

**RESOLUTION (EU) 2017/1661 OF THE EUROPEAN PARLIAMENT****of 27 April 2017****with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2015**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2015,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0086/2017),
- A. whereas, according to its financial statements, the final budget of the European Chemicals Agency ('the Agency') for the financial year 2015 was EUR 114 412 841 representing an increase of 0,26 % compared to 2014,
- B. whereas the Agency received Union subsidies of EUR 7 318 792 as well as EUR 300 000 from the Instrument for Pre-Accession Assistance but has received no other contributions or funding from the Commission,
- C. whereas the Court of Auditors ('the Court') in its report on the annual accounts of the Agency for the financial year 2015 ('the Court's report'), has stated that it has obtained reasonable assurances that the Agency's annual accounts for the financial year 2015 are reliable and that the underlying transactions are legal and regular,
- D. whereas in the context of the discharge procedure, the discharge authority stresses the particular importance of further strengthening the democratic legitimacy of the Union institutions by improving transparency and accountability, and implementing the concept of performance-based budgeting and good governance of human resources,
- 1. Recalls that the Agency is a consolidated entity, in accordance with Article 185 of Regulation (EU, Euratom) No 966/2012 ('the Financial Regulation'), and that it is the driving force among regulatory authorities in implementing the Union's chemicals legislation for the benefit of human health and the environment as well as for innovation and competitiveness; notes that the Agency helps companies to comply with the legislation, advances the safe use of chemicals in cooperation with international organisations and stakeholders, provides information on chemicals and addresses chemicals of concern;

**Follow-up of 2014 discharge**

- 2. Notes from the Agency that, in line with the discharge authority's recommendation from the previous year, it will include in its next annual report a separate chapter on transparency, accountability and integrity;

**Legality and regularity of transactions**

- 3. Notes from the Court's report that the Agency paid 50 % of the cost for after-school care of the children of its staff in the European School in Helsinki; notes moreover that this contribution is limited to EUR 1 000 per child per year, amounting to approximately EUR 95 000 in 2015; takes note from the Court that this measure was not communicated to the budgetary authority in the framework of the budget procedure; acknowledges that the Agency will communicate this measure to the budgetary authority in its 2018-2020 Programming Document and in its 2018 financial statement; acknowledges in addition that the Agency already updated the remarks on the relevant budget line by including the information about this measure in the first amendment to the Agency's 2016 budget;

**Budget and financial management**

- 4. Notes that in accordance with Regulation (EC) No 1907/2006 ('REACH Regulation'), the Agency is financed through fees paid by industry and by a Union balancing subsidy as referred to in Article 208 of the Financial Regulation; welcomes the fact that in 2015 and contrary to the original assumption, the Agency was fully financed through higher than expected fee income and the reserve from the income of previous years for its REACH/classification, labelling and packaging (CLP) operations;

5. With regard to biocidal products notes that, as referred to in Article 208 of the Financial Regulation, in 2015 the Agency collected fee income totalling EUR 5 423 667 (in comparison to EUR 1 265 774 in 2014), while the Union subsidy amounted to EUR 5 789 000 (in comparison to EUR 5 064 194 in 2014) and that additionally, the received EFTA contributions, including from Switzerland, totalled in 2015 EUR 307 791;
6. Notes that budget monitoring efforts during the financial year 2015 resulted in a budget implementation rate of 98,48 %, representing an increase of 1,4 %; notes moreover that the payment appropriations execution rate was 87,84 %, representing a slight increase of 0,38 % in comparison to 2014;
7. Acknowledges the fact that with regard to Regulation (EU) No 649/2012 of the European Parliament and of the Council<sup>(1)</sup> ('PIC Regulation') and as referred to in Article 208 of the Financial Regulation, in 2015, DG Environment paid EUR 1,22 million in subsidies to the Agency for actions related to certain hazardous chemicals and pesticides in international trade;

