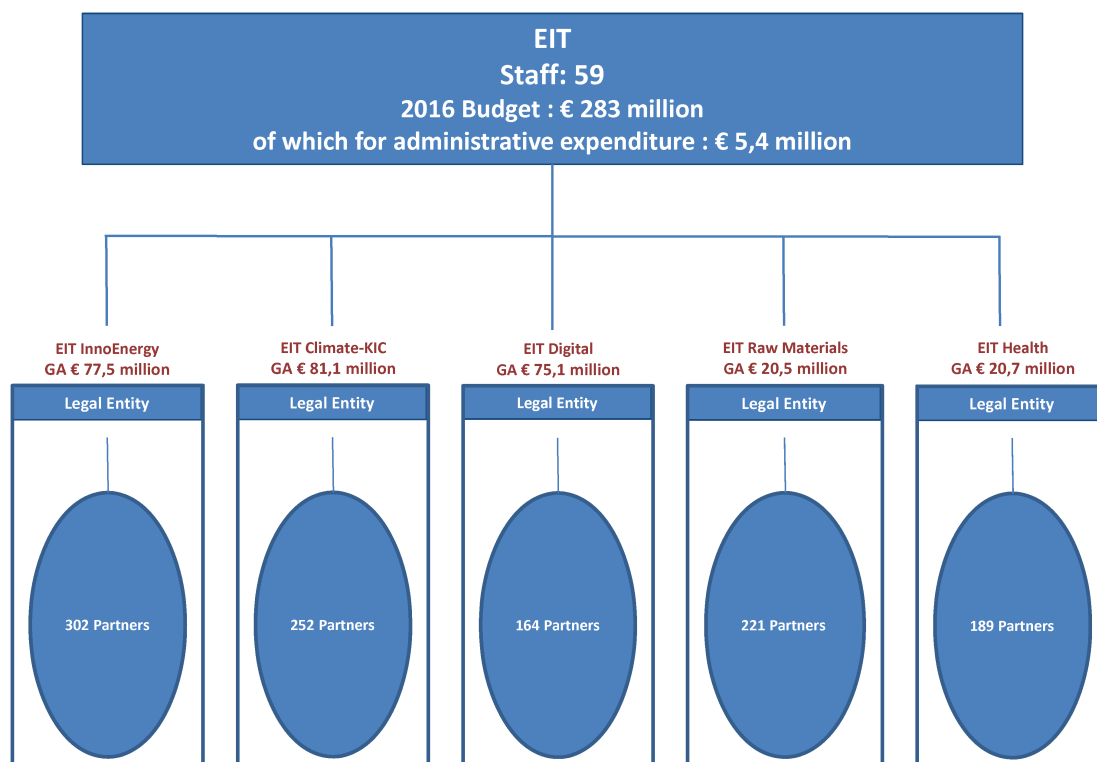


<sup>(1)</sup> OJ L 97, 9.4.2008, p. 1.

<sup>(2)</sup> More information on the Institute's competences and activities is available on its website: [www.eit.europa.eu](http://www.eit.europa.eu)

Table 3

## 2016 key figures for the Institute by actors



Note: Appropriations amounting to 2,7million euro were budgeted for other operational activities.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Institute's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

## OPINION

4. We have audited:

- (a) the accounts of the Institute which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and
- (b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Institute for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Institute at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of the payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Institute's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Institute's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Institute's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Institute are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Institute's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Institute accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Institute's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

#### **Other matter**

Significant shortcomings of KIC Legal Entities (KIC LEs) procurement procedures

16. The coordination and representation of the KICs is carried out by KIC LEs which are almost fully financed by the Institute. The Court in its audit gave particular attention to the procurement procedures carried out by these entities which it considers to be a high-risk area.

17. Under the 2015 Grant Agreements (GA) KIC LEs and/or KIC Partners must ensure that any procurement achieves best value for money or, where appropriate, is made at the lowest possible price. For all contracts exceeding 60 000 euro, the GA stipulates that KIC LEs and/or KIC Partners have to invite at least three economic operators for tender and to document the procurement procedure demonstrating its transparency. The Court audited a sample of procurement procedures for a value of some 7 million euros carried out by KIC LEs which were fully financed by the EIT. The audit showed significant weaknesses such as direct award of contracts, absence of essential elements in tenders, significant extensions of initial contracts in time and/or volume, contracts unlimited in time and/or volume or quality/price weightings neutralising competition on price. The 2016 payments related to these irregular procurement procedures amounted to 2,2 million euro. The Institute had also identified the procurement weaknesses for one KIC LE and put in place an action plan to improve all KIC LEs' future procurement procedures.

18. There is currently legal uncertainty as to whether KIC LEs represent contracting authorities <sup>(6)</sup>. If this was the case, they would be required to apply public procurement rules as laid down in the Public Procurement Directive 2004/18/EC <sup>(7)</sup> (Directive) which are stricter than those required under the GA. The Institute, together with the Commission's services, is discussing the matter in order to achieve legal certainty for KIC LEs in the future.

<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

<sup>(6)</sup> Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council (OJ L 134, 30.4.2004, p. 114).

<sup>(7)</sup> Articles 7 and 9 of Directive 2004/18/EC amended by Commission Regulation (EU) No 1336/2013.

**Capacity to deal with the expanded workload**

19. Despite the large increase in the budget from 309 million euro (2008-2013) to 2,4 billion euro (2014-2020) and the rise of KICs from three to six at the end of 2016, the Institute's authorised number of posts did not change significantly (see Table 2). The Court in its Special Report 04/2016<sup>(8)</sup> pointed to the risk that the Institute will not have sufficient capacity to deal with the expanded workload. The Institute's interim Director referred to this risk in the Institute's Annual Activity Report for the year 2015.

20. The comments which follow do not call the Court's opinion into question.

**COMMENTS ON INTERNAL CONTROLS**

21. The Court found weaknesses related to *ex post* verifications of procurement procedures carried out by KIC LEs. At least for one KIC LE the selection of procurement procedures to be verified was not representative for the population. In addition, the Court concluded differently on the legality and regularity of two procurement procedures. In these cases the Institute accepted the direct award or excessive extension of contracts.

22. The Commission's Internal Audit Service (IAS) in its audit report 'Grant Management: Transition to Horizon H2020' dated December 2016 concluded that the Institute has successfully adapted its processes to the rules of Horizon 2020, and in particular the Rules for Participation and that the Institute's controls over the start-up process have been generally effective in supporting new KICs. The IAS also concluded that urgent actions are needed to secure a robust application of the H2020 legislative framework and to further improve the start-up process of new KICs. The Institute and the IAS agreed on an action plan to take corrective actions.

**COMMENTS ON BUDGETARY MANAGEMENT**

23. The level of carry-overs for committed appropriations was high for Title II at 0,4 million euro, i.e. 40 % (2015: 0,4 million euro, i.e. 44 %). These carry-overs mainly relate to contracts for IT services going beyond year-end and for meeting costs for which invoices had not yet been received.

**COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE**

24. The grants for the 2015 period were awarded only in April 2015 and the GA were signed in June and July 2015. For the 2016 period, grants were awarded and GA signed in April 2016. Despite an improvement in 2016, these delays in grant award decisions and signatures create uncertainty and undermine partners' willingness to commit resources and to start activities at the beginning of the year.

25. The latest calls for new KICs, for which the thematic areas were defined in the Strategic Innovation Agenda of the EIT for the years 2014 to 2020 showed limited competition. The 2014 call for two new KICs ('Health' and 'Raw Materials') led to only seven proposals. The 2016 call for two additional KICs ('Food' and 'Added-Value Manufacturing') received three proposals, whereby the single proposal for 'Added-Value Manufacturing' KIC was not selected for quality reasons.

**OTHER COMMENTS**

26. The Institute's Director changed four times between its creation in 2008 and July 2014. Since August 2014 the position of the Director, and another managerial position since February 2013, have been filled on an *ad interim* basis. This is not only in contradiction with the 1-year maximum period set for interim placements in the Staff Regulations, but also the frequent changes and long interim solutions cause uncertainty to stakeholders and strategic continuity.

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<sup>(8)</sup> Special Report 4/2016: The European Institute of Innovation and Technology must modify its delivery mechanism and elements of its design to achieve the expected impact.

27. The Institute is an important player in the Horizon 2020 programme, with 2,4 billion euro of budget allocated for the period 2014-2020. The Commission has created a Horizon 2020 Common Support Centre in order to ensure coherence amongst bodies implementing the programme covering aspects like legal services, IT tools, grant management, dissemination and exploitation of research results, etc. However, as distinct from other bodies like Commission executive agencies and public private partnerships, the Institute has no direct access to the Support Centre but needs approval on a case by case basis from its Commission Parent DG. This limitation affects the efficiency of the Institutes operations.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

28. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

## Follow-up of previous years' comments

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2012	Grant agreements did not set individual thresholds for specific cost categories (i.e. staff costs, subcontracting, legal services, etc.	Ongoing <sup>(1)</sup>
2014	The Institute overestimated its budgetary needs for 2014 by 13,1 million euro, i.e. 5,6 % (2013: 3,4 million euro, i.e. 2,5 %) and only 220 million of the 233,1 million euro available were committed. The low implementation rate is mainly related to non-used appropriations for grants (11,4 million euro) to fund KIC activities. The KIC's business plans, on the basis of which grant agreements were signed, did not require the use of total 2014 appropriations available to the Institute. The appropriations not used will be re-entered in the Institute's budgets for the years 2015-2017 as stipulated in the Institute's Financial Regulation.	Ongoing <sup>(2)</sup>
2014	While the KICs are to develop strategies for financial sustainability, to date, and in the fifth year of their existence, they remain fully dependent on financing by the Institute and KIC partners.	Ongoing <sup>(3)</sup>
2014	Since its creation in 2009, the Institute has suffered from high staff turnover and instability at management level. Two of the three Head of Unit posts have been vacant since 2013. One is occupied <i>ad interim</i> since 2013 which is in contradiction with the Staff Regulations that stipulate a maximum period of 1 year. The other is currently occupied by the COO who also serves as the interim Director and who thus fulfils three roles at the same time.	Ongoing
2014	Although the situation has improved in comparison with 2013, 20 % of the posts in the EIT establishment plan were still vacant at the end of 2014 (compared with one third at the end of 2013).	Completed
2015	In 2015, the Institute informed the KICs that its financial contribution over the first 5 years (2010-2014), did not exceed the 25 % ceiling of their respective global expenditure. However the poor definition of KIC Complementary Activities ('KCA') impaired any clear assessment as to whether costs associated to KCA should be accepted or not in the maximum EIT contribution.	Completed
2015	The Court in its Special Report 4/2016 concluded that the funding condition that the EIT contribution to the KICs shall not exceed 25 % is of little or no added value, and removing it would alleviate much of the operational and financial reporting burden of the KIC partners <sup>(4)</sup> .	Ongoing

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2015	The Certificate of Financial Statement ('CFS') requested from KIC partners claiming reimbursement of more than 325 000 euro shall contribute to the Institute's <i>ex ante</i> verification of cost statements. However, the quality of these certificates varies significantly, limiting the assurance that can be obtained from them and requiring the Institute to carry out additional checks.	Ongoing
2015	The EIT founding regulation provides that 'the EIT shall mobilise funds from public and private sources and use its resources in accordance with this Regulation. It shall in particular seek to raise a significant and increasing proportion of its budget from private sources and from income generated by its own activities'. In spite of the said provision that clearly refers to the EIT budget, the contribution from the Horizon 2020 financial envelope accounted for 99 % of its 2015 budget.	Outstanding <sup>(5)</sup>
2015	Even though the Institute is allowed to re-enter unused appropriations (appropriations not committed during the year or de-committed by the year end) in the budgets of the following 3 years, it had not adapted its process in time to re-enter 26,6 million euro available from the 2014 grant agreements in the 2015-2017 budgets. These appropriations result from the lower-than-expected use of funds by KICs.	Ongoing <sup>(6)</sup>
2015	The level of carry-overs for committed appropriations was high for Title II at 0,4 million euro, i.e. 44 % (2014: 0,5 million euro, i.e. 36 %). These carry-overs mainly relate to contracts for IT services going beyond year-end and for meetings for which invoices had not yet been received.	N/A
2015	The original target set by the Commission for the Institute to obtain financial autonomy was 2010. However it obtained only partial financial autonomy in June 2011 under the condition of continued <i>ex ante</i> approval of grant-related transactions and of procurements above 60 000 euro by its (parent) Directorate-General Education and Culture.	Ongoing
2015	The 2014 grant agreements with the three KICs were signed after the start of the grant funded actions on 1 January 2014. Initially signed in February 2014, amendments involving 38 million euro of additional funds were signed only by the end of March 2014.	N/A

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2015	The Institute funds the EIT Digital Master's programme in which 16 European universities participate. The model for reimbursing the universities' costs combines a lump sum maximum 8 000 euro per student (following the Erasmus Mundus programme provisions) plus actual costs including flat rate based indirect costs. On average a total of 15 000 euro per student was paid to the universities in 2015 on this basis (including the lump sum). However, the model has never been formally defined and does not allow a distinction between activities covered by the lump sum and those covered by the actual costs. The Institute should move towards a clear and formally defined model based on a single method for declaring costs such as a substantiated single lump sum.	Ongoing <sup>(7)</sup>
2015	Based on the decision of the KIC Supervisory Board one KIC legal entity paid gross bonuses of 646 000 euro to 55 of its staff (individual bonuses as much as 100 000 euro) which the Institute reimbursed at 100 %. Paying such bonuses using only public funds is an unusual practice and they should be taken into account in the ceiling for the EIT funding of individual salaries which will be applied with effect from the 2016 grant agreement.	N/A
2015	The principle of sound financial management was breached when a KIC partner procured public relations services with daily rates ranging from 800 euro to 3 250 euro per person, which were fully reimbursed by the Institute <sup>(8)</sup> .	Outstanding
2015	The Institute used a Commission framework contract ('FWC') for the organisation of innovation conferences taking place in 2015 and 2016. Under this FWC services were subcontracted for which prices were not set in the FWC. The prices agreed for these services range from 800 euro per day for a junior consultant to 2 250 euro per day for a senior consultant (almost four times the price agreed in the FWC for a senior manager). The cost of services procured at such prices amount to more than 100 000 euro per conference.	Ongoing

<sup>(1)</sup> According to EIT, ceilings have been set for 2016 grant agreements.

<sup>(2)</sup> Budgetary needs for 2016 were overestimated by 13,1 million euro, i.e. 5,0 % (2015: 25 million euro, i.e. 9,4 %) and only 249,9 million euro of the 263 million euro available were committed. The appropriations not used can be re-entered in the budgets for 2017-2019.

<sup>(3)</sup> The EIT financed on average 90 % of eligible costs declared by the KICs in the 2015 grant agreements. The amounts raised by the KICs from different sources reached 2,5 % of the EIT funding requested.

<sup>(4)</sup> Special Report 4/2016: The European Institute of Innovation and Technology must modify its delivery mechanisms and elements of its design to achieve the expected impact.

<sup>(5)</sup> EIT still interprets the EIT Regulation differently as described in its 2015 reply.

<sup>(6)</sup> In 2016 the Institute could not de-commit 14 million available from the 2015 GA. These appropriations could not be re-entered in the 2016-2018 budgets.

<sup>(7)</sup> On average a total of 17 000 euro per full year student was paid to the universities in 2016 on the basis of the model described which combined actual costs and lump sums. The model has been formally defined at the end of 2016 and will be applicable from 2017.

<sup>(8)</sup> In 2016 (2015 grant transactions) the EIT reimbursed an amount of 410 000 euro related to that contract.

### THE INSTITUTE'S REPLY

17. The EIT agrees that the procurement processes of two KIC Legal Entities had weaknesses in the audited year (2015 grants). The EIT recognised this issue and carried out a pilot monitoring activity on the procurement procedures of one Legal Entity in 2016 and made targeted recommendations for improvement in this area. The Legal Entity in question implemented the recommendations in 2016, revised its procurement policies and procedures and provided training to its staff in charge of procurement, which will lead to an increased assurance starting from 2017. Similar monitoring activities have been conducted for all other KIC Legal Entities in 2017 and action plans for improvement have been put in place. The EIT considers that the payments in question were legal and regular, as KIC Legal Entities complied with their legal obligation to ensure best value for money and respected the principles of sound financial management for the expenditure in question.

