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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF AUDITORS

REPORT

on the annual accounts of the Agency for Cooperation of Energy Regulators for the financial year 2012, together with the Agency's replies

(2013/C 365/01)

INTRODUCTION

1. The Agency for Cooperation of Energy Regulators (hereinafter 'the Agency', aka 'ACER'), which is located in Ljublana, was created by Regulation (EC) No 713/2009 of the European Parliament and of the Council (¹). 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 (²), the Agency was given new additional responsibilities, together with national regulatory authorities, regarding the monitoring of the European wholesale energy market (³).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 (4) and the reports on the implementation of the budget (5) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

- 4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (6), 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:
- (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

⁽¹⁾ OJ L 211, 14.8.2009, p. 1.

⁽²⁾ Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 (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.

⁽³⁾ Annex II summarises the Agency's competences and activities. It is presented for information purposes.

⁽⁴⁾ 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.

⁽⁵⁾ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁽⁶⁾ OJ L 357, 31.12.2002, p. 72.

basis of the accounting rules adopted by the Commission's accounting officer (7); 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.

The auditor's responsibility

- 5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (8) 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 2012 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 2012 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 LEGALITY AND REGULARITY OF TRANSACTIONS

11. In order to cover higher school fees, the Agency grants staff whose children attend primary or secondary school a top up allowance in addition to the education allowances provided for in the Staff Regulations (9). Total 2012 top up allowances amounted to some 23 000 euro. They are not covered by the Staff Regulations and are therefore irregular.

COMMENTS ON BUDGETARY MANAGEMENT

- 12. The Agency carried over committed appropriations under title II (Agency's building and associated costs) of its budget amounting to 1,7 million euro, representing 81 % of total committed title II appropriations. These carry-overs mainly relate to the implementation of the REMIT regulation which is ongoing. Since the implementation is linked to the Agency's operational activities, it should normally have been budgeted under title III.
- 13. In 2012, the Agency made 20 budget transfers of some 1 million euro and affecting 43 budget lines. This indicates weaknesses in budget planning.

⁽⁷⁾ 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.

⁽⁸⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

⁽⁹⁾ Article 3 of Annex VII provides for twice the basic allowance of 252,81 euro = 505,62 euro.

OTHER COMMENTS

- 14. The Agency held 4,2 million euro in cash at the year end, including the 2011 budget surplus of 1,6 million euro which resulted from an excessive call for funds in 2011 and was recovered by the Commission in January 2013. This is not consistent with a rigorous treasury management.
- 15. The audited recruitment procedures revealed short-comings affecting transparency and an equal treatment of candidates: questions for interviews and tests were not set before the

examination of the applications. The conditions for admission to written tests and interviews and for being included in the list of suitable candidates were not specified in sufficient detail and the measures taken to ensure the anonymity of candidates sitting written tests were inadequate.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The high level of appropriations not used and of carry-overs as well as the low level of payments indicate shortcomings in budget planning and implementation and are at odds with the budgetary principle of annuality.	Ongoing
2011	There is room to improve the transparency of recruitment procedures. As an example, vacancy notices did not specify the maximum number of candidates to be put on a reserve list and made no reference to the possibility of appeal. Moreover the questions for written tests and interviews and their weightings were not prepared before the examination of the applications.	Ongoing
2011	In 2011 the Agency paid subsistence allowances amounting to 10 839 euro to seconded experts who were nationals of the State where the Agency is situated. This payment conflicts with the Rules on the Secondment of National Experts adopted by the Administrative Board of the Agency, which provide for the granting of such allowances only to temporary staff who are not nationals of the Member State where they are employed; such payments are irregular.	Completed

ANNEX II

Agency for the Cooperation of Energy Regulators (Ljubljana) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 114 (ex Article 95 TEC) and Article 194 of the Treaty on the Functioning of the European Union)

The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States to:

- (a) ensure the functioning of the energy market;
- (b) ensure security of energy supply in the Union;
- (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and
- (d) promote the interconnection of energy networks.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve these objectives. Such measures shall be adopted after consultation of the Economic and Social Committee and the Committee of the Regions.

Competences of the Agency

(As specified in Regulation (EC) No 713/2009 of the European Parliament and of the Council; Commission Regulation (EU) No 838/2010; Regulation (EU) No 1227/2011 of the European Parliament and of the Council)

Objectives

The purpose of the Agency 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.