### **Transfers**

8. Notes that the Agency made in total 44 transfers amounting to EUR 1 395 000; notes with satisfaction that, according to the Agency's annual report, as well as the Court's audit findings, the level and nature of transfers in 2015 have remained within the limits of financial rules;

### **Commitments and carryovers**

9. Notes from the Court's report that the carry-overs of committed appropriations for Title IV (biocides operating expenditure) were at EUR 1 500 000 (74 %); acknowledges that these carry-overs were mainly related to a large scale IT project amounting to EUR 1 400 000, which was started only in the second half of 2015, when sufficient fee income for its funding had been collected; acknowledges that the Agency will continue to be attentive in order to avoid any non-justified carry-over operations;
10. Notes that carry-overs may often be partly or fully justified by the multiannual nature of the agencies' operational programmes, do not necessarily indicate weaknesses in budget planning and implementation and are not always at odds with the budgetary principle of annuality, in particular if they are planned in advance and communicated to the Court;

### **Procurement and recruitment procedures**

11. Takes note that the recruitment target of the Agency was achieved with 98 % of posts filled at the end of 2015 for REACH/CLP (classification, labelling and packaging of substances and mixtures) and PIC (export and import of hazardous chemicals); acknowledges furthermore from the Agency that this percentage cannot exceed 98 % since the Agency was required to reduce the number of staff by 2 % (10 posts) in order to be aligned with the 2016 establishment plan; acknowledges that the percentage of posts filled for biocides was 83 %, due to uncertainty with respect to fee income levels and the Agency's authorised staff allocation for 2016;
12. Highlights that since the Agency's workload has not decreased during 2015, sufficient human and financial resources should be allocated;
13. Notes that according to the Agency's annual report, in 2015 it signed 739 contracts, out of which 540 contracts were under framework contracts and 199 contracts were as a result of new tendering procedures; notes that the 25 contracts included in the latter category were signed as a result of exceptional negotiated procedures based on the relevant rules of the Financial Regulation;

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

14. Notes with satisfaction that the CVs and declarations of interests are well organised, visible, accessible and user-friendly on the Agency's website;

<sup>(1)</sup> Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

15. Notes that the Agency adopted the guidelines for whistleblowers in December 2015; takes note that, following the adoption of the Agency's anti-fraud strategy in December 2014 which covers the 2015-2016 period, the Agency already implemented different actions stemming from the anti-fraud action plan; acknowledges that the internal fraud risk assessment exercise, which preceded the adoption of the strategy, revealed that the risk profile of the Agency is low; acknowledges moreover that the main aim of the anti-fraud strategy is to develop a widespread anti-fraud culture in the Agency, with a focus on awareness;
16. Acknowledges that in 2015 the Agency adopted internal guidelines for its staff; acknowledges moreover that these guidelines include potential conditions which could be imposed by the Appointing Authority on former staff, with regard to new employment for a period of two years after active employment; takes note that the Agency has a conflict of interest advisory committee, which gives recommendations to the Executive Director and the management board on individual cases of perceived conflict of interest; recognises that, due to the stringent measures in place to avoid conflicts of interest, no actual conflict of interest cases materialised during 2015;
17. Notes that the Agency has implemented a robust conflict of interest policy and a detailed anti-fraud strategy in order to contribute to a culture of high ethical behaviour among the staff and experts working for the Agency;
18. Notes that the Agency's committees are composed of national delegates, appointed by Member State authorities or the Agency's management board; notes moreover that the Agency's committees have in total nine co-opted members on the basis of a public call for expression of interest, as allowed by the Agency's founding legal act; takes note that these co-opted members may act as rapporteurs but have no voting rights, as well as that the Agency's policy on prevention of conflicts of interest applies to them in full; looks forward to the report by the Agency's management board on the experience with co-opted members, which is scheduled for 2017;
19. Notes that the Agency in 2015 granted full access to 27 % and partial access to 68 % of documents requested under Regulation (EC) No 1049/2001 of the European Parliament and of the Council <sup>(1)</sup>; takes note that the main reasons for partial refusal were the protection of privacy and integrity of the individual, as well as the protection of commercial business information; acknowledges that, in principle, in cases of partial access most of the content in documents is disclosed to the applicants; notes that in 2015 the Agency refused access to 5 % of documents requested, mainly due to the protection of ongoing decision-making process, the protection of sensitive business information and the protection of court proceedings;