18. The opinion of the EIT has been that KIC Legal Entities do not fall under the EU public procurement directives. However, the EIT has recently received contradicting legal opinions in the matter, which indeed leads to legal uncertainty. Nevertheless, it is important to note that, regardless of their status, ensuring best value for money for contracts concluded by KIC Legal Entities is a legal obligation in the EIT-KIC grant agreements that are based on the Horizon 2020 model grant agreement. In addition, the EIT, in consultation with the Commission services, will establish requirements for KIC Legal Entities ensuring compliance with the general principles of the EU public procurement directives.

19. The EIT agrees that its capacity is limited in terms of the number of posts allocated to the EIT compared to the tasks and budget entrusted to it. The EIT has already requested the European Commission to provide for more resources in the establishment plan. At the same time, the efficiency with which the EIT operates is noteworthy. As indicated in Table 3, the proportion of administrative expenditure at the EIT was only 1,9 % of the total budget in 2016, which is significantly below the average of 4,6 % reported for Horizon 2020 as a whole.

21. As regards the selection of procurement procedures to be verified during the *ex post* audits, it is important to note that verifying a representative sub-sample is not a requirement under Horizon 2020. According to the Horizon 2020 audit programme, if a population contains more than 15 items, auditors have to select a maximum 15 items as follows: *'Select for testing all the items with a value higher or equal to 10 % of the subcontracting costs declared. Add randomly selected items until 50 % coverage of the subcontracting costs is achieved or the total maximum number of 15 items is reached.'* As regards the two contracts in question, the EIT accepted the related expenditure based on its assessment that beneficiaries had complied with their legal obligation to ensure best value for money and compliance with the principles of sound financial management.

22. The IAS issued three recommendations as a result of their 'Transition to Horizon 2020' audit with none of them being critical. In brief, the EIT was recommended (1) to develop and implement a comprehensive knowledge management system; (2) to strengthen its controls over the changes in the portfolio of KIC Partners during the start-up process; and (3) to improve the clarity of milestones to be achieved in the start-up process. None of the risks identified jeopardise the robust application of the Horizon 2020 legislative framework and the EIT has already taken actions to address the IAS recommendations.

23. The total amount reported by the Court consists of planned carry-overs that were necessary due to the nature of activities such as services going beyond year-end and meetings held in December 2016 for which invoices were only received in January 2017. These planned carry-overs do not indicate weaknesses in the budgetary management of the EIT but are a standard budget management tool.

24. The EIT accepts that Specific Grant Agreements were signed relatively late in 2015, which was caused by the ongoing negotiations with KICs on the new Framework Partnership Agreements that follow the Horizon 2020 model agreements. The negotiations between the European Commission, EIT and KICs took longer than initially anticipated due to the need to agree on specific provisions tailored to the needs of KICs. In the meantime, the EIT, addressing the recommendation of the Court's Special Report 4/2016, has revised the timeline for the preparation and assessment of KIC Business Plans to ensure timely signature of grant agreements. The revised timeline has been implemented successfully during 2016, which has led to a timely signature of Specific Grant Agreements 2017. Four Specific Grant Agreements were signed and pre-financing payments were transferred from the EIT to KICs in February 2017. The 'time to grant' of 4-5 months is below the average for Horizon 2020 as whole.

25. It is important to note that the objective of the calls is to designate an excellent partnership and not to attract a certain number of proposals. For all KIC calls, an excellent partnership could be designated except for 'EIT Manufacturing'. Nevertheless, even in the theme of 'Added-Value Manufacturing', where only one proposal was received, it included declarations of interest to participate in the KIC from over 150 organisations. The EIT already carried out a thorough analysis of the outcome of the 2016 call with the help of external experts and involving its Governing Board. Following the outcomes of the analysis, the EIT has concluded on several mitigating measures, which will reduce the risk of receiving only one proposal in a theme in the future.

26. The EIT is not in a position to comment on the recruitment procedure for the EIT Director, as it is managed by the European Commission. The temporary arrangement is necessary to ensure business continuity until a Director is recruited and appointed. As regards the second managerial position in question, the EIT published a call for expression of interest with a view to establishing a reserve list for the profile of Head of Unit Policy and Communications on 2 December 2015. As a result of the selection procedure, the EIT offered the post to the first candidate on the reserve list, but the candidate declined the offer. This explains why the post remained vacant at the end of 2016. The EIT will complete the recruitment procedure of this management post in 2017, ending the temporary arrangement which became necessary in order to ensure operational continuity.

27. Indeed, the EIT is not currently participating directly and fully in the Common Support Centre for Horizon 2020. However, the EIT has appropriate access to some of the services of the Common Support Centre via its partner Directorate-General, DG Education and Culture. The EIT continues to work with the Commission to ensure EIT has the services and advice it needs from the CSC.

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## REPORT

**on the annual accounts of the European Medicines Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/22)

## INTRODUCTION

1. The European Medicines Agency (hereinafter 'the Agency', aka 'EMA'), which is located in London, was established by Council Regulation (EEC) No 2309/93, which was replaced by Regulation (EC) No 726/2004 of the European Parliament and of the Council <sup>(1)</sup>. The Agency operates through a pan-EU network and coordinates the scientific resources made available by the national authorities in order to ensure the evaluation and supervision of medicinal products for human or veterinary use.

2. The *table* presents key figures for the Agency <sup>(2)</sup>

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	304	305
Total staff as at 31 December <sup>(1)</sup>	775	768

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 214, 24.8.1993, p. 1, and OJ L 136, 30.4.2004, p. 1. In accordance with the latter Regulation, the Agency's original name, the European Agency for the Evaluation of Medicinal Products, was changed to the European Medicines Agency.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.ema.europa.eu](http://www.ema.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.



12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

#### **Emphasis of matter**

16. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. The provisional accounts and related notes of the Agency, which is located in London, were prepared using the limited information available at the date of signature (28 February 2017).

17. In view of upcoming decisions on the future location of the Agency, it has disclosed in its Financial Statements an estimated 448 million euro rent for the remaining rental period between 2017 and 2039 as a contingent liability, as the rental contract does not include any exit clause. Moreover, contingent liabilities in relation to other costs associated with a removal such as, for example the relocation of staff together with their families, actions to mitigate a potential loss of internal and UK-based external expertise, and consequent risk to business continuity, are yet to be determined. Furthermore, the Agency's 2016 budget was financed 95 % by fees from pharmaceutical companies and 5 % from European Union funds. A future decrease of the Agency's revenue resulting from the UK's decision to leave the EU is possible.

18. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON THE RELIABILITY OF THE ACCOUNTS**

19. Since the introduction of a new IT accounting system in 2011, reporting on commitment workflow and consumption has not been sufficiently transparent. Although the matter was repeatedly addressed to the Agency, no corrective action has been taken.

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

20. The Agency concluded Corporate Rate Agreements for the provision of accommodation for experts with 25 hotels in London without using a competitive procurement procedure. For six hotels, payments made in 2016 were above the Financial Regulation's threshold for which an open or restricted competitive procurement procedure is required. The six Corporate Rate Agreements and the related 2016 payments, amounting to some 2,1 million euro, are therefore irregular.

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).



**COMMENTS ON INTERNAL CONTROL**

21. In 2014 the Commission, on behalf of more than 50 EU institutions and bodies (including the Agency) signed a framework contract with one contractor for the acquisition of software, licences and the provision of related IT maintenance and consultancy. The framework contractor acts as an intermediary between the Agency and suppliers that can address the Agency's needs. For these intermediary services the framework contractor is entitled to uplifts of two to nine percent of the suppliers' prices. In 2016, total payments to the framework contractor amounted to 8,9 million euro. The Agency did not systematically check prices and uplifts charged with the suppliers' quotes and invoices issued to the framework contractor.

**COMMENTS ON SOUND FINANCIAL MANAGEMENT AND PERFORMANCE*****Human resources management***

22. Since 2014 the Agency has undergone two major reorganisations including the internal reallocation of top and middle management positions. The reallocation of key staff in the area of IT and administration was not successful, causing material risk of instability to the Agency and its operations. Moreover, there is no system in place to analyse skills availability, identify gaps and to recruit and allocate appropriate staff.

***Consultancy***

23. In addition to the annual audit work carried out for all agencies, the Court did an analysis of the Agency's use of consulting services in relation to two major projects.

24. The Agency has been tasked by Parliament and Council with the implementation of the Regulations on pharmacovigilance (Regulation (EU) No 1027/2012 of the European Parliament and of the Council<sup>(1)</sup>) and clinical trials (Regulation (EU) No 536/2014 of the European Parliament and of the Council<sup>(2)</sup>) which necessitate the establishment of complex pan-EU network systems. This requires extensive technical IT development and participation, as well as input from multiple stakeholders, and in particular Member States.

25. These tasks were assigned to the Agency when it was expected to reduce staff in accordance with the Inter-Institutional Agreement on budgetary discipline adopted on 2 December 2013. There was no increase in the Agency's staff establishment plan that would enable it to build up the necessary expertise in the areas of business and IT development.

***Extensive use of external consultants***

26. Given that the Agency had just 13 staff employed in the I-Delivery Department, it engaged consulting companies in the areas of business analysis, information technology, project management and quality assurance. In the second quarter of 2016 the Agency had 131 consultants on-site and an additional 60 consultants off-site.

27. The Agency therefore has been critically dependent on external expertise since the start of the projects, yet there is no policy in place to govern the use of consultants. For instance, the profiles the Agency's own staff should occupy are not defined (Project Management, Business Analysis, Business Architects, Solution Architects, Data Architects, etc.). Such profiles have at times been assigned to external consultants.

***Inadequate control over project development and implementation***

28. When the Agency was entrusted with the new tasks in 2012 and 2014 it did not have an adequate methodology in place to manage projects of such scale. A new methodology was introduced in 2014 which had to be considerably refined in September 2016.

29. In a number of instances alterations from the planned activities or approach occurred before they were authorised via a formal change request. Such practice not only impairs management's ability to supervise and monitor project development and implementation but can also undermine projects' coherence.

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<sup>(1)</sup> OJ L 316, 14.11.2012, p. 38.

<sup>(2)</sup> OJ L 158, 27.5.2014, p. 1.

30. Until mid-2016 all external consultants were engaged on the basis of time and means contracts although project deliverables were clearly defined. Also, a considerable part of the consulting engagements was carried out in another Member State since all London-based external resources had been exhausted. This limited the Agency's ability to monitor the implementation of the projects in a timely manner. Quality issues identified upon receipt of deliverables required rectification for which additional cost was charged to the Agency.

*Delay and escalating cost*

31. The Agency has experienced delays and escalating costs in developing the systems. Frequent changes in project scope, budget and deadlines were due mainly to evolving system requirements taking into account changing needs of Member States <sup>(1)</sup>. There is no certainty yet regarding final costs and go-live dates. See examples in the table below for two major projects:

	Initial date for GO-LIVE	Current planned date for GO-LIVE	Initial Budget	Budget as at 31 October 2016
Eudravigilance Database Adverse Drug Reactions	Q3 2015	Q4 2017	3,7 million	14,3 million
Clinical Trials & EU Database	Q1 2017	Q3 2018	6,1 million	24,3 million

**OTHER COMMENTS**

32. The founding Regulation requires an external evaluation of the Agency and its operations by the Commission every 10 years. The last evaluation report was issued in 2010. Such a long time span does not ensure timely performance feedback to stakeholders.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

33. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

<sup>(1)</sup> Telematics governance bodies where Member States are represented to elaborate and endorse requirements of future IT systems.

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2014	The Agency's fee regulation provides due dates for the collection of fees from applicants and the Agency's related payments to National Competent Authorities <sup>(1)</sup> . These due dates were not respected for most of the transactions audited by the Court.	Ongoing (fee collection) Completed (payments to NCAs)
2014	In 2014, the Agency carried out an administrative procedure against its information, communication and technology (ICT) manager. Significant weaknesses in management control were reported, implying considerable operational and financial risks to the Agency. An action plan to address the issue was established and implemented. However, the effectiveness of the measures taken has yet to be evaluated by the Agency.	Ongoing
2014	One of the Agency's tasks is to distribute appropriate pharmacovigilance information to Member States and to the general public. This information is collected from individual national authorities and verified with the pharmaceutical companies concerned. However, the Agency is largely dependent on controls and inspections carried out by Member States' authorities. These determine the completeness and accuracy of information disseminated to the public.	Ongoing

<sup>(1)</sup> Agency's fee regulation, Articles 10(1) and 11(1).

### THE AGENCY'S REPLY

19. The Agency takes note of the Court's comments. Following the referendum, the Agency has set up a dedicated task force to assess the impact and to prepare the Agency for relocation. The task force and sub-groups focus on different aspects of the impact and relocation: scientific procedures and work of scientific committees; procurements; impact on IT systems; impact on human and financial resources; staff relocation support; move; business continuity arrangements. The challenge for robust budgetary forecasting remains the high level of unknown factors, e.g. location of new seat and associated operating cost environment; conditions offered by new host; level of infrastructure investment needed to enable the Agency to operate effectively; staff loss as a consequence of relocation. It is important to recognise that only once the seat agreement is concluded can detailed financial implications be properly assessed.

21. The IT accounting system has a solid and reliable commitment workflow process that provides assurance as to the legality and regularity of the individual transactions underlying the accounts and the Agency monitors budget consumption via a robust budget monitoring process. However, the complexity of the system and the significant number of transactions processed every year renders the set-up of a fully transparent reporting system adequate to the ECA needs expensive and complicated. The Agency effort will continue in 2017, although it must be noted that the same team will also be engaged in Brexit preparedness activities.

22. The Agency notes the finding of the Court and, as discussed with the auditors, will identify and implement a solution for hotel bookings during 2017-2018. The Agency wants to highlight that the procedure subject to ECA's comment was put in place in order to minimise the administrative and financial burden of the Agency's delegates, simplify the organisation and guarantee an efficient running of their meetings. The rules regarding delegate reimbursements apply hotel cost ceilings approved by the Management Board and are in line with the European Commission. A procurement to address this matter is being prepared.

23. In line with ECA's view on the matter of introducing a systematic check, the Agency will introduce systematic checks for every quotation above EUR 135 000 from 1 January 2018.

24. In 2014 the Agency had to restructure its IT Division due to some exceptional circumstances. After the reorganisation, the productivity was significantly recovered and enhanced. Organisational changes took place in the administration division, following retirement and departure of senior staff, with the objective to streamline the reporting chain, the specialisation and the efficiency of the various departments and services involved, and to align the organisation to the requirements of the financial regulation on programming. The Agency considers that no instability was suffered by the Agency due to organisational changes.

The HR Strategy of 2017 to 2020 sets out objectives for a more structured and systematic approach in relation to skills assessment, including the introduction of a tool to improve the efficiency in skills and competency mapping for gap-analysis and as a support for its recruitment activities. The implementation for the first phase is underway.

25. The Agency takes the note of the comment.

26. The Agency takes the note of the comment.

27. The Agency takes the note of the comment.

28. The Agency takes the note of the comment.

29. The Agency wishes to reiterate that, although EMA does not have a documented policy governing the use of consultants, in IT the practice since 2016 has been to employ staff for sensitive profiles (e.g. project manager) or to use consultants for such profiles when they are closely supervised by senior staff of the same profile. The EMA will document this policy.

30. Project management methodologies were in place from the initiation of all projects but significant new tasks were assigned to the Agency without a corresponding increase in resources that would have allowed the building-up of the necessary know-how and capacity in the areas of IT and business development. During the period since these projects were launched the Agency has undertaken a fundamental review and reorganisation of both IT governance and project management methodology. The Agency has now worked under the gated methodology for more than three years and continuously improves it.

31. The changes in planned activities were always the subject of detailed internal discussions and agreement at established governance bodies such as the EU Portal and Database Project Board and Clinical Trials Programme Board. Furthermore, a regular programme and project reporting was in place allowing oversight of proposed changes in approach. In a number of cases the Executive Board made agreements in principle, before the individual boards could then process the agreed steps.

32. Before mid-2016, EMA was limited by existing IT framework contracts which did not allow for extensive use of fixed-price contracts. The Agency took a carefully considered decision to use external contractors to leverage on established contractor's offsite teams (as opposed to recruiting individual contractors on-site). Monitoring on-site was undertaken by staff (project managers, technical managers). Monitoring off-site in another Member State was undertaken by establishing remote monitoring using shared workspace and remote meetings and sending staff off-site when necessary. Going forward: since mid-2016 onwards, a new framework contract has been signed allowing for significantly more extensive use of fixed-price contracting. Since mid-2016 all large IT projects have been delivered with fixed-price contracts.