Tasks

- complement and coordinate the work of National Regulatory Authorities,
- participate in the creation of European network rules,
- take, under certain conditions, binding individual decisions on terms and conditions for access and operational security for cross-border infrastructure,
- give advice on various energy-related issues to the European institutions,
- monitor and report developments on the energy markets,
- formulate a proposal to the EU Commission on the annual cross-border infrastructure compensation sum for the ITC mechanism,
- cooperate with the national regulatory authorities, ESMA, competent financial authorities of the Member States and where appropriate with national competition authorities to monitor the wholesale energy markets,
- assess the operation and transparency of different categories of market places and ways of trading,
- make recommendations to the Commission as regards market rules, records of transactions, orders to trade, standards and procedures which could improve market integrity and the functioning of the internal market.

Governance

Administrative Board

Composition

Two members appointed by the European Parliament, two members appointed by the Commission and five members appointed by the Council. Each member has an alternate.

Tasks

The Administrative Board adopts the Agency's annual programme and budget and monitors their implementation.

Director

Appointed by the Administrative Board after a favourable opinion from the Board of Regulators and on the basis of a list of candidates proposed by the Commission.

Board of Regulators

Composition

A senior representative of the regulatory authorities from each Member State and one non-voting representative of the Commission. Each member has an alternated as nominated by the national regulatory authority from each Member State.

Tasks

- the Board shall provide opinions to the Director on the opinions, recommendations and decisions that are considered for adoption,
- provide guidance to the Director in the execution of its tasks,
- deliver an opinion to the Administrative Board on the candidate to be appointed as Director, and
- approve the work programme of the Agency.

External audit

European Court of Auditors.

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Budget 2012 (2011)

7,2 (4,8) million euro

Staff as at 31 December 2012 (2011)

Posts listed in the establishment plan: 43 (40)

Posts occupied on 31 December: 42 (39)

Other staff: 14 (12)

Total staff: 57 (39), of which assigned to:

- operational tasks: 34 (28)
- administrative tasks: 23 (11)

Products and services 2012

- Two Framework guidelines (Electricity: FG on Balancing; Gas: FG on Interoperability). Public consultations organised as required under Article 10 of Regulation (EC) No 713/2009, including workshops.
- Network codes
 - (a) Three Reasoned Opinions on Network Codes (Electricity: Network Code for Requirements for Grid Connection Applicable to all Generators and Network Code on Capacity Allocation and Congestion Management; Gas: Network Code on Capacity Allocation Mechanism).
 - (b) Two Qualified Recommendations on Network Codes (both on Gas Network Code on Capacity Allocation Mechanism).
- Opinion on ENTSOG Work Programme for 2012.
- Opinion on ENTSOG's 2011-2012 Winter Supply Outlook.
- Opinion on ENTSOG's 2012 Summer Supply Outlook.
- Opinion on ENTSOG's 2013 Annual Work Programme.
- Opinion on ENTSO-E TYNDP 2012.
- Opinion on the ENTSO-E Summer Outlook Report 2012 and Winter Review 2011/2012.
- Opinion on ENTSO-E Annual Report 2011.
- A Joint ACER-CEER Market Monitoring Report (Article 11 of Regulation (EC) No 713/2009) was issued on 29 November; a presentation took place in Brussels.
- Recommendation on Article 2(1)(n) of the Commission proposal for a Directive of the European Parliament and of the Council on markets in financial instruments repealing Directive 2004/39/EC of the European Parliament and of the Council (COM(2011) 656 final).
- Recommendation on the Records of Transactions of Regulation (EU) No 1227/2011 (REMIT) was adopted.
- Decision relating to the Registration Format Pursuant to Article 9(3) of Regulation (EU) No 1227/2011 was adopted.
- Second edition of the Guidance on the application of the definitions listed in Article 2 of REMIT was issued on 28 September 2012.
- Successful conclusion of the three framework contracts regarding the implementation of REMIT.
- The Regional Initiatives Status Review for 2011 was published in March.
- Three On-line Gas Regional Initiatives (GRIs) and Four On-line Electricity Regional Initiatives (ERIs) quarterly reports were published.
- Two new Agency Working Groups established (Implementation, Monitoring and Procedures Working Group (AIMPWG) and a Market Integrity and Transparency Working Group (AMITWG), and the Rules for the functioning of the Working Groups were updated.
- On 14 March 2012 the Agency organised its Annual Conference 'Making the Internal Energy Market a reality – which role for ACER?'; 220 participants attended.