### Performance

20. Notes that the Agency presented its framework and approach to evaluation to its management board in December 2015; observes that this approach established a range of evaluation tools and controls, including a governance framework, an evaluation coordination function to ensure methodological consistency, evaluation checklists and a rolling plan of *ex-ante* and *ex-post* evaluations; acknowledges the Agency's efforts to strengthen its governance framework and approach for *ex-ante* and *ex-post* evaluations;
21. Notes that the Agency developed a new integrated regulatory strategy which brings all REACH and CLP processes together to reach the aims of relevant regulations, as well as the 2020 goals of the 2002 World Summit on Sustainable Development;
22. Notes that the implementation of Regulation (EU) No 528/2012 of the European Parliament and of the Council <sup>(2)</sup> ('Biocides Regulation') resulted in unexpectedly high activity in 2015, demonstrating that companies are becoming familiar with the changes and the opportunities offered by new Union authorisation process; at the same time notes with concern that the Agency has faced challenges managing the workload due to the frozen staff level on biocides;
23. Notes that approximately 8 200 registration dossiers (mainly updates) and 250 product and process orientated research and development notifications were received in 2015 and that the total number of submissions decreased by 10 % compared to 2014;
24. Recommends that the Agency develop impact indicators; believes that such impact indicators are essential tools in order to measure the effectiveness of the Agency;

<sup>(1)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

<sup>(2)</sup> Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

**Internal audit**

25. Notes that in 2015 an audit on 'Forecasting, Calculation and Collection of Fee Income and Charges under REACH, CLP and BPR' was conducted by the Commission's Internal Audit Service (IAS); notes furthermore that as a result, the IAS issued two 'very important', one 'important' and no 'critical' recommendations; acknowledges that the Agency developed an action plan in response to the issued recommendations;
26. Notes that the assurance audits on 'Performance Indicators in the General report', 'ECHA Helpdesk' and 'Contract management and payments' were carried out by the Agency's Internal Audit Capability (IAC); notes that the audits resulted in five 'very important' and two 'important' recommendations; acknowledges that the action plans developed by the Agency's management to respond to the recommendations of the IAC were considered by the IAC as adequate;

**Other comments**

27. Notes with satisfaction the gender equality balance of its management board members;
28. Notes that 453 members of staff participated in 2015 in away days for which the cost was EUR 113 975 (EUR 251,60 per person), and 565 members of staff participated in closed conferences for EUR 31 468 (EUR 54,25 per person);
29. Welcomes the improvement of the way in which information on chemicals is presented on the Agency's website, which helps companies and consumers to make more use of it;
30. Notes that the discussion platform between the Agency and non-governmental organisations is a useful forum for discussing the main issues of interest to civil society;
31. Welcomes the progress made in developing the authorisation process under the REACH Regulation and notes the Agency's conclusions that further improvements can still be made; welcomes in this regard the proactive approach of the Agency in seeking a dialogue with Parliament to address issues raised in its resolution of 25 November 2015 on the draft Commission Implementing Decision XXX granting an authorisation for uses of bis(2-ethylhexyl) phthalate (DEHP) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(1)</sup>;
32. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 27 April 2017 <sup>(2)</sup> on the performance, financial management and control of the agencies.

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<sup>(1)</sup> Texts adopted, P8\_TA(2015)0409.

<sup>(2)</sup> Texts adopted, P8\_TA(2017)0155 (see page 372 of this Official Journal).