33. As recognised by the Court, changes in project scope, budget and deadlines were due mainly to evolving system requirements taking into account evolving needs of Member States. These are large, complex systems required to serve the business operational requirements, and enable the legal obligations, of marketing authorisation holders, clinical trial sponsors and Member States and not only, or at all, the operational activities of the Agency itself.

34. The Commission is currently preparing the next evaluation to be conducted in the period 2017-2018. It should also be noted that, taking into consideration the specificities of the Agency, there are also reporting and auditing requirements on the operation of specific pieces of legislation (e.g. paediatric, pharmacovigilance, advanced therapy medicinal products regulations) implemented by the Agency. These supplement the evaluation work referred to above.

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## REPORT

**on the annual accounts of the European Monitoring Centre for Drugs and Drug Addiction for the financial year 2016, together with the Centre's reply**

(2017/C 417/23)

## INTRODUCTION

1. The European Monitoring Centre for Drugs and Drug Addiction (hereinafter 'the Centre', aka 'EMCDDA'), which is located in Lisbon, was created by Council Regulation (EEC) No 302/93 <sup>(1)</sup>. Its main task is to collect, analyse and disseminate information as regards drugs and drug addiction in order to prepare and publish information at European level that is objective, reliable and comparable. The information is intended to provide a basis for analysing the demand for drugs and ways of reducing it, as well as, in general, phenomena associated with the drug market.

2. The *Table* presents key figures for the Centre <sup>(2)</sup>.

*Table*

**Key figures for the Centre**

	2015	2016
Budget (million euro) <sup>(1)</sup>	18,5	15,4
Total staff as at 31 December <sup>(2)</sup>	100	101

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Centre.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Centre's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Centre which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 36, 12.2.1993, p. 1. This Regulation and its amendments were repealed by Regulation (EC) No 1920/2006 of the European Parliament and of the Council (OJ L 376, 27.12.2006, p. 1).

<sup>(2)</sup> More information on the Centre's competences and activities is available on its website: [www.emcdda.europa.eu](http://www.emcdda.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Centre for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Centre at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Centre's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Centre's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Centre's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Centre are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Centre's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Centre accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Centre's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

17. For two framework contracts with maximum values of 135 000 euro and 650 000 euro one of the Centre's employees acted as Authorising Officer by delegation when appointing the evaluation committee, taking the award decisions and signing the contracts. However, the delegation granted by the Authorising Officer was limited to 130 000 euro and did not explicitly refer to framework contracts. Payments made in 2016 amounted to 35 310 euro.

#### COMMENTS ON INTERNAL CONTROL

18. In its audit report of January 2016, the Commission's Internal Audit Service (IAS) highlighted a strong need to improve the Centre's management of IT projects. The IAS concluded in particular that there is no overarching long-term strategic vision for the IT systems supporting the Centre's core operational processes, that its IT project management methodology was only partially adapted to its needs and that the process to manage system requirements is inadequate. The Centre and the IAS agreed on a plan to take corrective action.

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).



**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

19. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 October 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	In 2012 the Centre signed a framework contract with a maximum amount for signing specific contracts of 250 000 euro, which was specified in the contract notice. However, the Centre did not respect this ceiling. By the end of 2015 the total payments made under this contract amounted to 382 181 euro; i.e. exceeded it by 50 %. The payments made above the ceiling indicate that the Centre's procedure for monitoring framework contracts should be improved.	Ongoing

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**THE MONITORING CENTRE'S REPLY**

20. In accordance with the relevant rules, the maximum values of the two framework contracts just indicated the total cumulative amount of the specific contracts likely to be concluded for their execution.

That being said, the EMCDDA will adjust its decision on the delegation of the Authorising Officer's powers in order to set out more explicitly the acts covered by this delegation.

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## REPORT

**on the annual accounts of the European Maritime Safety Agency for the financial year 2016, together  
with the Agency's reply**

(2017/C 417/24)

## INTRODUCTION

1. The European Maritime Safety Agency (hereinafter 'the Agency', aka 'EMSA'), which is located in Lisbon, was set up by Regulation (EC) No 1406/2002 of the European Parliament and of the Council <sup>(1)</sup>. The Agency's tasks are to ensure a high level of maritime safety and to prevent pollution by ships, provide the Commission and the Member States with technical assistance, and monitor the implementation of Union legislation, as well as to evaluate its effectiveness.

2. The *Table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro) <sup>(1)</sup>	64,8	71,1
Total staff as at 31 December <sup>(2)</sup>	246	246

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 208, 5.8.2002, p. 1.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.emsa.europa.eu](http://www.emsa.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON INTERNAL CONTROLS

17. In 2014 the Agency concluded a framework contract amounting to 3,5 million euro for the purchase of IT-related goods and services over a 6-year period. The Agency underestimated the needs and likely contract value, leading to an 80 % consumption of the contract at the end of 2016. A new procurement procedure has to be launched 4 years earlier than expected, resulting in additional administrative costs.

18. In 2016 the Agency concluded seven framework contracts for the purchase of oil pollution response systems. Each framework contract (representing a lot in the procurement procedure) covered a specific type of equipment. The procurement procedure was launched under the assumption that the total value of the seven frameworks contracts would be 7 million euro. However, this assumption underestimated the Agency's needs and seven framework contracts for an amount of 7 million euro each were signed, leading to a total value of the contracts of 49 million euro.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 October 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**THE AGENCY'S REPLY**

18. Defining the needs related to this contract was particularly challenging as at the time of the procurement the negotiations on the Delegation Agreement for Copernicus were still ongoing and, more importantly, it was not clear if and to which extent IT costs would be eligible under this agreement, mainly because of the issue how to deal with Copernicus specific needs in a hybrid and combined IT environment at EMSA. The fact that Copernicus would consume a substantial part of the above mentioned framework contract could not be foreseen at the time the contract was concluded.

19. It was originally foreseen to launch a six-lot procurement procedure with an overall estimated budget of 7 million euro excluding VAT. However, in the period between the initial estimation of the needs and the actual launch of the tender the forecasted needs evolved and as a result the tender was launched with a different number of lots and different budget ceiling per lot.

The whole package of tender documentation (Tender Specifications, Draft Contract, Contract Notice, Report to the Authorising Officer, Award Decision and Contract Award Notice) was adapted accordingly and published in a coherent way indicating 7 million euro per Lot.

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## REPORT

**on the annual accounts of the European Union Agency for Network and Information Security for the financial year 2016, together with the Agency's reply**

(2017/C 417/25)

## INTRODUCTION

1. The European Union Agency for Network and Information Security (hereinafter 'the Agency', aka 'ENISA'), which is located in Athens and Heraklion <sup>(1)</sup>, was created by Regulation (EC) No 460/2004 of the European Parliament and of the Council <sup>(2)</sup> which, following different amendments, was superseded by Regulation (EU) No 526/2013 <sup>(3)</sup>. The Agency's main task is to enhance the Union's capability to prevent and respond to network and information security problems by building on national and Union efforts.

2. The *table* presents key figures for the Agency <sup>(4)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	10	11
Total staff as at 31 December <sup>(1)</sup>	69	69

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

*Source:* data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(5)</sup> and the reports on the implementation of the budget <sup>(6)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> The Agency's operational staff was relocated to Athens in March 2013.

<sup>(2)</sup> OJ L 77, 13.3.2004, p. 1.

<sup>(3)</sup> OJ L 165, 18.6.2013, p. 41.

<sup>(4)</sup> More information on the Agency's competences and activities is available on its website: [www.enisa.europa.eu](http://www.enisa.europa.eu)

<sup>(5)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(6)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.



**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(7)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON BUDGETARY MANAGEMENT

17. Commitment appropriations carried over are high for Title II (administrative expenditure) with 0,3 million euro, i.e. 25 % (2015: 0,15 million euro, i.e. 22 %) of committed appropriations. This high level mainly results from transfers made from Title I (staff expenditure) and Title III (operational expenditure) and primarily relate to investments in IT and a service car near year-end.

#### COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE

18. As required by the Agency's Financial Regulation, external evaluations of ENISA's performance were prepared for 2014 and 2015, with the final reports being delivered in October 2015 and May 2016, respectively. The evaluation of 2014 concluded that the core operational activities carried out under the Work Programme 2014 have a clear connection to the legal mandate of ENISA and the Agency's effectiveness was assessed as good. However, it identified room for improvement in relation to the division of the Agency between Heraklion and Athens which leads to cumbersome work processes and a lack of communication and cooperation. The 2015 evaluation concluded that ENISA's work and outputs are responding to a need for network information security across the EU and within Member States and that the Agency effectively meets its stakeholders' expectations. However, the report highlighted that there is a need for improving communication between ENISA and its stakeholders, who find ENISA's mandate and outreach too limited. The Agency is implementing an action plan agreed with the Management Board in response.

19. In 2016, the Agency moved eight additional staff to Athens, reducing the number of staff in Heraklion to 14. As highlighted in the Court's 2013 Report, it is likely that costs could be further reduced if all staff were centralised in one location.

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<sup>(7)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

20. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2015	Carry-overs of committed appropriations are high for Title II (administrative expenditure) at 0,15 million euro, i.e. 22 % (2014: 0,6 million euro, i.e. 49 %). These carry-overs relate to investments in IT infrastructure that was ordered as planned near the end of the year.	N/A
2015	In 2016 the Agency plans to relocate some administrative staff from Heraklion to Athens while its basic Regulation provides that staff primarily engaged in the administration of the Agency should be based in Heraklion.	Ongoing

### THE AGENCY'S REPLY

17. ENISA have identified a stakeholder's map and defined priorities. At the same time, ENISA is implementing a stakeholders relationship management (SRM) software that is intended to support the alignment of the stakeholders needs and expectations thereby enhancing an effective communication strategy.

The carry-over is therefore justified and related to the procurement of the SRM software which was finalised in December 2016 as well as the procurement for the Agency's service car.

18. In order to increase efficiency, the Agency has improved its videoconference facilities and uses a software called 'Paperless' that allows the Agency to deal with the daily business in a more effective way (this is a complete 'paperless' electronic workflow software). Both of these measures resulted in improved communication inside the Agency.

Regarding ENISA and its external relations, the Agency has discussed with its host country authorities the possibility to relocate fully the Agency's staff into its Athens' office.

Moreover, the Agency's Management Board and Management are discussing the future of the Agency and the best way to reach the Agency's stakeholders as well as the way to enhance the outreach of the Agency within the available human and financial resources. The communications team was integrated into a new department, called the Stakeholders Relations and Administration with the objective of internal and external efficiency. Strategic and operational plans are continuously evaluated to best serve EU with cybersecurity information and the required awareness. And as explained in point 17, ENISA invested in a SRM tool.

19. Seven staff members in 2016 and two in 2017, requested to move to Athens office, due to the constraints of the Heraklion location. The total staff expected to be in Heraklion at the end of 2017 are eight.

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## REPORT

**on the annual accounts of the European Union Agency for Railways for the financial year 2016,  
together with the Agency's reply**

(2017/C 417/26)

## INTRODUCTION

1. The European Union Agency for Railways (hereinafter 'the Agency', aka 'ERA'), which is located in Lille and Valenciennes, was created by Regulation (EC) No 881/2004 of the European Parliament and of the Council, which was replaced by Regulation (EU) 2016/796 of the European Parliament and of the Council <sup>(1)</sup>. The Agency's task is to enhance the level of interoperability of railway systems and to develop a common approach to safety in order to contribute to creating a more competitive European railway sector with a high level of safety.

2. The *table* below presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	26,3	27,5
Total staff as at 31 December <sup>(1)</sup>	157	155

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 220, 21.6.2004, p. 3, and OJ L 138, 26.5.2016, p. 1. In accordance with the latter Regulation, the Agency's original name, the European Railway Agency, was changed to the European Union Agency for Railways.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.era.europa.eu](http://www.era.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

16. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).



## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2013	According to the Agency's founding regulation <sup>(1)</sup> , staff shall consist of: <ul style="list-style-type: none"> <li>— temporary employees recruited by the Agency for a maximum of five years from among professionals from the railways sector on the basis of their qualifications and experience in the field of railway safety and interoperability,</li> <li>— officials assigned or seconded by the Commission or Member States for a maximum of five years, and</li> <li>— other servants to carry out implementing or secretarial tasks.</li> </ul>	Completed <sup>(2)</sup>
	At the end of 2013, 136 temporary employees were working for the Agency. The founding regulation also stipulates that during the first 10 years of the Agency's operations, the five-year period for them may be extended by up to a maximum of a further three years when required to guarantee business continuity. The Agency used this option as standard practice until mid-2013. Furthermore, in the period from September 2013 to March 2014, the Agency re-employed four temporary employees (for an eight-year period) whose contracts with ERA had ended in 2013 after the maximum eight-year period.	
	In 2013 the Agency adopted a new decision in agreement with its Administrative Board and the Commission, according to which temporary employees can have indefinite contracts. The proposal for a revised founding regulation for ERA includes similar provisions but it is unclear if and when this will be adopted by Parliament and Council.	
2013	The Agency is located in Lille and Valenciennes. As the Court mentioned in its Specific Annual Report for the financial year 2006, it is likely that costs could be reduced if all operations were centralised in one location. This might also facilitate a comprehensive seat agreement with the host Member State thereby clarifying the conditions under which the Agency and its staff operate.	Ongoing

<sup>(1)</sup> Article 24(3) of Regulation (EC) No 881/2004, of the European Parliament and of the Council (OJ L 164, 30.4.2004, p. 1).

<sup>(2)</sup> Regulation (EU) 2016/796 of the European Parliament and of the Council (OJ L 138, 26.5.2016, p. 1), replacing Regulation (EC) No 881/2004, addressed the Court's observation concerning the staffing arrangements of the Agency.

**THE AGENCY'S REPLY**

The Agency has taken note of the Court's report.

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## REPORT

**on the annual accounts of the European Research Council Executive Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/27)

## INTRODUCTION

1. The European Research Council Executive Agency (hereinafter 'the Agency', aka 'ERCEA'), which is located in Brussels, was created by Commission Decision 2008/37/EC <sup>(1)</sup>. The Agency was established for a period beginning on 1 January 2008 and ending on 31 December 2017 with the aim of managing the 'Ideas' specific programme under the 7th Framework Programme for Research. As per Council Decision 2013/743/EU <sup>(2)</sup> the Agency became the dedicated implementation structure responsible for the administrative implementation and programme execution of the Horizon 2020 research programme and implements the actions under the programme's part I 'Excellent science' which relate to the specific objective of strengthening frontier research, through the activities of the European Research Council (ERC).

2. The *table* presents key figures for the Agency <sup>(3)</sup>.

*Table*

**Key figures for the Agency**

	<b>2015</b>	<b>2016</b>
Budget (million euro)	39,6	42,6
Total staff as at 31 December <sup>(1)</sup>	417	461

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 9, 12.1.2008, p. 15.

<sup>(2)</sup> OJ L 347, 20.12.2013, p. 965.

<sup>(3)</sup> More information on the Agency's competences and activities is available on its website: [www.erc.europa.eu](http://www.erc.europa.eu)

<sup>(4)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(5)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON INTERNAL CONTROLS

16. Opening and evaluation committee reports prepared by the Agency's public procurement and recruitment committees do not present a full and accurate record of the actual followed procedures. The inadequate reports compromise the transparency of these procedures.

17. In its audit report dated September 2016, the Commission's Internal Audit Service (IAS) concluded that the Agency has taken a number of strategic and operational measures to enhance the process for the recruitment, retention and allocation of its staff. The IAS concluded in this context that the Agency has designed and implemented an adequate HR management process to deploy a competent and engaged workforce to ensure the achievement of its objectives. While no critical or very important issues were identified, the Agency and IAS agreed on an action plan to further improve this process in certain areas.

#### COMMENTS ON BUDGETARY MANAGEMENT

18. The level of committed appropriations carried over was still high for Title III (operational expenditure) at 1,3 million euro, i.e. 40 % (2015: 1,5 million euro, i.e. 43 %), mainly in relation to external audits and communication, going beyond the year-end. The high level of carry-overs is in contradiction with the budgetary principle of annuality.

#### FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

19. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	Carry-overs of committed appropriations for Title III (operational expenditure) were high at 1 457 920 euro, i.e. 43,14 % (2014: 1 126 275 euro, i.e. 38,50 %). They mainly relate to the multiannual nature of IT contracts (504 473 euro) and the <i>ex post</i> audits of grant schemes (687 522,50 euro) that were initiated in 2015 but had not been concluded by the year-end.	N/A

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**THE AGENCY'S REPLY**

16. While considering paying attention in future to the clarity of its opening record (for public procurement) and recruitment reports' wording, the ERCEA still considers the Court's conclusion on the transparency of these procedures as disproportionate in the light of the reported facts' seriousness and of their occurrence observed.