THE AGENCY'S REPLIES

- 11. In the absence of a European School in Slovenia and the need of a measure of social nature to pair the unequal working conditions (in line with Article 1(e) of the Staff Regulation) to which Agency staff is subject to, compared with staff working in other European Union institutions, where European Schools are available, the Administrative Board adopted decision AB n° 01/2011 of 11 February 2011 'on the support granted to ACER staff members in respect to kindergarten and school fees'. The maximum level of support granted to eligible staff members, in respect to each eligible child, does not exceed the level of fees paid for the European School in Brussels.
- 12. The Agency has been advised by the Commission to use Title II for the REMIT project as most of the start-up costs relate to IT applications. The Agency has decided to use Title III for recording REMIT-related expenditure as from 2014 when the energy market monitoring by the Agency is expected to start.
- 13. Upon a comprehensive assessment, the Agency has been fully aware, that the budget envisaged in the financial statement of REMIT, has turned out to be insufficient to develop a fully-effective IT system for the implementation of the Regulation (EU) No 1227/2011. Therefore, the Agency tried, already in 2012, to identify where additional resources could be found in its budget to be dedicated to REMIT. As the budget of the Agency was already tight, only minor amounts could have been transferred from other budget lines. This exercise was carried out systematically and resulted in a high number of low-amount budget transfers.
- 14. The EUR 4,2 m cash balance held in the Agency's bank account at year-end included the 2011 budgetary surplus of EUR 1,6 m paid back in January 2013, as the Agency received the request from the Commission only on 8 January 2013, the 2012 budgetary surplus of EUR 0,6 m to be paid back to the Commission when requested and the amount of EUR 1,9 m to settle the legal obligations entered into by the Agency before the year-end and which were carried forward into 2013. The Agency's cash management aims to ensure that funds are available to cover outstanding liabilities as they occur.
- 15. The Agency is strictly following the interview and written test procedures as established in detail in the relevant Director decision 2012-17 on Guidelines on recruitment procedures and work of the Selection Committees on 20 March 2012, ensuring questions and assessment criteria are fixed before the start of the testing and interviews. In order to take account of the auditors comments The Agency agrees to revise the current procedure. The Agency considers that the anonymity of tests is not crucial for the overall objectivity of the selection procedure. The marking criteria to assess the test are established by the selection panel beforehand in order to assure the objective scoring of the written tests. Furthermore, some tests cannot be organised anonymously, since candidates are either requested to present their experience in the answer or they need to prepare a presentation which they deliver to the selection panel at the beginning of the interview.

REPORT

on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2012, together with the Office's replies

(2013/C 365/02)

INTRODUCTION

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 Council (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 Office, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and

- (1) OJ L 337, 18.12.2009, p. 1.
- (2) Annex II summarises the Office's competences and activities. It is
- presented for information purposes.
 (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) OJ L 357, 31.12.2002, p. 72.

fair presentation of the annual accounts of the Office and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Office'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 Administrative Manager approves the annual accounts of the Office 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 Office 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.

The auditor's responsibility

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 Office are free from material misstatement and the transactions underlying them are legal and regular.

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

- 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 Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question and should be considered in the light of the fact that 2012 was the Office's first year of operations and that the establishing of all its procedures is still ongoing.

COMMENTS ON THE RELIABILITY OF ACCOUNTS

11. The Office's accounting system was still not validated by the Accounting Officer.

COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

12. Committed appropriations carried over amounting to $61\,500$ euro ($10\,\%$ of the total committed appropriations

carried over) did not correspond to legal commitments and were thus irregular.

COMMENTS ON INTERNAL CONTROLS

- 13. The Office had not yet implemented the Internal Control Standards on 'Objectives and performance indicators' (ICS 5), 'Process and procedures' (ICS 8), 'Document management' (ICS 11) and 'Information and Communication' (ICS 12).
- 14. There is no procedure related to the registration and disposal of fixed assets and no physical inventory has been performed.
- 15. Procedures concerning the establishment, approval and recording of exceptions and deviations from policies and procedures have not been implemented.

COMMENTS ON BUDGETARY MANAGEMENT

- 16. Some 101 000 euro, 45 % of the committed appropriations carried over from 2011, were cancelled. Appropriations for 2012 of 545 000 euro, 17 % of total 2012 appropriations, were not used and also had to be cancelled. The level of carryovers of committed appropriations to 2013 was high at 611 000 euro or 19 % of the total. This indicates difficulties in the planning and/or implementation of the Office's activities. The carry-overs for 2012 were mostly related to delayed recruitments and the absence of an effective policy to ensure the timely presentation and reimbursement of mission costs claimed by experts.
- 17. There is considerable room for improving the preparation, execution and documentation of procurement procedures. As an example, award procedures did not give sufficient attention to the price quality ratio and general award criteria had not been further broken down into sub criteria to allow a clear and comparable evaluation of the offers.

