

REPORT**on the annual accounts of the Euratom Supply Agency for the financial year 2013, together with the Agency's replies**

(2014/C 442/31)

INTRODUCTION

1. The Euratom Supply Agency (hereinafter 'the Agency'), located in Luxembourg, was created in 1958⁽¹⁾. Council Decision 2008/114/EC, Euratom⁽²⁾ 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. For 2012 and 2013, the Agency was granted its own budget by the Commission, which however only covers a minor part of its expenditure.

STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- (a) the annual accounts of the Agency, which comprise the financial statements⁽³⁾ and the reports on the implementation of the budget⁽⁴⁾ for the financial year ended 31 December 2013; and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. The management is responsible for the preparation and fair presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions⁽⁵⁾:

- (a) The management's responsibilities in respect of the Agency's annual accounts include designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies on the basis of the accounting rules adopted by the Commission's accounting officer⁽⁶⁾; making accounting estimates that are reasonable in the circumstances. The Director approves the annual accounts of the Agency after its accounting officer has prepared them on the basis of all available information and established a note to accompany the accounts in which he declares, inter alia, that he has reasonable assurance that they present a true and fair view of the financial position of the Agency in all material respects.
- (b) The management's responsibilities in respect of the legality and regularity of the underlying transactions and compliance with the principle of sound financial management consist of designing, implementing and maintaining an effective and efficient internal control system comprising adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used.

⁽¹⁾ OJ 27, 6.12.1958, p. 534/58.

⁽²⁾ OJ L 41, 15.2.2008, p. 15.

⁽³⁾ These include the balance sheet and the economic outturn account, the cash flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

⁽⁴⁾ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁽⁵⁾ Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

⁽⁶⁾ The accounting rules adopted by the Commission's accounting officer are derived from the International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, where relevant, the International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council ⁽⁷⁾ with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions. The Court conducts its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require the Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

6. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the underlying transactions. The procedures selected depend on the auditor's judgement, which is based on an assessment of the risks of material misstatement of the accounts and material non-compliance by the underlying transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor considers any internal controls relevant to the preparation and fair presentation of the accounts, as well as the supervisory and control systems that are implemented to ensure the legality and regularity of underlying transactions, and designs audit procedures that are appropriate in the circumstances. The audit also entails evaluating the appropriateness of accounting policies, the reasonableness of accounting estimates and the overall presentation of the accounts.

7. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for its statement of assurance.

Opinion on the reliability of the accounts

8. In the Court's opinion, the Agency's annual accounts present fairly, in all material respects, its financial position as at 31 December 2013 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer.

Opinion on the legality and regularity of the transactions underlying the accounts

9. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2013 are legal and regular in all material respects.

10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON THE RELIABILITY OF ACCOUNTS

11. The notes to the Agency's 2013 annual accounts explain that all salaries and some additional costs for administrative services were paid directly from the Commission's budget. The salary costs are disclosed, but no details are provided on the costs for the administrative services. Therefore the extent to which the Agency is dependent upon the Commission is not fully visible.

COMMENTS ON INTERNAL CONTROLS

12. There is insufficient documentation of the main elements of the Agency's internal controls, such as a risk management and control strategy, procedures to monitor performance, an assessment of the functioning of the internal control system and a code of professional standards.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

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

⁽⁷⁾ Article 107 of Regulation (EU) No 1271/2013.

This Report was adopted by Chamber IV, headed by Mr Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 1 July 2014.