17. The ERCEA action plan related to the IAS Audit on HR Management is currently being implemented.

18. The ERCEA takes note of the Court's comment and considers that it does not give rise to corrective actions, as the 'carry-overs of committed appropriations for Title III' are justified based on the nature and timing of the underlying economic transactions. The ERCEA also observes that the carry-overs of committed appropriations has decreased in 2016 compared to 2015, from 43,1 % to 40,1 %.

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## REPORT

**on the annual accounts of the European Securities and Markets Authority for the financial year 2016,  
together with the Authority's reply**

(2017/C 417/28)

## INTRODUCTION

1. The European Securities and Markets Authority (hereinafter 'the Authority', aka 'ESMA'), which is located in Paris, was established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council <sup>(1)</sup>. The Authority's task is to improve the functioning of the EU internal financial market by ensuring a high, effective and consistent level of regulation and supervision, promoting the integrity and stability of the financial systems and strengthening international supervisory coordination in order to ensure the stability and effectiveness of the financial system.

2. The *table* presents key figures for the Authority <sup>(2)</sup>.

*Table*

**Key figures for the Authority**

	2015	2016
Budget (million euro) <sup>(1)</sup>	36,8	39,4
Total staff as at 31 December <sup>(2)</sup>	202	204

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Authority.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Authority which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 331, 15.12.2010, p. 84.

<sup>(2)</sup> More information on the Authority's competences and activities is available on its website: [www.esma.europa.eu](http://www.esma.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.



**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Authority for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Authority at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Authority's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Authority's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Authority are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Authority's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Authority accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Authority's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

#### **Other matter**

16. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. The Authority's budget is financed by 26 % from European Union funds, by 47 % through direct contributions from EU Member States and by 27 % from and fees received from supervised entities (credit-rating agencies and trade repositories). The departure of the UK might affect the Authority's activities since the most significant supervised entities are currently located there. A future decrease of the Authority's revenue resulting from the UK's decision to leave the EU is possible.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

17. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2011	Weaknesses were noted as regards six legal commitments made in advance of budget commitments (483 845 euro).	Completed
2012	During its second year of activity, the Authority took an important step with the adoption and implementation of the baseline requirements for all internal control standards. However, full implementation of the standards has not been achieved.	Completed
2012	There is considerable room to improve the timeliness and documentation of procurement procedures.	Completed
2014	The amount of fees charged to supervised entities (credit-rating agencies and trade repositories) in 2014 (6 623 000 euro) appearing as revenue in the final statement of financial performance was based on estimated rather than actual costs of supervisory activities carried out. Fees levied on supervised entities should be as close as possible to the actual cost incurred in this area. An activity-based cost modelling exercise is currently being carried out by ESMA in order to achieve this.	Completed
2015	The level of committed appropriations carried over was high for Title II (administrative expenditure) at 2,2 million euro, i.e. 26 % (2014: 1,4 million euro, i.e. 19 %). These carry-overs mainly relate to IT projects for which services had not yet been delivered or invoices will only be received in 2016.	N/A
2015	The level of committed appropriations carried over was also high for Title III (operational expenditure) at 2,3 million euro, i.e. 33 % (2014: 4,1 million euro, i.e. 45 %). These carry-overs mainly relate to IT projects for which services had not yet been delivered or invoices will only be received in 2016 (1,7 million euro) as well as mission expenses that will only be reimbursed in 2016 (0,1 million euro).	N/A

**THE AUTHORITY'S REPLY**

The Authority has taken note of the Court's report.

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## REPORT

**on the annual accounts of the European Training Foundation for the financial year 2016, together  
with the Foundation's reply**

(2017/C 417/29)

## INTRODUCTION

1. The European Training Foundation (hereinafter 'the Foundation', aka 'ETF'), which is located in Turin, was established by Council Regulation (EEC) No 1360/90 <sup>(1)</sup> (recast (EC) No 1339/2008). The Foundation's task is to support the reform of vocational training in the European Union's partner countries. To do this, it assists the Commission in the implementation of various vocational training programmes.

2. the *table* presents key figures for the Foundation <sup>(2)</sup>.

*Table*

**Key figures for the Foundation**

	2015	2016
Budget (million euro)	21	21
Total staff as at 31 December <sup>(1)</sup>	129	130

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Foundation.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Foundation's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Foundation which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 131, 23.5.1990, p. 1.

<sup>(2)</sup> More information on the Foundation's competences and activities is available on its website: [www.etf.europa.eu](http://www.etf.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Foundation for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Foundation at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Foundation's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Foundation's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Foundation's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Foundation are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Foundation's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Foundation accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Foundation's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON SOUND FINANCIAL MANAGEMENT AND PERFORMANCE

17. In 2016 an external evaluation of the Foundation was carried out on behalf of the Commission. This was the first step in a cross-cutting evaluation of the four agencies working in the area of employment, social affairs and inclusion <sup>(2)</sup>. The evaluation concluded that the considerable re-organisation of the ETF since 2011 had no significant negative effects and has been viewed mainly positively by internal and external stakeholders, especially in terms of strategy and effectiveness. Governance of the ETF was viewed as efficient and effective. The evaluation also highlights that the ETF has continued to enhance its monitoring capacity since 2011 but that there is still scope to present a clearer picture of its activities and achievements. Unifying and simplifying indicators around one single intervention logic and using a common terminology across the organisation would help to improve the situation. The Foundation prepared a plan to implement the evaluators' recommendations.

#### OTHER COMMENTS

18. In its Report on the annual accounts of the Foundation for the year 2011 the Court highlighted already that the situation regarding the Foundation's premises is unsatisfactory and puts activities at risk of disruption. The situation remains at a standstill since the Consortium that managed and occupied part of the complex went into liquidation in 2011 and left part of the complex empty. There is an urgent need for the host country to find a solution to this matter. Under the host agreement, appropriate facilities are guaranteed until 2027.

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

<sup>(2)</sup> The other Agencies which will be covered are the European Foundation for Living and Working Conditions (Dublin), the European Agency for Safety and Health at Work (Bilbao) and the European Centre for the Development of Vocational Training (Thessaloniki).

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

19. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2013	At the end of 2013, the Foundation had 7,5 million euro in accounts at a single bank with a low credit rating (F3, BBB) <sup>(1)</sup> .	Completed

<sup>(1)</sup> Amount reduced to 1,8 million euro.

**THE FOUNDATION'S REPLY**

The Foundation has taken note of the Court's report.

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## REPORT

**on the annual accounts of the European Union Intellectual Property Office for the financial year 2016, together with the Office's reply**

(2017/C 417/30)

## INTRODUCTION

1. The European Union Intellectual Property Office (hereinafter 'the Office', aka 'EUIPO'), known as Office for Harmonization in the Internal Market ('OHIM') until 23 March 2016, was established by Regulation (EC) No 207/2009 <sup>(1)</sup>, last amended by Regulation (EU) 2015/2424 <sup>(2)</sup>. The core business of the Office, which is located in Alicante, is the registration of EU trademarks and registered Community designs, which are valid throughout the EU.

2. The *table* presents key figures for the Office <sup>(3)</sup>.

*Table*

**Key figures for the office**

	2015	2016
Budget (million euro) <sup>(1)</sup>	384,2	421,3
Total staff as at 31 December	848	910

<sup>(1)</sup> Budget figure includes the reserve for unforeseen events.

Source: data provided by the Office.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Office which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 78, 24.3.2009, p. 1.

<sup>(2)</sup> OJ L 341, 24.12.2015, p. 21.

<sup>(3)</sup> More information on the Office's competences and activities is available on its website: <https://euipo.europa.eu>

<sup>(4)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(5)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

***Reliability of the accounts****Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Office for the year ended 31 December 2016 present fairly, in all material respects, the financial position of Office at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

***Legality and regularity of the transactions underlying the accounts*****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

***Responsibilities of management and those charged with governance***

8. In accordance with Articles 310 to 325 of the TFEU and the Office's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Office's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Office's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

***Auditor's responsibilities for the audit of the accounts and underlying transactions***

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Office are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we assess the Office's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Office accepts the justification by clearing the advance payment, whether in the same year or later.

#### **Other matter**

15. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. The Office's budget is fully financed by fees from economic actors operating in the EU. The amount of fees fluctuates every year depending on the volume of registrations and renewals of trademarks and designs. A future decrease of the Office's revenue resulting from the UK's decision to leave the EU is possible.

16. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

17. The Office's budget implementation rate was low at 89 % which indicates an imprecise estimation of its expenditure in the 2016 budget. The preciseness of the Office's budget, where necessary through an amendment, has become more important following the recent changes in its founding and financial Regulations specifying mechanisms such as the allocation of surpluses to a reserve fund <sup>(1)</sup> and the related offsetting mechanism <sup>(2)</sup> which are connected with the budgeted amounts.

#### **COMMENTS ON SOUND FINANCIAL MANAGEMENT AND PERFORMANCE**

18. In 2014, the Office launched a call for tender to conclude a four-year framework contract (FWC) with an estimated market volume of 30 million euro to procure consultancy services covering a broad range of activities comprising audit services, project management, general consultancy and studies. However the procurement procedure and the subsequent use of the FWC were not properly managed in parts. The objectives and activities to be carried out had not been sufficiently specified to precisely estimate the volume of the FWC. As a consequence, it was fully used within only two years and six months already. Moreover, despite the broad diversity of services to be procured and the largely varying levels of expenditure per activity, no lots had been used. Their use could have encouraged participation of smaller companies for low-value activities. Finally, competition on price was neutralised and dependence upon the contractor was increased as a consequence of requesting fixed-price offers from a single contractor using the FWC. The Office should consider concluding agreements with multiple suppliers with reopening of competition whenever appropriate.

<sup>(1)</sup> Article 89(1) of the Office's financial regulation provides that it shall establish a reserve fund having sufficient funds to ensure the continuity of its operations and the execution of its tasks for one year, that is, the equivalent of the estimated appropriations foreseen in Titles 1, 2 and 3 of the Office's budget.

<sup>(2)</sup> Articles 139(4) and (6) of the Office's founding regulation provide that every year it shall offset the costs incurred by the industrial property offices of the Member States, by the Benelux Office for Intellectual Property and by any other relevant authority to be nominated by a Member State as the result of the specific tasks which they carry out as functional parts of the European Union trade mark system in the context of various services and procedures, whereby this obligation shall only apply to the extent that no budgetary deficit occurs in that year.

**OTHER COMMENTS**

19. The Office's mandate of registering trademark and designs for the European single market produces a large volume of translation work. The Office's founding Regulation establishes that the translation services required for the functioning of the Office shall be provided by the Translation Centre for the Bodies of the European Union ('CdT'), resulting in the Office being CdT's main client. The Office makes increasing use of in-house solutions such as linguistic and translation memories and related software. These tools aim to improve the Office's own cost-effectiveness and efficiency. However, from a European Union perspective the current situation may result in a duplication of effort and related costs.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

20. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2013	The Office has a Business Continuity and Crisis Management Plan in place which stipulates that some 25 roles have to be covered permanently by employees on stand-by duty. Although budget appropriations for stand-by duty allowances are approved annually by the Office's Budget Committee, the amount paid in 2013 (402 458 euro) considerably exceeds such allowances paid by other agencies which need to ensure permanent service.	Completed
2014	In its 2013 Report on the annual accounts of the Office the Court questioned the amount spent on stand-by allowances (0,40 million euro). Such payments were higher in 2014 (0,44 million euro). In November 2014 the Office revised its policy and reduced the number of roles entitled to stand-by duty allowances from 25 to 17, the financial effect of which will be seen from 2015 <sup>(1)</sup> . Nine staff members received more than 11 000 euro each in stand-by allowances, seven of whom are managers.	Completed
2015	The level of committed appropriations carried over to 2016 was high for Title III at 12,9 million euro, i.e. 36 % (2014: 14,1 million euro, i.e. 38 %). The carry-overs mainly relate to cooperation agreements with National Offices which submit cost claims only after year-end.	N/A
2015	The procurement of services based on a negotiated procedure without publication of a contract notice limits competition to a single negotiating party and should therefore only be used in exceptional circumstances. The Office, following this procedure, in 2015 extended six framework contracts with a value of extended services of 1,9 million euro (in 2014: 12 framework contracts with a value of extended services of 12,6 million euro) <sup>(2)</sup> . The Office's use of this procedure cannot be considered as 'exceptional' given the number, value and frequency of such contracts and did not fully comply with the formal requirements <sup>(3)</sup> .	Completed
2015	The Office reimburses part or all of the gross salary of seconded national experts ('SNEs') to their employers. This deviates from the Commission's practice that SNEs' employers continue to pay their salaries. In 2015, these reimbursements amounted to 1,9 million euro.	Completed

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	As at 31 December 2015, nine OHIM staff members were seconded in the interest of the service to the OHIM Board of Appeal. However the EU Staff Regulations do not provide for such secondments <sup>(4)</sup> .	Completed <sup>(5)</sup>

<sup>(1)</sup> In 2015 the Office paid 285 242 euro for stand-by duty allowances and 13 roles were entitled to it.

<sup>(2)</sup> Framework contracts extended based on Article 134(1)(f) of Commission Delegated Regulation (EU) No 1268/2012 (OJ L 362, 31.12.2012, p. 1).

<sup>(3)</sup> As stipulated in Article 134(3) of Delegated Regulation (EU) No 1268/2012.

<sup>(4)</sup> Article 37(a) of Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385/62).

<sup>(5)</sup> In 2016 the Office has taken further measures to ensure the Board's independence from the Office.



## THE OFFICE'S REPLY

17. The Office agrees that the preciseness of the Office budget has become more important following the recent changes in its founding and financial Regulations specifying mechanisms such as the allocation of surpluses to a reserve fund, the threshold of the EU Cooperation activities and the off-setting mechanism, as they are connected with the budgeted amounts. For this reason, the Office will put special focus on elaborating more accurate budgets in the future and, where necessary, through amended budgets to be presented to the Governing bodies of the Office at a convenient moment which preserves the forecasting nature of the budget.

18. The Office takes good note of the comments of the Court.

The initial estimation of the volume of the FWC was difficult to calculate at the time of tendering due to the fact that the specification of the objectives and activities to cover the last two years of the contract were directly linked to the Strategic Plan 2020 <sup>(1)</sup> (SP2020) which had not yet been detailed or even developed at that time. However, it should be noted that this was rectified in the following FWC where the volume estimates correspond to a detailed list of underlying activities.

As for the possible use of lots, the Office will consider it, for future tendering of this nature.

With regard to the Court's observation on the issue of neutralised competition on price and the increased dependence on the contractor as a consequence of requesting fixed-price offers from a single contractor, it should be noted that only 50 % of specific contracts signed under this FWC are fixed-price. In this context, the Office had set up a dedicated team specialised in contract management office-wide and had established a framework for vendor management which allows it to evaluate the correctness of the fixed-price offer and, the case arising, to revert to another contract mechanism such as to 'Quoted Times & Means' or, as a last resort, to 'Times & Means'. Moreover, the re-opening of competition mechanism implies more administrative costs and proves to be more time-consuming than other solutions.

Furthermore, for consequent FWCs the Office is using a mixed multiple framework contract, partially cascade, partially re-opening for the services of this nature.

19. Whereas the basic acts of both the CdT and the EUIPO only lay down that the CdT provides the translation services necessary for the functioning of the Office, the EUIPO has been counting on the CdT services not only for all those necessary translations but also for a number of additional tasks, including editing and terminology work. However, just like any other European agency or body, the Office is bound by the principle of sound financial management and considers that paying for translations already requested and paid for in the past does not accord with this principle.

As pointed out by the Court of Auditors, the EUIPO remains the main client of the CdT contributing to more than half of the revenue in 2016, even though the Office is making use of IP translation memories <sup>(2)</sup>, which results from records of past IP translations from over the past 20 years. In 2016, 96 % of the terms needed for IP translations could be retrieved from those records. The 4 % necessary IP translations which required translation by the CdT have cost the Office 15,5 million euro.

In accordance with its mission, the EUIPO has always sought to provide IP users with the best quality at the lowest price possible in order to support EU business. In this regard the Office has reduced trade mark fees by over 50 %, clearly benefitting our users, in particular the SMEs. The savings related to the above practice played a part in this significant reduction.

With regards to the concern expressed by the Court of Auditors with respect to the possible duplication of efforts and related costs at the European Union level, the Office considers that the maintenance and reuse of EUIPO's available records does not constitute a major effort or cost. The Office is continuously reflecting on ways to guarantee value for money within the existing legal framework.