OTHER COMMENTS

- 18. The recruitment procedures examined showed significant shortcomings affecting transparency: 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; nomination and changes in the composition of the selection board were not approved by the Appointing Authority.
- 19. Most of the Office's staff have an administrative or support function and do not travel, but all have been provided with a mobile phone with a monthly limit up to approximately 50 euro. There are no controls to monitor private use.

20. The Office does not have a treasury policy. At the end of 2012, all cash (1,6 million euro) was held in one bank (BBB rating (8)).

FOLLOW UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

⁽⁸⁾ According to a note from the Commission's accounting officer dated 27 October 2008, the minimum short term rating should be A-1.

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The Office's 2011 budget adopted by the Management Committee disclosed appropriations by Titles and Chapters only and was not subdivided into articles and items. This situation is at odds with the principle of specification.	Completed
2011	The Court identified 21 cases with a total value of 94 120 euro in which appropriations carried over to 2012 did not correspond to legal commitments. These carryovers were therefore irregular.	Ongoing
2011	The Office had not yet adopted and implemented all the internal control standards. Notably, no central register of invoices and no register of exceptions was introduced.	Completed (register of invoices) Ongoing (register of exceptions)
2011	The Office needs to improve the transparency of recruitment procedures. Questions for oral and written tests were not set before the applications were examined by the selection board, there was no decision of the Appointing Authority to appoint the selection board and the grade of the members of the selection board was not indicated.	Ongoing

ANNEX II

Office of the Body of European Regulators for Electronic Communications (Riga) Competences and activities

Areas of Union competence deriving from the Treaty	Approximation of laws in the field of electronic communications.
(Article 114 of the Treaty on the Functioning of the European Union)	
Competences of the Office (Regulation (EC) No 1211/2009 of the European Parliament and of the The Office's powers are defined in Regulation (EC) No 1211/2009. The Office's powers are defined in Regulation (EC) No 1211/2009. The Services to BEREC.	
Council)	It shall perform its functions under the guidance of the Board of Regulators.
Governance	The Office comprises:
	(a) a Management Committee,
	(b) an Administrative Manager,
	which share between themselves all administrative and financial responsibilities, including the responsibilities for the staff.
	However, only the Management Committee is responsible for the appointment of staff (Article 7(4)).
	Guidance on the services and products to be provided by the Office is provided by the Board of Regulators, as specified in 'Products and services in 2012'.
Resources made available to	Final Budget: 3,1 million euro (amended budget 1/2012)
the Office in 2012	Staff as at 31 December 2012: 22
Products and services in 2012	Under the guidance of the Board of Regulators, the Office has provided the following services:
	Professional and administrative support services to BEREC.
	— Collection of information from NRAs and exchange and transmission of information.
	 Dissemination of regulatory best practices among NRAs within the EU and to third parties.
	 Assistance to the Chair in the preparation of the work of the Board of Regulators and the Management Committee of the Office.
	— Support to the Expert Working Groups set up by the Board of Regulators.
Source: Information supplied by the Of	fice.