For the Court of Auditors
Vitor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous years' comments

Year	Court's comment	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2011	<p>Without calling into question the opinion expressed in paragraph 10, the Court wishes to draw again attention to the following matter. Article 54 of the Treaty establishing the European Atomic Energy Community provides that the Agency shall have financial autonomy. Article 7 of the Agency's Statutes provides that 'the expenditure of the Agency shall consist of administrative expenses of its staff and of the Committee, as well as expenses resulting from contracts entered into with third parties'. In fact, the Agency has not, since 2008, received a budget. That being the case, the European Commission has directly discharged the Agency's expenses mentioned in Article 7 above. In the Court's view, this situation is at odds with the Statutes of the Agency and the Court considers that the Agency and the Commission should, together with all interested parties, consider measures to eliminate this situation.</p>	Completed
2012	<p>Without calling into question the opinion expressed in paragraph 9, the Court wishes to draw attention to the following matter. Between 2008 and 2011, the Agency did not receive its own budget and the European Commission directly financed and discharged all expenditure. The Court had considered this situation to be at odds with the Statutes of the Agency.</p> <p>For 2012, following the Court's comments, the Commission granted the Agency its own budget amounting to 98 000 euro (104 000 euro including financial revenue from own investments). Whereas Article 54 of the Treaty establishing the European Atomic Energy Community and Article 6 of the Agency's Statutes provide that it shall have financial autonomy, most of the Agency's expenditure (staff, office space and IT systems) is still financed directly by the Commission. As far as staff costs are concerned, this is foreseen in Article 4 of its Statutes. The provisions are contradictory which goes against the required financial autonomy of the Agency.</p>	Outstanding

ANNEX II

Euratom Supply Agency (Luxembourg)**Competencies and activities**

Areas of Union competence deriving from the Treaty	<p>Common supply policy for nuclear materials in accordance with the principles and the objectives (<i>security of supply</i>) set by the Euratom Treaty.</p> <p>The Euratom Supply Agency (ESA) was established directly by Article 52 of the Euratom Treaty, signed in 1957. The ESA is further governed by its Statutes, laid down by a Council decision on the legal basis of Article 54 of the Euratom Treaty.</p>
<p>Competences of the Agency</p> <p>(as defined in the Euratom Treaty, mainly Chapter 6 thereof, and Council Decision 2008/114/EC, Euratom of 12 February 2008 establishing Statutes for the Euratom Supply Agency)</p>	<p>Objectives</p> <ul style="list-style-type: none"> — Ensure the supply of nuclear materials, by means of a common supply policy, on the principle of equal access to sources of supply. — Ensure that all users in the Community receive a regular and equitable supply of ores and nuclear fuels. — Identify and monitor market trends likely to affect security of supply for nuclear materials and services in the European Union. — Contribute to the Community policies by providing expertise, information and advice on any subject connected with the operation of the market in nuclear materials and services. <p>Tasks</p> <p>As per the Euratom Treaty, the ESA is endowed with a right of option on nuclear materials produced in the territories of Member States and with an exclusive right to conclude contracts relating to the nuclear materials coming from inside the Community or from outside.</p> <p>In the light of the above, the ESA's tasks include:</p> <ul style="list-style-type: none"> — to assess the commitments negotiated between the parties concerned and, consequently, conclude, deny concluding or accept to conclude only under certain conditions, any contract, or amendment to it, pertaining to the supply of materials in the meaning of Article 52 of the Euratom Treaty, — to receive notification of all contracts relating to the processing, conversion or shaping of ores, source materials or special fissile materials, as per Article 75 of the Euratom Treaty, and process them, — to receive notification of all transfers, import or export operations concerning small quantities of ores, source materials or special fissile materials, as per Article 74 of the Euratom Treaty, and process them, — to instruct the files and take all the preparatory steps in view of a Commission decision in cases for which, pursuant to Euratom law, the agreement of the Collège is required, — to manage, as appropriate, the contracts which it concluded or of which it received notification, — to collect and process information with a view to constantly monitoring the market of nuclear materials and services in the EU. In 2013, the observatory role of ESA has been further enlarged to cover the aspects of the supply of medical radioisotopes in the EU, — to publish regular reports for internal use, and/or for the general public, regarding the operation of, and recent trends in, the market of nuclear materials and services,