The CdT is a key partner in fulfilling the mission of the Office and, in view of the progress in the area of automated translations, the Office thinks it is of key importance that actions are taken together in the mutual strategic interest for the near and foreseeable future in order to reach a modern and sustainable business model that benefits all parties involved fairly.

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<sup>(1)</sup> The SP2020 refers to a multiannual work programme covering activities and projects for the period 2016-2020.

<sup>(2)</sup> The translation memories refers to reusing available translations and is referred to as 'pre-translation' in the facts.

## REPORT

**on the annual accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2016, together with the Agency's reply**

(2017/C 417/31)

## INTRODUCTION

1. The European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), hereinafter 'the Agency', which is located in Tallinn, Strasbourg and St. Johann im Pongau, was established by Regulation (EC) No 1077/2011 of the European Parliament and of the Council <sup>(1)</sup>. The core mission of this Agency is to fulfil the operational management tasks for the Second Generation Schengen Information System (SIS II), the Visa Information System (VIS) and the European System for the comparison of fingerprints (Eurodac).

2. The *table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro) <sup>(1)</sup>	71,7	82,3
Total staff as at 31 December <sup>(2)</sup>	134	144

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(1)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 286, 1.11.2011, p. 1.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.eulisa.europa.eu](http://www.eulisa.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(1)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

16. The comments which follow do not call the Court's opinion into question.

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

17. In 2016 the Agency received and accepted supplies amounting to 2,8 million euro without having budget and legal commitments (contracts) in place. These were made retroactively in order to regularise the purchases.

#### **COMMENTS ON INTERNAL CONTROLS**

18. In its audit report of July 2016, the Commission's Internal Audit Service (IAS) concluded that the overall design and practical implementation of processes ensures that eu-LISA operates the SIS II, VIS and Eurodac IT systems in a way that allows the continuous and uninterrupted exchange of data between the national authorities using them. Although the IAS did not highlight any very important issues, it considered that there is room for improving the efficiency of the processes in relation to configuration management and change management, release and test management, problem management, as well as service and incident management. The Agency and the IAS agreed on a plan to take corrective actions.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

19. Appropriations carried over under Title II (administrative expenditure) are high with 5 million euro, i.e. 63 % of committed appropriations (2015: 9 million euro, i.e. 50 %). They mainly concern building maintenance and consultancy services to be delivered in 2017. Such high level of carry-overs to cover next year's activities is in contradiction with the budgetary principle of annuality.

#### **COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE**

20. In June 2015, the Agency signed a construction contract for its premises in Strasbourg for an amount of 21,5 million euro. Stage payments were agreed as the main payment method. However, in order to increase budget consumption, the Agency amended the contract in July 2015 to make advance payments the preferred method. By November 2016 the Agency had paid the full contract amount although less than half of the works had been completed.

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

21. In one of its meetings held in 2016 the Commission's representative in the Agency's Management Board addressed the issue of the increasing maintenance costs. While there are several arguments to explain this, such as the continued development and increased functionalities of the systems, the Court identified procurements where the Agency did not check for the most economical solution. For example, the Agency purchased a new software licence for an amount of 4,6 million euro under a framework contract (FWC) without checking that the framework contractor, who acted as an intermediary between the Agency and potential software suppliers, had found the best price.

22. In May 2016 the Agency signed a FWC with a Consortium for 194 million euros for the further development and maintenance of the Visa Information System (VIS) and of the Biometrics Matching System (BMS) for a maximum period of six years. The contract was awarded through a public procurement procedure. One main requirement for tenderers to be accepted was having commercial access to the BMS technology. However, since the company that developed the BMS technology was not contractually obliged to grant commercial access to any interested tenderer, there was a potential risk for the competitiveness of the procedure.

23. An external evaluation of the Agency was carried out on behalf of the Commission from March to December 2015 and results were presented in the final evaluation report in March 2016. The evaluation concluded that the Agency contributes to the operational management of large-scale IT systems in the area of freedom, security and justice and effectively fulfils its tasks. In order to improve operational management further, the evaluators made 64 recommendations, seven of which are considered to be critical and 11 very important. The Agency has prepared a plan to address the recommendations that is under implementation.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

24. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2013	According to the Agency's Founding Regulation, countries associated with the implementation, application and development of the Schengen <i>acquis</i> and Eurodac-related measures must make a contribution to the Agency's budget. Although Schengen associated countries were using the systems managed by the Agency in 2013 the Commission's negotiations were still ongoing.	Ongoing
2014	<p>Emphasis of matter in relation to the reliability of the accounts</p> <p>Without calling into question the opinion expressed in paragraph 8, the Court draws attention to the valuation of the Schengen Information System (SIS II), the Visa Information System (VIS) and Eurodac (systems) in the Agency's accounts. The operational management of these systems is the Agency's core task. In the absence of reliable and complete information in respect of their total development cost, they are recorded in the Agency's accounts at their net book values as per the Commission's books and updated at year-end (approximately 6,6 million euro at date of transfer and 2,1 million euro at 31 December 2014). These values relate mainly to hardware and off-the-shelf software components and do not include software development costs (see note 6.3.1 to the annual accounts of the Agency).</p>	Completed
2015	The Agency signed a two million euro framework contract for the procurement services by a contractor (procurement services), for training, coaching and learning services from third party providers (training services). The contractor identifies suitable training services for any specific request, and provides a quote for the training services plus a fee for its own procurement service (uplift). However, the framework contract fails to specify that the procurement services should be in compliance with the procurement provisions in the Agency's financial rules. Therefore the current process of submitting quotes for approval by the Agency does not ensure that the services are procured in compliance with all requirements of the financial rules.	Outstanding
2015	The call for expression of interest and pre-selection of candidates for participation in a negotiated procedure with an estimated value of 20 million euro took place without a delegation by the authorising officer.	N/A

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The committed appropriations carried over under budget Title II (administrative expenditure) amount to 9 million euro or 50 % of total committed appropriations (2014: 15 million euro; i.e. 87 %). These carry-overs mainly concern a large contract for the extension of the Strasbourg building (4,6 million euro) as well as services provided under multiannual contracts.	N/A
2015	Arrangements with Schengen Associated Countries (Switzerland, Liechtenstein, Iceland and Norway) defining detailed rules for their participation in the work of the Agency, including provisions on voting rights and their contribution to the Agency's budget, have still not been concluded. In their absence, Schengen Associated Countries contribute to Title III (operational expenditure) of the Agency's budget following a provision in the association agreements signed with the EU. However they do not yet contribute to activities under Titles I and II (salaries and other administrative expenditure) of the Agency's budget.	Ongoing
2015	The audited procurement procedures showed that the Agency engaged in contractual agreements or negotiations with a single contractor without precisely defining the services requested. This limits competition and increases dependence upon the contractor. The Agency should conclude agreements with multiple suppliers or define the services required more precisely, whenever possible.	Outstanding

**THE AGENCY'S REPLY**

17. The procedures were chosen in order to deal with urgent operational requirements, also in response to rapidly growing storage needs required by Member States.

18. The Agency takes note of the Court's comment. An action plan to address findings has been agreed between eu-LISA and IAS and is in the process of being implemented.

20. Carry-overs for Title 1 and 2 appropriations are constantly revised and planned with the objective of reducing them over time to the strictly necessary and only when the operation is justified.

As a performance indicator, of the EUR 19 551 594,31 non-differentiated appropriations carried over to 2016 only EUR 474 015,04 were cancelled (2,42 %).

21. The mechanism foreseen for the payment responded to the budgetary constraints to allow full utilisation of the C1 and C2 appropriations within the year n+1 rules governing non-differentiated appropriations.

The pre-financing payments were associated to a matching financial guarantee, released in accordance with progress of work, minimising the risk for the Agency. In addition to the financial guarantees, a 5 % performance guarantee was issued by the contractor. The performance guarantee is specifically linked to the execution of the contractual obligations.

22. As regards the VIS components maintenance extension, it was assessed that the envisaged changes could not be technically or economically separated from the main contract. In this respect, it has to be noted that WCC is the owner of intellectual property rights of Elise search engine. Therefore, any other vendor would be in fact a subcontractor of WCC, thus not in position to provide better value for money. Furthermore, SC 14 did not only concern the permanent of WCC Elise licences, but also their subsequent maintenance; such maintenance could not be attributed to a third-party vendor without compromising the overall responsibility of the MWO contractor for the VIS maintenance.

Furthermore, it is noted that the acquisition of permanent WCC Elise licences resulted in significant savings for the Agency in the long term, estimated at EUR 402 243,22 over a four-year period.

Lastly, it is noted that Article I.19.1 of the FWC special conditions foresees the 'most favoured customer' clause, further protecting the financial interest of the Agency when sourcing hardware or software from the contractor.

23. The Agency acknowledges the potential risk identified by the Court but considers that it did not materialise as no economic operator raised objections about their access to the technology. Therefore we have reasonable assurance that the agreement was respected.

24. The Agency takes note of the Court's comment and confirms that the agreed action plan is under implementation.

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## REPORT

**on the annual accounts of the European Agency for Safety and Health at Work for the financial year 2016, together with the Agency's reply**

(2017/C 417/32)

## INTRODUCTION

1. The European Agency for Safety and Health at Work (hereinafter 'the Agency', aka 'EU-OSHA'), which is located in Bilbao, was created by Council Regulation (EC) No 2062/94 <sup>(1)</sup>. The Agency's task is to collect and disseminate information on national and Union priorities in the field of health and safety at work, to support national and Union organisations involved in policymaking and implementation, and to provide information on preventive measures.

2. The *Table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the AGENCY**

	2015	2016
Budget (million euro)	16,9	16,7
Total staff as at 31 December <sup>(1)</sup>	65	65

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016, and

(b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 216, 20.8.1994, p. 1. The Regulation was last amended by Regulation (EC) No 1112/2005 (OJ L 184, 15.7.2005, p. 5).

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.osha.europa.eu](http://www.osha.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON BUDGETARY MANAGEMENT

17. The level of committed appropriations carried over to 2017 was high for Title II (administrative expenditure) at 417 279 euro, i.e. 30 %, (2015: 364 740 euro, i.e. 26 %). These carry overs mainly concern IT services which had not yet been fully delivered or been invoiced by the end of the year. The committed appropriations carried over under Title III amounted to 3 370 616 euro, i.e. 43 % (2015: 3 383 052 euro, i.e. 41 %). These carry-overs mainly concern research projects and studies with a duration of more than one year. The Agency may consider introducing differentiated budget appropriations to better reflect the multi-annual nature of operations and unavoidable delays between the signature of contracts, deliveries and payments.

#### COMMENTS ON SOUND FINANCIAL MANAGEMENT AND PERFORMANCE

18. In 2014 the Agency signed a framework contract (FWC) for the provision of IT consultancy services in the period 2014 to 2017 for a total amount of 1,1 million euro. Although specific contracts signed in 2016 to implement this FWC clearly define project deliverables, consultants were engaged on a 'time & means' basis where price is not fixed and directly linked to the delivery, but instead results from the number of working days spent. Moreover in 2016 some 50 % of the IT consultancy services were carried out offsite the Agency's premises, limiting the Agency's means to monitor the efficient implementation of the contracts. Payments made under this framework contract in 2016 amounted to some 0,4 million euro.

#### OTHER COMMENTS

19. The Agency's founding Regulation does not explicitly require external evaluations of its activities. The Commission's proposal for a new founding Regulation includes the obligation of performing an evaluation every five years.

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

20. An overview of the corrective actions taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The level of committed appropriations carried over for title II (administrative expenditure) remains high at 364 740 euro, i.e. 26 % (2014: 443 412 euro, i.e. 34 %). These carry overs mainly concern services that are contracted for a period covering two calendar years as well as IT services which had not yet been fully delivered or been invoiced by the end of 2015.	N/A
2015	The level of committed appropriations carried over for title III (operational expenditure) remains high at 3 383 052 euro, i.e. 41 % (2014: 4 277 160 euro, i.e. 42 %). These carry overs mainly concern large scale research projects with a duration of more than one year, as well as a board meeting held in January 2016 which had to be organised in the last quarter of 2015.	N/A

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**THE AGENCY'S REPLY**

18. Regarding the carry-over of 41 % of committed appropriations under Title III, EU-OSHA confirms that these mainly concern research projects and studies with duration of more than one year, resulting in particular from the agency's decision to move progressively to fewer, larger research activities. To a lesser extent the carry-over resulted from delayed procurement involving a re-launch of a procedure and extended evaluation periods, both considered usual situations when procuring services for exploratory research. Concerning the suggestion of introducing differentiated appropriations, the Agency will study this possibility in order to see if the budget management can be improved.

19. The Agency took note of the auditors' comments during their visit and is already applying their advice to its new ICT and consultancy framework contracts by making use of Quoted Times and Means specific contracts when appropriate.

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**REPORT****on the annual accounts of the Euratom Supply Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/33)

**INTRODUCTION**

1. The Euratom Supply Agency (hereinafter 'the Agency'), located in Luxembourg, was created in 1958 <sup>(1)</sup>. Council Decision 2008/114/EC, Euratom <sup>(2)</sup> replaced the preceding Statutes of the Agency. The Agency's main task is to ensure a regular supply of nuclear materials, in particular nuclear fuels, to EU users, by means of a common supply policy based on the principle of equal access to sources of supply.

2. From 2008 up to and including 2011, the Agency did not receive a budget of its own to cover its operations. The Commission bore all costs incurred by the Agency when implementing its activities. As from 2012, the Agency was granted its own budget by the Commission, however this only covers a minor part of its expenditure.

3. The *table* presents key figures for the Agency <sup>(3)</sup>.

*Table***Key figures for the Agency**

	2015	2016
Budget (million euro)	0,1	0,1
Total staff as at 31 December <sup>(1)</sup>	17	17

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

**INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE**

4. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

<sup>(1)</sup> OJ 27, 6.12.1958, p. 534/58.

<sup>(2)</sup> OJ L 41, 15.2.2008, p. 15.

<sup>(3)</sup> More information on the Agency's competences and activities is available on its website: <http://ec.europa.eu/euratom/index.html>

**OPINION**

5. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

***Reliability of the accounts******Opinion on the reliability of the accounts***

6. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

***Legality and regularity of the transactions underlying the accounts*****Revenue*****Opinion on the legality and regularity of revenue underlying the accounts***

7. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments*****Opinion on the legality and regularity of payments underlying the accounts***

8. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

***Responsibilities of management and those charged with governance***

9. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

10. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

11. Those charged with governance are responsible for overseeing the entity's financial reporting process.

<sup>(4)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(5)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.



***Auditor's responsibilities for the audit of the accounts and underlying transactions***

12. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

13. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

14. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

15. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

16. An overview of the corrective actions taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*  
Klaus-Heiner LEHNE  
*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comment	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
<b>2015</b>	The level of carry-overs of committed appropriations is high for Title II with 41 482 euro, i.e. 50,5 % (2014:8 970 euro, i.e. 14,9 %). They mainly relate to the purchase of IT hardware (servers and laptops) ordered in December 2015 and to IT consulting services which go beyond the calendar year.	<b>N/A</b>

**THE AGENCY'S REPLY**

The Agency has taken note of the Court's report.

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## REPORT

**on the annual accounts of the European Foundation for the Improvement of Living and Working Conditions for the financial year 2016, together with the Foundation's reply**

(2017/C 417/34)

## INTRODUCTION

1. The European Foundation for the Improvement of Living and Working Conditions (hereinafter 'the Foundation', aka 'Eurofound'), which is located in Dublin, was established by Council Regulation (EEC) No 1365/75 <sup>(1)</sup>. The Foundation's task is to contribute to the planning and establishment of better living and working conditions in the Union by increasing and disseminating knowledge which is relevant to this subject.

2. The *Table* presents key figures for the Foundation <sup>(2)</sup>.

*Table*

**Key figures for the Foundation**

	2015	2016
Budget (million euro)	21,2	20,8
Total staff as at 31 December <sup>(1)</sup>	111	104

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Foundation.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Foundation's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Foundation which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 139, 30.5.1975, p. 1.