THE OFFICE'S REPLIES

- 11. The newly appointed (December 2012) Accounting Officer has made suggestions to the Authorising Officer on necessary steps, set for full implementation by end July 2013, preconditioning the validation of the accounting systems.
- 12. To address the situation of commitments being carried forward irregularly, the BEREC Office has undertaken development of a Financial Manual. This manual, (currently, June 2013, in the course of finalisation) will address, in a dedicated Chapter related to Budgetary Commitments: the Definition, Conditions, Follow-up procedure and the corresponding Workflow inside the organisation that will be implemented for the Carry-Forward exercise to be performed at the end of the year.
- 13. All the Internal Control Standards are now being reviewed following the IAS Limited Review from March 2013. As of end June 2013 the BEREC Office will give a comprehensive reply and suggest a realistic timetable for future actions.
- 14. The BEREC Office Financial Manual (currently, June 2013, in the course of finalisation) will address, in a dedicated Chapter related to Assets, the procedures related to Inventory Management. The BEREC Office will perform a full inventory following procurement of necessary equipment within 3rd Quarter 2013.
- 15. An Internal Administrative Instruction was adopted on the 18 June 2012 in order to apply the principles of the ICS 8. Currently the policy on 'complementary guidance' along the line of the guidelines in place for the EC (the so called 'Exception Reporting', [SEC(2007)1341]) is being finalised and adopted by the Administrative Manager as Internal Administrative Instruction as of 11 June 2013.
- 16. The staffing allocated to budget management is currently (in June 2013) being assessed, as well as the introduction of a management tool to better monitor the budget implementation and planning, which will have an impact on the 2014 execution. Additionally, the BEREC Office will take the following corrective measures to ensure appropriate level of carryover in the future: revising the policy on reimbursement of experts attending meetings, which has the highest impact on carried over amounts at this point, to ensure that the collecting of supporting documents is made within a stricter and respected deadline.
- 17. In order to correctly implement the current procurement procedure by all involved team members, the proper procurement trainings are being organised as of September 2013. Concrete steps are being taken to document the procedures in a dedicated Chapter of the Financial Manual (currently, June 2013, in the course of finalisation).
- 18. As of 2013, when proper staffing was in place in Administration and Finance Unit, the recruitment procedures' consistency is ensured by the HR team in the Office through policies and guidelines. A new recruitment guideline comprising steps and responsibilities has been developed in May 2013 and implemented for 2013 recruitment procedures. Conflict of Interest declarations are being reviewed and as of 2013, questions for written tests and interviews and threshold scores are determined prior to the examination of applications.
- 19. A comprehensive policy has been prepared and will be adopted in June 2013. The policy will regulate: principles of exclusive professional usage; principles of monitoring the mobile usage and prevention of abuse; measures of security. The policy will also regulate that the assignment of the mobile phones will be decided on a case by case situation by the responsible line manager.
- 20. The newly appointed Accounting Officer has taken steps to ensure that another contract with a banking service provider with higher level of rating will be in place by end of August 2013.
- 21. No comments.

REPORT

on the annual accounts of the Translation Centre for the Bodies of the European Union for the financial year 2012, together with the Centre's replies

(2013/C 365/03)

INTRODUCTION

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 (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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 (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

- 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 Centre, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair presentation of the annual accounts of the Centre and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Centre'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 Centre 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 Centre 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.

The auditor's responsibility

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 Centre are free from material misstatement and the transactions underlying them are legal and regular.

⁽¹⁾ OJ L 314, 7.12.1994, p. 1.

⁽²⁾ Annex II summarises the Centre's competences and activities. It is

presented for information purposes.
(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⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

- 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 Centre's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

OTHER COMMENTS

- 11. At the end of 2012, the Centre held cash and short term deposits amounting to 35 million euro (budgetary surplus and reserves amounting to 30,9 million euro). The Centre cannot adjust prices during the year in order to balance income and expenditure although it has occasionally refunded its clients in order to reduce the surplus.
- 12. 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.

FOLLOW-UP OF PREVIOUS YEAR'S OBSERVATIONS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The Centre's 2011 budget amounted to 51,3 million euro (¹) compared with 55,9 million euro the previous year. The 2011 budget outturn decreased to 1,2 million euro in 2011 as compared with 8,3 million euro in 2010. This mainly results from a 15 % decrease in revenues, reflecting the Centre's new pricing policy which aims to align prices of products with their costs.	N/A
2011	Continuing the trend from last year, the accumulated budget surplus decreased from 9,2 million euro in 2010 to 3,0 million euro in 2011. This reduction is the net effect of the 2011 budget surplus and allocations to reserves for pricing stability and for exceptional investments.	N/A

 $^(^1)$ Amended budget (OJ C 375, 22.12.2011, pp. 5-7); including budget transfers.

ANNEX II

Translation Centre for the Bodies of the European Union (Luxembourg) Competences and Activities

Areas of Union competence deriving from the Treaty

The representatives of the Member States' governments adopted by mutual agreement a declaration concerning the creation, under the aegis of the Commission's translation departments in Luxembourg, of a Translation Centre for the bodies of the Union, which would provide the necessary translation services for the operation of the bodies and services whose seats were established by the Decision of 29 October 1993.

Competences of the Centre

Objectives

(Council Regulation (EC) No 2965/94, as last amended by Regulation (EC) No 1645/2003 To provide the necessary translation services for the operation of the following bodies:

- European Environment Agency;
- European Training Foundation;
- European Monitoring Centre for Drugs and Drug Addiction;
- European Medicines Agency;
- European Agency for Safety and Health at Work;
- Office for Harmonisation in the Internal Market (Trademarks and Designs);
- European Police Office (Europol) and Europol Drugs Unit.

Bodies set up by the Council other than the above may use the Centre's services. The institutions and bodies of the European Union which already have their own Translation Services may, if need be, call upon the Centre's services on a voluntary basis.

The Centre plays a full part in the work of the Interinstitutional Translation Committee.