	<ul style="list-style-type: none"> — to provide the Community, upon request, with expertise and advice on any subject connected with the operation of the market of nuclear materials and services, — to liaise with the ESA's Advisory Committee (AC) and seek the opinion thereof and to participate, as appropriate, including by providing a secretariat, to the said AC's meetings.
<p>Governance</p>	<ul style="list-style-type: none"> — The Agency is endowed with legal personality and financial autonomy. — It operates under the supervision of the Commission, on a non-profit-making basis. — The Director-General (DG) and the staff of the ESA have to be, or to become, officials of the European Communities. They have to possess a security clearance. Their salaries are paid by the Commission. — The Euratom Treaty and the ESA's Statutes determine the Agency's capital and the conditions upon which it is subscribed. <p>Director-General</p> <p>Appointed by the Commission, for an indefinite period of time. The DG's duties and powers are determined, in particular, in the ESA's Statutes.</p> <p>The Euratom Supply Agency's Supervision by the Commission</p> <p>The Commission may issue directives to the Agency and possesses a right of veto over the Agency's decisions. Moreover, certain decisions of the ESA are subject to prior Commission authorisation.</p> <p>Advisory Committee</p> <p>Composed from members of the Member States, who are appointed <i>intuitu personae</i> for a (renewable) three-year term. The AC assists the Agency in carrying out its tasks. It acts as a link between the ESA and both producers and users in the nuclear industry. The Committee may be consulted upon all matters in the Agency's purview. It has to give its opinion on all matters listed in Article 13 of the Statutes. It normally meets twice every year.</p> <p>External audit</p> <p>European Court of Auditors.</p> <p>Discharge authority</p> <p>European Parliament.</p>
<p>Resources made available to the Agency in 2013 (2012)</p>	<p>Budget</p> <p>104 000 (104 000) euro, including contribution from the Commission: 98 000 (98 000) euro.</p> <p>Staff on 31 December 2013</p> <p>Total staff number: 18 (17) (including the Director-General).</p>
<p>Products and services provided in 2013 (2012)</p>	<p>Security of supply ensured</p> <p>Transactions processed</p> <p>Some 279 (270) transactions, including contracts, amendments and notifications of the front-end activities, were processed by the Agency in 2013.</p> <p>Reports</p> <p>In 2013, the Agency issued:</p> <ul style="list-style-type: none"> — the Agency's Annual Report for 2012,

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- 4 (3) Quarterly Uranium Market Reports,
 - 6 (6) bimonthly Nuclear News Digests,
 - 40 (45) Weekly Nuclear News Briefs, for readers inside the EC.

Participation to activities of the Euratom Supply Agency's Advisory Committee

- The Agency's AC held two meetings (in April and November), with the Agency's support and participation.
- The Agency facilitated the activities of two Working Groups of its AC.

Relations with other EU Institutions and International Cooperation

Relation with the EC as described above.

Each year the Agency has to submit to the European Parliament, the Council and the Commission a report covering its activities in the previous year, as well as its work programme for the coming year.

The ESA cooperates also with the international organisations, namely the IAEA (International Atomic Energy Agency) and the OECD/NEA (Nuclear Energy Agency). In that context, the Agency participates in the joint NEA/IAEA Uranium Group and in the NEA High-Level Group on the Security of Supply of Medical Radioisotopes (HLG-MR).

Security of supply of medical radioisotopes

In September 2013, ESA was entrusted the chairmanship of the European Observatory on the Supply of Medical Radioisotopes to help implement a European Council policy towards ensuring continuity of supply for medical radioisotopes.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

12. The notes to the Agency's 2013 final accounts include an estimate of salary costs. Precise data concerning the Agency's administrative costs covered by the Commission are owned by the latter. In our view, the fact that the Commission pays the salaries of the Agency's staff (and some other administrative expenses) does not jeopardise per se the ESA's independence while it enables economies of scale.

13. In the Agency's understanding, an appropriate risk management and control strategy is effectively in place. However, starting within the current year, the Agency will provide further, structured documentation on risk-assessment and risk-mitigation actions.