<sup>(2)</sup> More information on the Foundation's competences and activities is available on its website: [www.eurofound.europa.eu](http://www.eurofound.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash-flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Foundation for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Foundation at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Foundation's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Foundation's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Foundation's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Foundation are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Foundation's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Foundation accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Foundation's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

16. The comments which follow do not call the Court's opinion into question.

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

17. In its Report on the annual accounts for 2014, the Court reported underpayments to staff for the period 2005 to 2014 in relation to the transition to the new EU Staff Regulations in 2005. Although the reasons for the underpayments (2014: non-respect of minimum guaranteed salaries; 2015: wrong multiplication factor on salaries) are different, the Court has again found underpayments (43 350 euro) and some overpayments (168 930 euro), affecting 30 active and previous staff members. Eurofound corrected all underpayments, but will not recover the overpayments (this is in line with Article 85 of the current Staff Regulations). The Foundation should analyse again any possible mistakes in relation to the transition to the 2005 Staff Regulations and carry out a full evaluation of its payroll function.

#### **COMMENTS ON INTERNAL CONTROLS**

18. In its audit report dated December 2016, the Commission's Internal Audit Service (IAS) highlighted a need to improve the Foundation's management of projects, mainly in relation to governance arrangements, monitoring and reporting. The Foundation and the IAS agreed on a plan to take corrective action.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

19. The level of committed appropriations carried over increased for Title III (operational expenditure) at 2,8 million euro, i.e. 43 % (2015: 2,1 million euro, i.e. 31 %), mainly in relation to projects (studies and pilot schemes) going beyond the year end. The high level of carry-overs is in contradiction with the budgetary principle of annuality. The Foundation may consider introducing differentiated budget appropriations to better reflect the multi annual nature of operations and unavoidable delays between the signature of contracts, deliveries and payments.

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**OTHER COMMENT**

20. The Foundation's founding regulation does not explicitly require external evaluations of its activities. The Commission's proposal for a new Founding Regulation includes the obligation of performing an evaluation every 5 years.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

21. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comment	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The level of committed appropriations carried over to 2016 was high for Title III (operational expenditure) at 2 135 164 euro, i.e. 31,2 % (2014: 3 814 156 euro, i.e. 53,7 %), mainly in relation to multi-annual projects implemented according to schedule.	N/A



**THE FOUNDATION'S REPLY**

17. A comprehensive internal audit of the payroll function took place in April 2017. Eurofound is currently awaiting the final report and due regard will be given to any recommendations made.

18. Eurofound takes note of the Court's quoting of the latest IAS report. Following previous years' practice with the IAS, Eurofound will implement the agreed action plan in close cooperation and communication with the IAS.

19. As in previous years and with the agreement of the Court, Eurofound distinguishes between planned and unplanned carry-overs. In 2016 the Agency had planned carry-overs of 3,0 million euro (as communicated to the Court) while the actual carry-overs amounted only to 2,8 million euro. The lower-than-planned figure was achieved due to timely project delivery, prompt payments to the contractors in combination with budget reductions in Title III required to balance a shortfall in Title I. While Eurofound still considers the distinction between planned and unplanned carry-overs as useful to better reflect the multi-annual nature of operations, the Foundation is carefully considering introducing differentiated budget appropriations.

20. While Eurofound's Founding Regulation does not require an external evaluation of its activities, each of the four-year work programmes since 2001 have been subject to an external evaluation. The current exercise on the 2013-2016 work programme is in progress.

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## REPORT

### on the annual accounts of the European Union's Judicial Cooperation Unit for the financial year 2016, together with Eurojust's reply

(2017/C 417/35)

#### INTRODUCTION

1. The European Union's Judicial Cooperation Unit (hereinafter 'Eurojust'), which is located in The Hague, was set up by Council Decision 2002/187/JHA <sup>(1)</sup> with a view to reinforcing the fight against serious organised crime. Its objective is to improve the coordination of cross-border investigations and prosecutions between the Member States of the European Union, and between Member States and non-Member States.

2. The *table* presents key figures for Eurojust <sup>(2)</sup>.

Table

Key figures for Eurojust

	2015	2016
Budget (million euro)	33,8	43,5
Total staff as at 31 December <sup>(1)</sup>	246	245

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by Eurojust.

#### INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of Eurojust's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

#### OPINION

4. We have audited:

(a) the accounts of Eurojust which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 63, 6.3.2002, p. 1.

<sup>(2)</sup> More information on Eurojust's competences and activities is available on its website: [www.eurojust.europa.eu](http://www.eurojust.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of Eurojust for the year ended 31 December 2016 present fairly, in all material respects, the financial position of Eurojust at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and Eurojust's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. Eurojust's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing Eurojust's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of Eurojust are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess Eurojust's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and Eurojust accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on Eurojust's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(5)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON BUDGETARY MANAGEMENT

17. Carry-overs of committed appropriations were high for Title II (expenditure for support activities) at 6 446 530 euro, i.e. 40 % (2015: 1,6 million euro or 22 %). They mainly relate to works beyond year-end and purchases ordered in preparation of Eurojust's move to new premises in 2017 (4 867 482 euro).

#### FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

18. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2011	In the report for the financial year 2010, the Court noted that there was scope to reconsider the definition of respective roles and responsibilities between the Director and the College of Eurojust in order to avoid the overlap of responsibilities, currently resulting from the Founding Regulation. No corrective measures were taken in 2011 <sup>(1)</sup> .	Ongoing
2015	The level of committed appropriations carried over is high for Title II (administrative expenditure) at 1,6 million euro, i.e. 21 % (2014: 1,5 million euro or 20 %). These carry-overs are mainly related to specific contracts for security and hospitality services (0,3 million euro) and for ICT projects, hardware and maintenance (0,6 million euro) as well as consultancy and project costs for the new premises (0,3 million euro), whereby 0,5 million euro were committed late in the year, mostly for services to be provided in 2016.	N/A

<sup>(1)</sup> The new Eurojust Regulation is still under consideration by the legislator.

**EUROJUST'S REPLY**

18. Eurojust accepts the fact that carry-overs to 2017 for Title II are relatively high, however refers to the explanations provided by the Court. Eurojust remains vigilant to avoid any unjustified carry-overs, which are not the direct result of the move to new premises, ongoing security requirements and operational expenses.

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## REPORT

**on the annual accounts of the European Police Office for the financial year 2016, together with the Office's reply**

(2017/C 417/36)

## INTRODUCTION

1. The European Police Office (hereinafter 'the Office', aka 'Europol'), which is located in The Hague, was established by Council Decision (2009/371/JHA) <sup>(1)</sup>. The objective of the Office is to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by Union policy.

2. The *table* presents key figures for the Office <sup>(2)</sup>.

*Table*  
**Key figures for the Office**

	2015	2016
Budget (million euro)	95	104
Total staff as at 31 December <sup>(1)</sup>	666	737

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Office.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Office which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 121, 15.5.2009, p. 37.

<sup>(2)</sup> More information on the Office's competences and activities is available on its website: [www.europol.europa.eu](http://www.europol.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Office for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Office at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Office's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Office's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Office's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Office are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.



12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Office's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Office accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Office's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON BUDGETARY MANAGEMENT

17. As in previous years carry-overs of committed appropriations have been high for Title II (administrative expenditure) at 3,5 million euro, i.e. 39 % (2015: 4,2 million euro, i.e. 41 %). They mainly concern 2016 expenditure for the Office's headquarters which will only be invoiced by the Host State in 2017 (2 million euro).

#### FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

18. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	Exceptions and deviations were recorded for 7 % of 2011 payments.	Completed
2015	Carry-overs of committed appropriations are high for Title II (administrative expenditure) at 4,2 million euro, i.e. 41 % (2014: 1,9 million euro, i.e. 27 %). They mainly concern building-related works, such as functional and technical improvements of the operational rooms at the Office headquarters (1,5 million euro) or preventive/corrective maintenance and additional works (0,8 million euro). These works were still ongoing or invoices had not been received by the end of 2015.	N/A

**EUROPOL'S REPLY**

18. Europol takes note of the ECA's comment and will continue its efforts to ensure efficient and compliant budget implementation, especially concerning carry-forwards in relation to administrative expenditure. Due to the work regarding Europol's headquarters being performed under the authority of the Host State as an external party, the handling of building-related costs is expected to spread across financial years also in future. This is due to the inherent administrative set-up, for Europol to receive the related invoices after the Host State has liaised with respective contractors at national level.

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## REPORT

**on the annual accounts of the European Union Agency for Fundamental Rights for the financial year 2016, together with the Agency's reply**

(2017/C 417/37)

## INTRODUCTION

1. The European Union Fundamental Rights Agency (hereinafter 'the Agency', aka 'FRA'), which is located in Vienna, was established by Council Regulation (EC) No 168/2007 <sup>(1)</sup>. The objective of the Agency is to provide the relevant authorities of the Union and its Member States with assistance and expertise when implementing Union law relating to fundamental rights.
2. The *table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the Agency**

	2015	2016
Budget (million euro)	21,6	21,6
Total staff as at 31 December <sup>(1)</sup>	107	105

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

- (a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and
- (b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 53, 22.2.2007, p. 1.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.fra.europa.eu](http://www.fra.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

16. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON INTERNAL CONTROLS

17. Formal (sub-)delegations from authorising officers (by delegation) were not always consistent with the authorisation rights for transactions in the ABAC workflow system.

#### COMMENTS ON BUDGETARY MANAGEMENT

18. Carry-overs of committed appropriations were high for Title III (operating expenditure) at 5,2 million euro, i.e. 68 % (2015: 5,7 million euro, i.e. 70 %). They mainly reflect the nature of the activities which involve financing studies that span over several months, often beyond year-end. The Agency may consider introducing differentiated budget appropriations to better reflect the multi annual nature of operations and inevitable delays between the signature of contracts, deliveries and payments.

#### FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

19. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2015	The level of carry-overs of committed appropriations remained high for Title III at 5 723 282 euro, i.e.70 % (2014: 5 848 956 euro, i.e. 75 %). This results mainly from the nature of activities of the Agency which involve procuring studies that span over many months, often beyond year-end.	N/A

**THE AGENCY'S REPLY**

17. In 2015 and 2016, as a result of organisational changes within the Agency, the Authorising Officer sub-delegations were updated. Due to a transcription error, all delegations, both old and current, were considered valid by the ABAC financial system. The error was corrected and measures have been put in place to ensure that ABAC only reflects currently valid delegations.

18. As the Court has mentioned in previous years, the Agency's carry-overs for T3 reflect the multiannual nature of the Agency's operational projects, where payments are made according to carefully planned and controlled schedules. As the Agency's final budget outturn has been more than 99 % over the last years, and the level of C8 appropriations cancelled has always been very low (i.e. average of 2,4 % in the last 3 years), in the Agency's opinion, this indicates that the carry-overs are fully justified.

The Agency has already assessed the possibility of using differentiated appropriations and concluded that, since the operational projects do not have a lifespan of more than 2 years, there is very little added value in using them. Extending the period for implementation is likely not only to delay the implementation of projects but also significantly increase liquidity risk.

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## REPORT

**on the annual accounts of the European Border and Coast Guard Agency for the financial year 2016,  
together with the Agency's reply**

(2017/C 417/38)

## INTRODUCTION

1. The European Border and Coast Guard Agency (hereinafter 'the Agency', aka 'Frontex'), was created by Regulation (EU) 2016/1624 <sup>(1)</sup> of the European Parliament and of the Council ('new founding Regulation') repealing Council Regulation (EC) No 2007/2004 <sup>(2)</sup>. It has been developed from the European Agency for the Management of Operational Cooperation at the External Borders of the Members States and maintained the short name 'Frontex' and the seat of its headquarter in Warsaw. The new founding Regulation extends the mandate of the Agency and entrusts it to ensure European integrated border management at the external borders with a view to managing the crossing of the external borders efficiently. This includes addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension, to ensure a high level of internal security within the Union in full respect for fundamental rights, while safeguarding the free movement of persons within it.

2. The Table presents key figures for the Agency <sup>(3)</sup>.

Table

**Key figures for the Agency**

	2015	2016
Budget (million euro)	143,3	251
Total staff as at 31 December <sup>(1)</sup>	309	365

<sup>(1)</sup> Actual staff working at the Agency including officials, temporary and contract staff and seconded national experts. The number of posts authorised under the final 2016 Staff Establishment Plan was higher with 275 posts for officials and temporary agents and 192 posts for contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2016; and

<sup>(1)</sup> OJ L 251, 16.9.2016, p. 1.

<sup>(2)</sup> OJ L 349, 25.11.2004, p. 1.

<sup>(3)</sup> More information on the Agency competences and activities is available on its website: [www.frontex.europa.eu](http://www.frontex.europa.eu)

<sup>(4)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(5)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

### ***Reliability of the accounts***

#### *Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

### ***Legality and regularity of the transactions underlying the accounts***

#### **Revenue**

#### *Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

#### **Payments**

#### *Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

### ***Responsibilities of management and those charged with governance***

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

### ***Auditor's responsibilities for the audit of the accounts and underlying transactions***

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

16. In response to the migration crisis faced by the Union, the mandate of Frontex was considerably extended and its 2016 final budget was 75 % higher than that of the previous year. Staff available in 2016 increased by only 18 % and systems and procedures were still in the process of being adapted to cope with the new circumstances. The comments which follow do not call the Court's opinion into question and are to be read in the context of the challenges the Agency had to face.

#### COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

17. The Agency's previous founding Regulation which was in force until 5 October 2016 provided for the funding of joint return operations carried out with participating countries. National return operations only became eligible under the new founding Regulation. However, in the period January to October 2016 the Agency funded national return operations for an amount of 3,6 million euro. These payments are irregular.

18. The Staff Regulations provide that in the case of an external selection procedure, temporary staff can only be recruited at grades SC 1 to SC 2, AST 1 to AST 4 or AD 5 to AD 8 <sup>(2)</sup>. In 2016 the Agency recruited 14 staff at higher AST grades. The recruitments at these grades are irregular.

#### COMMENTS ON BUDGETARY MANAGEMENT

19. The level of carry-overs for committed appropriations increased for Title II (administrative expenditure) to 6,4 million euro, i.e. 43 % (2015: 3,2 million euro, i.e. 38 %) and Title III (operational expenditure) to 67,3 million euro, i.e. 37 % (2015: 40,2 million euro, i.e. 35 %). The main reason is contracts and operations extending beyond the year-end. The Agency may consider introducing differentiated budget appropriations to better reflect inevitable delays between legal commitments, contract implementation and operations and the related payments.

20. The level of cancelled carry-overs from 2015 was high for Title III (operational expenditure) at 6,4 million euro, i.e. 16 %, due to an overestimation of 2015 costs that still had to be reimbursed to participating countries in 2016. There is a need to obtain more precise cost estimations and more timely cost reporting from cooperating countries.

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

<sup>(2)</sup> Article 53.2 of the Staff Regulation

**COMMENTS ON SOUND FINANCIAL MANAGEMENT AND PERFORMANCE**

21. Under the Agency's extended mandate, high importance is attached to return operations and 63 million euro had been assigned to that in its 2016 budget. However, 23 million euro, i.e. 37,5 % were repaid to the EU budget since fewer return operations were carried out than envisaged. The significant delay of the procurement procedure for a 50 million euro framework contract to charter aircraft and related services for Frontex return operations contributed to this situation and continues to affect the number of return operations arranged by the Agency. While the launch of this procurement procedure was planned for March 2016, it had not been started by the year end.

22. On 22 December 2015 the Commission and the Agency, co-beneficiary and coordinator of three other co-beneficiaries (EASO, IOM and UNHCR) <sup>(1)</sup>, signed a grant agreement amounting to 5,5 million euro on regional support to protection-sensitive migration management in the Western Balkans and Turkey for a three year period starting on 1 January 2016. However, cooperation agreements with the three partners (legal commitments) which amounted to 3,4 million euro were only signed between August and November 2016. For two of the agreements the budgetary commitments, which should have released the funds before entering in the legal commitments, were only signed in October and in December 2016. Moreover, budget commitments amounted to 1,2 million euro, covering only the pre-financing payments. Such a procedure is in breach of the Financial Regulation's rules on budgetary management and the late signature of the agreements caused uncertainty for the operational cooperation between partners.

**OTHER COMMENTS**

23. The Agency's establishment plan for 2016 provides for 275 posts for officials and temporary agents <sup>(2)</sup>. By the end of 2016 only 197 of these posts, i.e. 71 % were filled, mainly due to the fact that 50 new posts were only established in October 2016 and recruitment still has to be completed. The Agency traditionally experiences difficulties in finding staff with the required profile, partly because of the salary correction coefficient (66,7 %).

24. Following the extension of its mandate, the Agency's staff will more than double from 365 in 2016 to 1 000 in 2020 <sup>(3)</sup>. This increase was not based on a thorough estimation of needs.