Tasks

- to make arrangements for cooperation with the bodies and institutions;
- to participate in the work of the Interinstitutional Translation Committee.

Governance

Management Board

Composition

- one representative per Member State;
- two representatives from the Commission;
- one representative from each body or institution calling upon the Centre's services.

Tasks

To adopt the Centre's annual budget and work programme, establishment plan and annual reports.

Director

Appointed by the Management Board on a proposal from the Commission.

External audit

European Court of Auditors.

	Internal audit
	European Commission's Internal Audit Service (IAS).
	Discharge authority
	European Parliament, acting on a recommendation from the Council.
Resources made available to	Final Budget:
the Centre in 2012 (2011)	48,293 (51,299) million euro
	Staff:
	225 (225) provided in the establishment plan, of which 199 (205) were occupied.
	+ 17 (14) contract staff
	Total staff: 216 (219), undertaking the following tasks:
	operational: 114 (107)
	administrative: 102 (112)
Products and services 2012	Number of pages translated:
(2011)	735 007 (712 813)
	Number of pages by languages:
	— official languages: 722 505 (704 613)
	— other languages: 12 502 (8 200)
	Number of pages per client:
	— bodies: 707 888 (676 925)
	— institutions: 27 119 (3 888)
	Number of pages translated by freelancers:
	480 695 (436 445)

Source: Information supplied by the Centre.

THE CENTRE'S REPLIES

- 11. The cumulative budget surplus that may be reimbursed to clients amounts to 3,9 million euro, with the remaining part of the budget surplus being blocked by the statutory reserve and other reserves created by the Centre for specific purposes. In the long term, based on the Centre's pricing policy, the Centre should balance its costs with its revenues. The prices of the Centre's products are fixed by the Management Board for one year and, therefore, the surplus of 3,9 million euro will be reflected in the price modification for 2014 in order to assure long-term equilibrium.
- 12. The Translation Centre takes due note of the Court's observation. The Centre stresses, however, that the opinion of the Court deviates from the framework established by the legislator in the Founding Regulation of the agencies.

REPORT

on the annual accounts of the European Centre for the Development of Vocational Training for the financial year 2012, together with the Centre's replies

(2013/C 365/04)

INTRODUCTION

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 (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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 (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

- 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 Centre, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5),

the management is responsible for the preparation and fair presentation of the annual accounts of the Centre and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Centre'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 Centre 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 Centre 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.

The auditor's responsibility

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

⁽¹⁾ OJ L 39, 13.2.1975, p. 1.

⁽²⁾ Annex II summarises the Centre's competences and activities. It is

presented for information purposes.
(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⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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 Centre are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Centre's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENT ON INTERNAL CONTROLS

11. The Centre awards grants on an annual basis to a network of national partners (8) (grants per agreement range between 23 615 euro and 43 620 euro). Grant expenditure (which mainly relates to beneficiaries' staff costs) in 2012 amounted to 695 337 euro (9), or 4 % of total operating expenditure. The Centre's ex ante verifications of grants consist of a comprehensive desk-analysis of cost claims submitted by grant beneficiaries, as well as a review of certificates obtained from external auditors which were contracted by the beneficiaries or of certificates from independent public officers. However, the Centre does not usually verify the staff costs claimed by beneficiaries on the basis of original supporting documentation. Related ex post verifications were last carried out in 2009. As a result, ex ante verifications provide only limited assurance.

COMMENTS ON BUDGETARY MANAGEMENT

12. Budget implementation rates were high at 100 % for titles I and III and 98 % for title II. While carry-overs of committed appropriations were high for title II at 39 % (673 392 euro), this mainly resulted from reasons beyond the Centre's control, such as delays in the repair works carried out by the Greek authorities on the Centre's premises. These led to a postponement of the related maintenance, repair and fitting-out of premises (some 124 000 euro), as well as delays in procuring equipment for the Centre's conference rooms (some 242 000 euro). Part of the carry-overs is attributable to delays in procuring IT equipment (some 172 000 euro).

OTHER COMMENTS

13. Two recruitment procedures for the post of the Centre's future Director had been launched in 2010 and 2011 and both of them were declared unsuccessful (10). A third recruitment procedure was launched at the end of 2012 and is still ongoing. The Court found that in the first two recruitment procedures members of the Pre-selection Committee did not sign a declaration of absence of conflict of interests and that questions for interviews and their weightings, as well as the threshold scores for being included in the list of suitable candidates were set after the screening of candidates.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

- 14. An overview of the corrective actions taken in response to the Court's previous year's comments is provided in *Annex I*.
- (8) National agencies and research institutes mainly.
- (9) Resulting from final payments and clearings of pre-financings related to grant agreements from previous years. For 2012 grant agreements, only pre-financings were made in 2012 which had not yet led to expenditure.
- (10) In the first recruitment procedure, none of the candidates short-listed by the Centre's Governing Board was appointed by the European Commission. In the second recruitment procedure, the Pre-selection Committee considered that none of the proposed candidates met the requirements for being shortlisted and did not submit a list of suitable candidates to the Governing Board.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The excessive level of carry-overs for title II is at odds with the budgetary principle of annuality.	Ongoing
2011	A significant number of budgetary transfers was made which were mostly concentrated at the year-end (¹). The justification for these budgetary transfers was insufficient, as no estimate of needs was made. This situation indicates weaknesses in budget planning and programming and is at odds with the principle of specification.	Ongoing (completed as regards justification of transfers)
2011	Annually, the Centre's financing of grants for vocational education and training (VET) (²) amounts to about 1 million euro (³). There were significant delays in the closing of grants for the year 2010, because beneficiaries submitted their final reports on activities late. The Centre itself was late in the verification of these reports and the processing of final payments (⁴).	Completed

⁽¹⁾ In total, 77 budget transfers were made, totalling 1,5 million euro, of which 67 transfers (1,3 million euro) were made in November and December 2011.

⁽²⁾ The Centre provides grants to a European network of reference and expertise ('ReferNet'), for providing information on the national vocational education and training systems and policies in the Member States, Norway and Iceland.

(3) 2011 and 2010: 0,9 million euro.

⁽⁴⁾ On average, final payments were late by about 50 days.

ANNEX II

European Centre for the Development of Vocational Training (Thessaloniki) Competences and activities

Areas of Union competence deriving from the Treaty

Collection of information

(Article 166(1) of the Treaty on the Functioning of the European Union)

The Union shall implement a vocational training policy which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.

Competences of Cedefop

Objectives

(Articles 2 and 3 of Council Regulation (EEC) No 337/75)

In its capacity as the European Union reference centre for vocational education and training, the Cedefop provides policy-makers, researchers and professionals with evidence on current trends to enable them to reach soundly based decisions and actions. Cedefop assists the European Commission in promoting and developing vocational education and training at Union level.

Tasks

- To compile selected documentation and produce data analysis,
- to contribute to research development and coordination,
- to utilise and disseminate relevant information,
- to encourage and support a concerted approach to matters relating to the development of vocational training,
- to provide a forum for a broad and diverse public.

Governance

Governing Board

Composition

For each Member State:

- (a) One member representing the Government.
- (b) One member representing the employers' organisations.
- (c) One member representing the employees' organisations.

For the European Commission: three members.

The members referred to in (a), (b) and (c) are appointed by the Council. The Commission appoints the members who are to represent it.

Coordinators from the Employers' organisations and Employees' organisations at European level and observers from the EEA countries also attend Governing Board and Bureau meetings.

Duties

To adopt the budget, medium term priorities (Cedefop's multiannual planning), work programme and assess and analyse the annual activity report and the annual accounts. To adopt the final budget and the establishment plan.

Bureau

Composition

The chairman and the three vice-chairmen of the Governing Board, one coordinator per group and one additional representative of the Commission.

Director

Appointed by the Commission from a list of candidates submitted by the Governing Board; he/she is responsible for the management of Cedefop and implements the decisions of the Governing Board and the Bureau.

Internal audit

European Commission's Internal Audit Service (IAS).

External audit

European Court of Auditors.

Discharge authority

European Parliament, acting on a recommendation from the Council.

Resources made available to the Centre in 2012 (2011)

Final Budget

19,22 (18,83) million euro

Union contribution (1): 97,6 % (97,5 %)

Staff as at 31 December 2012

Number of posts in establishment plan: 101 (101)

Posts occupied: 98 (2) (97)

Other staff:

- contract staff: 23 (3) (25)
- seconded national experts: 3 (3)

Total staff: 124 (125)

- operational staff: 90 (90)
- administrative: 34 (35)

Products and services in 2012 (2011)

Policy analysis and reporting

Cedefop's report Trends in VET policy in Europe 2010-12: Progress towards the Bruges Communiqué was published and presented to the Directors General for Vocational Training (DGVTs) in Cyprus. Cedefop provided up-to-date information on VET systems, along with news on initiatives and policy developments in the Member States. Several 'Statistics of the month' with data across Europe focused on assessing the impact of the crisis. To meet the European Commission's demand for systematic country-based analysis of VET developments for the 'European semester', Cedefop refocused its work and introduced Spotlights on VET for all countries. For the DGVT meetings under the Danish and Cypriot Presidencies it prepared an overview of developments in VET-business cooperation and a briefing note on Permeable education and training systems: reducing barriers and increasing opportunity.