25. The planned increase in staff will require additional office space. The Agency is analysing options to address the needs, together with the Commission and the host country.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

An overview of the corrective actions taken in response to the Court's comments from previous years is provided in the Annex.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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<sup>(1)</sup> European Asylum Support Office (Malta), International Organisation for Migration (Belgrad) and United Nations High Commissioner for Refugees (Geneva).

<sup>(2)</sup> Additional 192 posts were authorised for contract staff and seconded national experts.

<sup>(3)</sup> Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC (COM/2015/0671 final — 2015/0310 (COD)).

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/ N/A)
2012	The recruitment procedures examined showed significant shortcomings affecting transparency and the equal treatment of candidates: questions for written tests and interviews were set after the applications had been examined by the selection board; no threshold scores were set for admission to written tests and interviews and for being included in the list of suitable candidates; the Selection Board did not document all its meetings and decisions.	Completed
2013	Suppliers' statements at year-end were reconciled with considerable difficulty. There is a need to monitor supplier balances more regularly and to analyse differences in a more timely manner.	Ongoing
2013	Frontex became operational in 2005 and has, to date, worked on the basis of correspondence and exchanges with the host Member State. However a comprehensive headquarters agreement between the Agency and the Member State has not been signed. Such an agreement would further promote transparency in respect of the conditions under which the Agency and its staff operate.	Ongoing
2014	Considerable improvements were noted in both <i>ex ante</i> and <i>ex post</i> verifications of expenditure claimed by cooperating countries under grant agreements. However, documentation from cooperating countries supporting the expenditure claimed is not always sufficient. Moreover, no audit certificates were requested, although the rules of application of the EU's Financial Regulation recommend this for grants above specific thresholds <sup>(1)</sup> . Audit certificates would add further assurance on the legality and regularity of grant transactions.	Ongoing for <i>ex ante</i> and <i>ex post</i> Completed for audit certificates
2014	The high and constantly increasing number of grant agreements and the magnitude of related expenditure to be verified and reimbursed by Frontex raise the question whether more efficient and cost-effective alternative funding mechanisms could be used.	Outstanding <sup>(2)</sup>
2014	There is a need to refine the calculation of contributions from Schengen associated countries (Switzerland, Liechtenstein, Iceland and Norway) to better reflect the related legal provisions <sup>(3)</sup> . For example, the calculation should be based on the final instead of the budgeted annual subsidy received from the Commission.	Ongoing

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/ N/A)
2015	The <i>ex-post</i> audit to Iceland carried out by the Agency in October 2015 detected irregular payments totalling 1,4 million euro related to the depreciation of a vessel participating in seven joint operations from 2011 to 2015. The Icelandic coast guard had claimed reimbursement of depreciation for that vessel even though it had exceeded the useful life provided for in the Agency's guidelines. Whilst the Agency has the right to recover irregular payments made in the last five years, it announced to recover only the payments made since January 2015, amounting to 0,6 million euro.	Ongoing
2015	The Internal Security Fund (ISF) is set up for the period 2014-20. It is composed of two instruments, ISF Borders and Visa as well as ISF Police, under which 2,8 billion euro and 1 billion euro are available for funding actions respectively. The Commission under ISF Borders and Visa reimburses Member States' purchases of means, such as vehicles or vessels as well as running costs such as fuel consumption or maintenance. The Agency also reimburses such costs to participants in joint operations. There is therefore an unaddressed risk of double funding <sup>(4)</sup> .	Ongoing
2015	The level of carry-overs for committed appropriations was high for Title II (administrative expenditure) at 3,2 million euro, i.e. 38 % (2014: 4,5 million euro, i.e. 36 %) and Title III (operational expenditure) at 40,2 million euro, i.e. 35 % (2014: 28,4 million euro, i.e. 44 %). For Title II, the main reason for high carry-overs is IT contracts extending beyond the year-end whereas for Title III, it is the multiannual nature of the Agency's operations.	N/A
2015	States participating in border operations declare the costs incurred on the basis of cost claim sheets which comprise 'fixed expenses' (depreciation and maintenance), 'variable expenses' (mostly fuel) and 'mission expenses' (mostly allowances and other crew expenses). The costs declared are based on real values and follow national standards leading to divergent approaches among participating states which creates a particularly burdensome system for all parties involved. The Court in its Special Report 12/2016 recommended that agencies should use simplified cost options whenever appropriate to avoid such inefficiencies <sup>(5)</sup> .	Ongoing

<sup>(1)</sup> Delegated Regulation (EU) No 1268/2012 of the Commission (OJ L 362, 31.12.2012, p. 1).

<sup>(2)</sup> Article 3(4) of Regulation (EC) No 2007/2004 limits the Agency's co-financing of joint operations to grants.

<sup>(3)</sup> Arrangement between the European Community of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 243, 16.9.2010, p. 4); Arrangement between the European Community and the Republic of Iceland and the Kingdom of Norway on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 188, 20.7.2007, p. 19).

<sup>(4)</sup> The Court had referred to this risk in paragraph 39 and recommendation 4 of its Special Report 15/2014 'The External Borders Fund has fostered financial solidarity but requires better measurement of results and needs to provide further EU added value'.

<sup>(5)</sup> Recommendation 1 in the Court's Special Report 12/2016 'Agencies' use of grants: not always appropriate or demonstrably effective'.



### THE AGENCY'S REPLY

18. In 2016, given the disproportionate migratory pressure towards EU Member States and following the EU Action Plan for return from October 2015, the European Council conclusions from 15 June 2015 and 16/17 March 2016, the Executive Director of the Agency adopted the Decision 2016/36, which provided a broader interpretation of (co)-financing modalities of a joint return operation to the extent that also a national return operation carried out by just one single MS facing a disproportionate migratory pressure would be (co)-financed from Frontex budget. Furthermore: The budgetary authority had amended the budget for 2016 specifically to implement the Action Plan on return mentioned before.

19. The decision taken by Frontex in regard to an engagement of new temporary staff at grades higher than AST 4 was supported by the Management Board when adopting the Programme of Work and the Budget 2016, including the Establishment plan.

The motivation for upgrading of 5 AST 4 posts to 5 AST 5 posts was due to the business needs to run the 24/7 Duty Officers' service. Given the level of responsibilities in the context of the migratory flows and security challenge at EU external borders, Frontex must be able to attract qualified and experienced candidates with relevant prior working experience, but no university education as required for AD posts. Furthermore: The salary correction coefficient of 66,7 % impacts significantly and every step higher potentially attracts more suitable candidates.

20. The use of differentiated appropriations implies a considerable change in budget management. Taking into consideration the changes and challenges the Agency is facing, the pros and cons will be carefully assessed in view of a sound internal control framework.

21. The Agency agrees that there is a need to obtain more precise cost estimations and more timely cost reporting from cooperating MS/SAC. The Agency commits to make its best in better cooperation with the MS/SAC at the level of drafting costs estimations. At the same time the Agency is revising in 2017 its entire financial scheme aiming at simplifications, switching from grants to service contracts and introducing flat rates.

22. The Agency drastically beefed up the number of joint return flights: 232 in 2016 compared to 66 in 2015 and 39 in 2014. In 2016 this represented 10 700 people returned to third countries, plus one thousand transported by the Agency from the Greek islands to Turkey after the EU/Turkey statement of March 2016. Despite of this unprecedented surge in return services provided by the Agency, only EUR 40,0 m could be used out of the EUR 63,0 m assigned to this activity in the 2016 budget. The remaining EUR 23,0 m could not be used mainly because the Framework Contract for chartering aircrafts and related services for return operations faced delays generated by the deprioritisation of the project in favour of the efforts taken for ensuring the logistical support (ferries and busses) for the implementation of the EU-Turkey Statement. The deprioritisation was negatively impacted by lack of personnel, corroborated also with the increased operational needs to be covered. The subject requirement entails a complex tendering procedure under FWC and multi million budget. The tender procedure for establishing a 4 years FWC has in the meantime been published, however with a lower estimated budget (EUR 20,0 m).

23. Frontex jointly with the European Commission had been in the process of drafting the Grant Agreement for this regional Programme since 2014. In August 2015 just before finalising and signing the Grant Agreement, complicating factors, including the drastic change of the migratory situation in the Western Balkans, led to a request of the Commission to rewrite the project in a way to reflect adequately the migratory situation. As a result, the concept of the Project was entirely changed in an urgent manner and the Grant Agreement was only signed at the end of the contracting deadline end of December 2015.

Due to these last minute changes all four implementing Project Partners (Frontex, EASO, IOM and UNHCR) could start discussing the provisions of the Cooperation Agreements only in January 2016. As the Cooperation Agreements include provisions regulating the overall allocation to each partner, a detailed project budget had to be developed and agreed between all parties before signing the Cooperation Agreements. It has also to be pointed out that the signature with EASO was swift and smooth, while other partners questioned the rules expected by the Executive Director of the Agency to use the euro and not the US dollar or to foresee disclosure of more budget data for the sake of transparency.

Given the above explanation and the fact that in January 2016 the implementation of the Grant Agreement had started, the implementing partners had to start bearing the costs of the activities even before signing the Cooperation Agreements with Frontex. In order to justify this, and also to document the fact that the legal commitment for all three project partners was made prior to the budgetary commitment, Frontex duly documented this as an exception.

In line with the Article 7.2 of the Rules of Application (RAP) the appropriations corresponding to assigned revenue shall be made available automatically, both as commitment appropriations and as payment appropriations, when the revenue has been received by the institution.

24. The Agency appreciates the acknowledgement of the Court that the very low correction coefficient impacts negatively on the recruitments. The Agency is in contact with the relevant services of the European Commission to find remedying measures and hopes that the interpretation of the Staff Regulations can offer some solution to the existing detrimental situation.

25. The Agency takes note of the comment made by the Court; at the same time it would like to clarify that the staff figures were included in the Legislative Financial Statements accompanying the Commission's proposal for the European Border and Coast Guard Regulation.

26. The agency had already addressed at the beginning of 2017 the budgetary authority and received green light to expand in its current premises in order to accommodate the additional staff numbers. Furthermore, once the Headquarters Agreement will be in force, the Polish government committed to donate a plot of land to the Agency in order to enable it to construct a new building that will remain in the ownership of the Agency.

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## REPORT

**on the annual accounts of the European GNSS Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/39)

## INTRODUCTION

1. The European GNSS (Global Navigation Satellite System) Agency (hereinafter 'the Agency', aka 'GSA'), which was relocated from Brussels to Prague as of 1 September 2012 <sup>(1)</sup>, was set up by Regulation (EU) No 912/2010 of the European Parliament and the Council <sup>(2)</sup>, repealing Council Regulation (EC) No 1321/2004 <sup>(3)</sup> on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council <sup>(4)</sup>. The European GNSS Authority set up under Council Regulation (EC) No 1321/2004 officially took over all tasks previously assigned to the Galileo Joint Undertaking on 1 January 2007 which are continued by the Agency as 'European GNSS Agency' within the scope of Regulation (EU) No 912/2010, as amended. In addition, the Commission entrusted the exploitation of the European Geostationary Navigation Overlay Service (EGNOS) to the Agency through a delegation agreement.

2. The table presents key figures for the Agency <sup>(5)</sup>.

Table

**Key figures for the Agency**

	2015	2016
Budget (million euro) <sup>(1)</sup>	363,8	626,4
Total staff as at 31 December <sup>(2)</sup>	139	160

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

**OPINION**

4. We have audited:

- (a) the accounts of the Agency which comprise the financial statements <sup>(6)</sup> and the reports on the implementation of the budget <sup>(7)</sup> for the financial year ended 31 December 2016; and

<sup>(1)</sup> Decision 2010/803/EU taken by common accord between the Representatives of the Governments of the Member States (OJ L 342, 28.12.2010, p. 15).

<sup>(2)</sup> OJ L 276, 20.10.2010, p. 11.

<sup>(3)</sup> OJ L 246, 20.7.2004, p. 1.

<sup>(4)</sup> OJ L 196, 24.7.2008, p. 1.

<sup>(5)</sup> More information on the Agency's competences and activities is available on its website: <https://www.gsa.europa.eu>

<sup>(6)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(7)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

### ***Reliability of the accounts***

#### *Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

### ***Legality and regularity of the transactions underlying the accounts***

#### **Revenue**

#### *Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

#### **Payments**

#### *Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

### ***Responsibilities of management and those charged with governance***

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

### ***Auditor's responsibilities for the audit of the accounts and underlying transactions***

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation <sup>(1)</sup>.

#### **Other matter**

16. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. The Agency operates both Galileo Security Monitoring Centre and Galileo ground stations that are located in UK territory. The status of the UK within these frameworks remains to be determined.

17. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON INTERNAL CONTROLS**

18. In its audit report dated November 2016, the European Commission's Internal Audit Service (IAS) concluded that no Agency-wide annual risk assessment exercise was conducted in 2016 and the Agency's significant risks are not included in its planning documents or activity reports. In addition, the IAS also noted that the terminology used for the various elements of the performance measurement system is not consistent, therefore hampering performance monitoring. The Agency and IAS agreed a plan to take corrective action.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

19. The level of carry-overs for committed appropriations was high for Title II (administrative expenditure) at 2,8 million euro, i.e. 46 % (2015: 2,5 million euro, i.e. 42 %). These carry-overs mainly relate to IT services provided in 2016 for which invoices were not received.

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**OTHER COMMENTS**

20. On 15 December 2016 the Agency signed a Framework Contract on the exploitation of the Galileo satellite system during the period 2017 to 2027, amounting to 1,5 billion euro. The contract was awarded following a public procurement procedure. One of the tenderers involved has launched legal proceedings against the Agency at the European Court of Justice, challenging the outcome of the procurement procedure. The ruling of the European Court of Justice will decide on the legality and regularity of the procurement procedure for the framework contract and all related specific contracts and future payments. The first payments are expected to be made in 2017.

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

21. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2014	There is no insurance coverage for fixed tangible assets (net book value 1,0 million euro).	Ongoing
2015	The last validation of the accounting systems was performed in 2012. The promised validation due to the expected major changes of processes and information flow following the Agency's relocation has not occurred. The new accountant plans to perform the next validation in 2020.	Ongoing
2015	The Agency has put in place Business Continuity Plans for the security sites in France, the United Kingdom and the Netherlands. However, there is no Business Continuity Plan in place for the Headquarters in Prague and the Agency in its entirety.	Ongoing
2015	The Agency's audited budgetary implementation report differs from the level of detail provided by most other agencies which demonstrates the need for clear guidelines on the agencies' budget reporting.	Completed
2015	The level of carry-overs for committed appropriations was high for Title II (administrative expenditure) at 2,5 million euro, i.e. 42 % (2014: 3,4 million euro, i.e. 54 %). These carry-overs mainly relate to services provided in 2015 for which invoices were not received until 2016, a number of high-value IT contracts, as well as a risk assessment contract signed at the end of 2015. These projects, originally planned for 2016, were started in 2015 to utilise funds released from savings on other budget lines.	N/A
2015	The Agency's 2015 Annual Work Programme (AWP) was only adopted in March 2015 and the adoption of its 2014-2020 Multiannual Work Programme is outstanding. The late adoption of key planning documents puts the achievement of the Agency's objectives at risk.	Ongoing <sup>(1)</sup>
2015	In 2015, the Agency had a high staff turnover with 14 staff members leaving and 26 joining <sup>(2)</sup> .	Ongoing

<sup>(1)</sup> The Decision adopting the European GNSS Agency programming document 2017-2020 was taken on 28 March 2017.

<sup>(2)</sup> Eight staff members left and 24 joined the Agency in 2016.

### THE AGENCY'S REPLY

18. The Agency has implemented the IAS findings with respect to risk management. In particular in Q4 2016 the Agency has finalised a corporate risk management policy and procedure. The Agency undertakes quarterly corporate risk management boards, through which the corporate risk register is reviewed and updated. As a first outcome of this process, the agreed corporate risks are included in Annex VIII of the provisional Single Programming Document 2018-2020 which was decided on by the Administrative Board in January 2017. Concerning the improvement of performance management, the Agency is implementing the IAS findings, in particular through finalisation in Q1 2017 of a performance indicator development and reporting process, and its flow through into the Single Programming Document.

19. It should be noted that the level of cancellations of carry-overs is very low (0,7 % over all budget lines in 2016) and the GSA considers this a far better indication of budget management than the level of carry-overs itself which is unavoidably high given the operational nature of the Agency and the invoicing periods for a large number of high-value administrative contracts, thereby representing a large number of planned carry-overs — as opposed to unplanned.

20. The Agency welcomes the decision by ECA to not interfere at this stage with court proceedings referred to in the Court of Justice's publication. The application has been notified to the GSA on 13 July 2017 under reg. number T-99/17 Eutelsat v GSA.

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## REPORT

**on the annual accounts of the Innovation and Networks Executive Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/40)

## INTRODUCTION

1. The Innovation and Networks Executive Agency (INEA — hereinafter 'the Agency'), which is located in Brussels, was set up by Commission Decision 2013/801/EU <sup>(1)</sup> to replace and succeed the Trans-European Transport Network Executive Agency. The Agency was established for a period beginning on 1 January 2014 and ending on 31 December 2024 for the management of EU actions in relation to the Connecting Europe Facility, the Horizon 2020 research and innovation funding programme, the trans-European transport network and the Marco Polo programme.

2. The *table* presents key figures for the Agency <sup>(2)</sup>.

*Table*

**Key figures for the agency**

	2015	2016
Budget (million euro)	18,4	21,7
Total staff as at 31 December <sup>(1)</sup>	186	225

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 352, 24.12.2013, p. 65.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.ec.europa.eu/inea](http://www.ec.europa.eu/inea)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.



12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

16. The level of carry-overs for committed appropriations was high for Title III at 0,5 million euro, i.e. 48 % (2015: 0,5 million euro, i.e. 51 %). The main cause was IT and audit contracts for which execution goes beyond the year-end.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

17. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	The level of carry-overs for committed appropriations was high for Title III (operational expenditure) at 0,5 million euro, i.e. 51 % (2014: 0,4 million euro, i.e. 56 %). The main cause was the conclusion of IT and audit contracts for services to be delivered after the year-end.	N/A

**THE AGENCY'S REPLY**

16. INEA considers the level of carry-over for Title III to be justified in view of the nature of the expenditure. As the Court mentions, the expenditure is linked to 2016 IT and audit contracts extending over 2017, whose implementation cannot always start and finish within the same given year. In respect of IT contracts, it should be noted that from the amount carried over, 35 % corresponds to services provided during the last quarter of 2016 but invoiced early 2017. Very similar percentage applies to audit contracts, with the particular remark that for this kind of contract, the final payment can only be released to the audit company once the final audit report is accepted following the conclusion of the contradictory procedure with the auditee, whose duration is out of INEA's control.

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## REPORT

**on the annual accounts of the Research Executive Agency for the financial year 2016, together with the Agency's reply**

(2017/C 417/41)

## INTRODUCTION

1. The Research Executive Agency (hereinafter 'the Agency', aka 'REA'), which is located in Brussels, was set up by Commission Decision 2008/46/EC <sup>(1)</sup>. The Agency was established for a limited period beginning on 1 January 2008 and ending on 31 December 2017 with the aim of managing specific Union activities in the field of research. On 15 June 2009 the Agency was officially granted its administrative and operational autonomy by the European Commission. On 13 December 2013, the Commission, by its Implementing Decision 2013/778/EU <sup>(2)</sup>, extended the lifetime of the REA to 2024 and delegated to it also parts of Horizon 2020, the new Framework Programme for Research and Innovation.

2. The *table* below presents key figures for the Agency <sup>(3)</sup>.

Table

**Key figures for the Agency**

	2015	2016
Budget (million euro) <sup>(1)</sup>	54,6	62,9
Total staff as at 31 December <sup>(2)</sup>	618	628

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Agency.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

**OPINION**

4. We have audited:

(a) the accounts of the Agency which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 11, 15.1.2008, p. 9.

<sup>(2)</sup> OJ L 346, 20.12.2013, p. 54

<sup>(3)</sup> More information on the Agency's competences and activities is available on its website: [www.ec.europa.eu/rea](http://www.ec.europa.eu/rea)

<sup>(4)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(5)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**Reliability of the accounts***Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

**Legality and regularity of the transactions underlying the accounts****Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments***Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

**Responsibilities of management and those charged with governance**

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

**Auditor's responsibilities for the audit of the accounts and underlying transactions**

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. The comments which follow do not call the Court's opinion into question.

#### COMMENTS ON INTERNAL CONTROLS

16. In its audit report dated December 2016, the Commission's Internal Audit Service (IAS) concluded that overall the Agency had implemented an adequate HR management process. The Agency and IAS agreed on a plan to take corrective action for the one finding reported.

17. In another audit report dated May 2016, the IAS concluded that the Agency together with the Commission has set up an efficient internal control system for the management of grants within the Horizon 2020 programme. The Agency and IAS agreed, together with the Commission, on a plan to take corrective action for the one finding considered very important.

#### COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE

18. An external evaluation of the Agency's performance in the period 2012 to 2015 was prepared on behalf of the Commission and the final report was delivered in May 2016. It concluded that the Agency performed in an effective, efficient and cost-effective way in implementing its tasks during the reference period and that its mandate remains highly relevant to the Commission and the Agency's beneficiaries and that the delegation of operational tasks from the Commission has been successful. However, the evaluators also identified scope to further increase the effectiveness and efficiency of operations and the Agency and the Commission were invited to improve their internal dialogue and cooperation, external communication as well as specific issues in the area of IT and HR management. The Agency and the Commission agreed on a plan to take corrective action.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

**THE AGENCY'S REPLY**

The Agency has taken note of the Court's report.

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## REPORT

**on the annual accounts of the Single Resolution Board for the financial year 2016, together with the Board's reply**

(2017/C 417/42)

## INTRODUCTION

1. The Single Resolution Board (hereinafter 'the Board', aka 'SRB'), which is located in Brussels, was established by Regulation (EU) No 806/2014 on the Single Resolution Mechanism ('SRM Regulation') <sup>(1)</sup>. The mission of the Board is to ensure an orderly resolution of failing credit institutions and certain investment firms (hereinafter 'Credit Institutions') with minimum impact on the real economy and the public finances of the participating Member States of the Banking Union.
2. The Board is in charge of administering the Single Resolution Fund (hereinafter 'the Fund') which was established by the SRM Regulation and shall support the Single Resolution Mechanism. The Fund will be gradually built up during the period 2016 to 2023 and shall reach the target of at least 1 % of the amount of covered deposits of all Credit Institutions within the European Banking Union by 31 December 2023.
3. The Board has an autonomous budget which is not part of the EU budget. Contributions are raised from Credit Institutions established in Member States participating in the Banking Union. The budget for the year 2015 consisted of only Part I (administrative budget). The budget for the year 2016 consisted of Part I amounting to 65 million euro and Part II (Credit Institutions' contributions to the Fund), amounting to 11 800 million euro.
4. The *Table* presents key figures for the Board <sup>(2)</sup>.

Table

**Key figures for the Board**

	2015	2016
Budget (million euro)		
Part I (Board's administrative budget)	22	65
Part II (Budget of the Fund)	0	11 800
Total staff as at 31 December <sup>(1)</sup>	108	180

<sup>(1)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

Source: data provided by the Board.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

5. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Board's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

<sup>(1)</sup> OJ L 225, 30.7.2014, p. 1.

<sup>(2)</sup> More information on the Board's competences and activities is available on its website: <http://srb.europa.eu/>



**OPINION**

6. We have audited:

(a) the accounts of the Board which comprise the financial statements <sup>(1)</sup> and the reports on the implementation of the budget <sup>(2)</sup> for the financial year ended 31 December 2016; and

(b) the legality and regularity of the transactions underlying those accounts;

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

***Reliability of the accounts******Opinion on the reliability of the accounts***

7. In our opinion, the accounts of the Board for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Board at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

***Legality and regularity of the transactions underlying the accounts*****Revenue*****Opinion on the legality and regularity of revenue underlying the accounts***

8. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

**Payments*****Opinion on the legality and regularity of payments underlying the accounts***

9. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

***Responsibilities of management and those charged with governance***

10. In accordance with Articles 310 to 325 of the TFEU and the Board's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Board's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

11. In preparing the accounts, management is responsible for assessing the Board's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

12. Those charged with governance are responsible for overseeing the entity's financial reporting process.

<sup>(1)</sup> The financial statements comprise the statement of financial position, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(2)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

***Auditor's responsibilities for the audit of the accounts and underlying transactions***

13. Our objectives are to obtain reasonable assurance about whether the accounts of the Board are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

14. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal control relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

15. For revenue, we verify the Board's procedures for calculating and raising Fund contributions and other income, if any<sup>(1)</sup>. Our verification of Fund contributions was based on information communicated by the Credit Institutions through national resolution authorities and did not cover the reliability of this information. Furthermore, Fund contributions which are the subject of administrative appeals or judicial proceedings between some Credit Institutions and national resolution authorities and of judicial proceedings between some Credit Institutions and the Board before the General Court of the European Union respectively were not subject to our audit in order not to affect in any way the position of the parties in such proceedings. Detailed information on administrative appeals or judicial proceedings is presented in paragraph 7(i) of the Board's annual accounts.'

16. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Board accepts the justification by clearing the advance payment, whether in the same year or later.

17. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Board's accounts as stipulated in Article 102(1) of the Board's Financial Regulation.

**Emphasis of matter**

18. Without calling into question its opinions expressed in paragraphs 6 to 17, the Court would like to emphasise that Fund contributions are calculated on the basis of information provided by Credit Institutions to the Board through the national resolution authorities. However, the SRM Regulation does not provide for a comprehensive and consistent control framework to ensure the reliability of the information. Furthermore, the Court notes that the methodology to calculate contributions laid down in the legal framework is very complex, resulting in a risk to accuracy. Moreover, the Board cannot release details on the risk-assessed contribution calculations per Credit Institution as they are interlinked and include confidential information about other Credit Institutions. This affects the transparency of these calculations.

<sup>(1)</sup> Fund contributions for the year 2015 transferred to the Board in 2016 were calculated by national resolution authorities and therefore not subject to the Court's audit.

19. The comments which follow do not call the Court's opinion into question.

#### **COMMENTS ON THE RELIABILITY OF THE ACCOUNTS**

20. The Board's accounting system was not yet validated by the Accounting Officer.

21. Article 92(4) of the SRM Regulation requires the Court to report in particular on the contingent liabilities of the Board, the Council and the Commission as a result of the performance of their tasks under the SRM Regulation. The Court will publish a separate report on this matter.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

##### ***Part I (the Board's administrative budget)***

22. The implementation rate was low at 62 % (2015: 67 %), or 35 million euro (2015: 15 million euro) of available appropriations. This is mainly caused by the nature of the Board's activities and the legal budgetary framework in place. While the budget provides appropriations for the Board's daily operations and the administration of resolution cases, no resolution occurred in 2016. The unused appropriations will reduce future contributions from Credit Institutions.

23. The committed appropriations carried over under budget title II (administrative expenditure) amount to 3,1 million euro, i.e. 35 % (2015: 3,3 million euro, i.e. 70 %) of total committed appropriations. They mainly concern IT contracts signed in 2016 (1,9 million euro) and security services provided in 2016 that were not yet invoiced and paid (0,6 million euro).

24. The committed appropriations carried over under budget title III (operational expenditure) amount to 5,3 million euro, i.e. 66 % (2015: 1,6 million euro, i.e. 40 %) of committed appropriations. They mainly concern services provided by the European Central Bank (1,9 million euro), legal services (1,5 million euro) and IT contracts (1,3 million euro) for which will payments are due in 2017. Such high level of carry overs is in contradiction with the principle of annuality.

25. In the period July to October 2016 the Board committed 2 million euro for the procurement of legal services which were not preceded by a financing decision nor was it planned in the Annual Work Programme and budget.

##### ***Part II (Budget of the Fund)***

26. In application of the negative deposit facility rate in 2016 by the European Central Bank, the Fund paid negative interest amounting to 24 million euro to national central banks. This reduced the amount of accumulated contributions available for future resolutions.

#### **OTHER COMMENTS**

27. The Board needs to improve the speed of its recruitment procedures, set clear minimum thresholds to be met by candidates and better define roles and responsibilities of selection committee members.

#### **FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

An overview of the corrective action taken in response to the Court's comments from previous years is provided in the Annex.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

## ANNEX

**Follow-up of previous years' comments**

Year	Court's comments	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2015	In 2015 the Board became operational and gradually set up its internal control environment. However a number of essential procedures and controls remain to be drafted, adopted or implemented, including the risk management and control strategy, the internal control standards, the periodic assessment of the sound functioning of the internal control system and the anti-fraud strategy.	Ongoing
2015	The budget of the SRB is funded through contributions from credit institutions and amounted to 22 million euro in 2015. The SRB committed 67 % of the called budget and used 45 % of it. The low implementation rate resulted in a significant budget surplus of 7,7 million euro.	N/A
2015	Carry-overs of committed appropriations are high for Title II (administrative expenditure) at 3,6 million euro, i.e. 70,4 %. These carry overs mainly concern contracts which have been concluded in 2015 for the new premises of the SRB (e.g. IT infrastructure, security infrastructure and office equipment) whereby the services and goods had not yet been fully delivered or invoiced by the end of 2015.	N/A
2015	Carry-overs of committed appropriations are high for Title III (operational expenditure) at 0,6 million euro, i.e. 40,3 %. These carry overs mainly concern consultancy services for the 'Collection of contributions project' which have not yet been fully delivered or invoiced by the end of 2015	N/A
2015	In 2015, the SRB signed a contract for its new headquarters in Brussels with a minimum duration of 15 years and a total value of at least 42,4 million euro. The procurement procedure was poorly documented and the location in the contract notice restricted it to one of the most expensive areas in Brussels excluding possible cheaper options.	N/A

## THE BOARD'S REPLY

18. The Board notes that the BRRD and SRMR include an obligation for Member States to set up an appropriate regulatory, accounting and reporting framework to ensure, amongst other, the accuracy of contributions. Furthermore, a large majority of the information required for the calculation stems from applicable supervisory reporting requirements. In addition, the Board has put in place a number of safeguards within its mandate to check the accuracy of the data provided by the credit institutions. Furthermore, although confidentiality concerns affect the transparency of the calculation, the calculation methodology is fully disclosed and the Board provided the NRAs with all details that could be shared in accordance with the regulation.

20. The Board accepts the comment. While the Board uses the accounting system of the European Commission, a first validation of the Board-specific features was planned by the end of 2017. However, since the Board will launch a new system for the calculation and invoicing of administrative contributions in Q4 2017-Q1 2018, it will for efficiency reasons carry out one single validation in the first half of 2018 covering all accounting systems.

22. The Board agrees with the challenges that come along with its crisis management mission, and it is taking measures to increase transparency in the reporting of the budget implementation. In 2017, the Board has reformed its budget structure to introduce a clear distinction between planned expenditure and contingencies. This will better reflect the budget execution related to 'normal' operations and the execution related to budget foreseen in case of crisis (contingent budget). The new structure has already been used for the draft budget of 2018.

23. The Board accepts the comment. Whereas part of the payments under Title II depend on the invoicing by several Commission services (OIB including security services, DG HR etc.), several procurement procedures for ICT projects were launched only later in the year. Due to the start-up phase of the Board, it was not possible to accomplish a full alignment of the ICT projects with the budget cycle.

24. Due to its strict 'cost-recovery' principle, the ECB can invoice the Board only after 31 December each year. This fact makes the carry-forward of appropriations related to services from the ECB inevitable.

The amount carried forward for legal services corresponds to exceptional and non-predictable expenditure related to resolution and court cases. The carry-forward of this type of expenditure is to be expected, and it should be considered as directly linked to the specific nature of the services provided and the Board's crisis management role.

The Board accepts the comment regarding the IT contracts in line with the reply given under comment 24.

25. The Board notes that all operational expenditure was covered by a financing decision in the form of Annex I to the Annual Work Programme, in line with the Board's Financial Regulation. However, the Board recognises that the allocation to activities within the financing decision did not correspond to the scope of the procured services. The services in question were procured for legal defence in relation to the Fund, while the financing decision allocated the budget to consultancy in resolution readiness.

26. The Board acknowledges the comment. Despite requests to the Euro System not to apply negative rates to the Board, the Fund incurred negative rates on its central bank accounts. The Board has periodically evaluated alternatives to the cash accounts in the form of term deposits, but these did not offer a financially attractive alternative. In September 2016, the Board adopted an Investment Strategy that will be implemented gradually. However, under the current market circumstances it is not possible to construct a portfolio that offers a positive expected return at an acceptable risk level and meets the liquidity needs.

27. The Board accepts the comment and has already taken action to remedy its shortcomings in the course of 2017. The Board has drafted and implemented a Recruitment Manual, which defines the roles and responsibilities of the selection panel members and includes a guideline on minimum thresholds.

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