Common European tools, qualifications and learning outcomes

Cedefop coordinated the EQF (European Qualifications Framework) Advisory Group jointly with the European Commission and (co) drafted 23 background papers that informed policy debates. The briefing note *Qualifications frameworks in Europe: an instrument for transparency and change* issued for the DGVT meeting in Cyprus summarised the results of Cedefop's fourth annual report on NQF developments. Cedefop also analysed the reports by 10 countries explaining how they link their national qualifications to the EQF. The results of the third ECVET monitoring report were presented at the DGVTs meeting in Cyprus. Support to EQAVET continued. The

Europass website – managed by Cedefop – has been increasingly used by Europe's young people. Since its launch, almost 60 million visits have been recorded (2012: 14,8 million; 2011: 12,9 million) and users have generated 25 million CVs online (2012: 8,3 million; 2011: 5,8 million). The study Curriculum reform in Europe: the impact of learning outcomes was published and discussed at an international workshop. In 2011/12, Cedefop coordinated 215 study visits for 2 448 specialists from 33 countries. Impact studies underline a high satisfaction rate (96 %).

Adult learning and transitions

The study Adult learning in the workplace: skill development to promote innovation in enterprises was issued for a workshop on this issue. To contribute to the European year of active ageing, Cedefop organised a workshop on sustaining employability through learning within DG EAC's conference 'One Step Up in later life'. It also issued its publication Working and ageing — the benefits of investing in an ageing workforce. Three publications focused on financing and other incentives for CVET. To support integration of young people in the labour market, Cedefop contributed to the event held at Germany's initiative to conclude cooperation agreements with several countries as part of the 'European alliance for apprenticeship'. The contribution also drew on the evidence in the report From education to working life — The labour market outcomes of VET.

Skills analysis

Cedefop presented its latest EU skill demand and supply forecast for 2010-2020 in the briefing note Europe's skill challenge — Lagging skill demand increases risks of skill mismatch and the publication Future skills supply and demand in Europe — Forecast 2012. Cedefop contributed to the EU Skills Panorama and issued two publications on green skills. For the Commission's report on Employment and Social Developments in Europe 2012, Cedefop drafted a chapter on skill mismatch. The report Skill mismatch: the role of the enterprise was debated at a workshop. A briefing note on Preventing skill obsolescence was also issued. For its initiative to create a regional skills anticipation monitoring tool, Cedefop provided expertise to the municipality of Thessaloniki.

Organisational impact

Key performance indicators show high organisational impact: citations in 169 EU and 68 international policy documents, some drawing substantially on Cedefop's work; contributions to 26 EU policy documents, 158 Presidency and other EU-level events; 150 events organised by Cedefop; 120 publications; 525 media articles on Cedefop's work recorded (+ 38 %); 636 000 publications downloaded (+ 33 %); 415 citations in scientific literature; significant growth in social media (+ 127 % Facebook; + 170 % Twitter). For cost savings, emphasis was placed on videoconferences and Skype has experimentally been used in recruitment procedures for interviews.

For more information see www.cedefop.europa.eu (Annual Report and Annual Activity Report 2012).

⁽¹⁾ Note: the Union contribution includes a Union subsidy as well as BRS.

⁽²⁾ This includes posts actually filled (92) and job offers made (6) for vacant posts (in line with the Multi Annual Staff Policy Plan approach).

⁽³⁾ This includes 22 contract staff and 1 job offer made. Source: Information supplied by the Centre.

THE CENTRE'S REPLIES

11. The Centre scrutinises in detail proposals and cost estimates when assessing the grant applications. In the verification process the quality and completeness of deliverables are checked in detail.

To address the Court's concerns, as of this year, Cedefop will introduce, in addition to the audit certificates, detailed checks of personnel costs and time sheets for 3 randomly selected cases out of the 26 to 29 grant payments.

- 12. We take note of the observation on carry-overs in title II and confirm our continued commitment to lower these carry-overs.
- 13. The Centre points out that even though it provides assistance to the pre-selection committee it has no control over the procedure and the decisions of the pre-selection committee or Commission.

Evidence indicates that panel members have been aware of the necessity of absence of conflict of interest, nevertheless, members of the pre-selection committee have in the meantime signed formal declarations following the Court's suggestion.

REPORT

on the annual accounts of the European Police College for the financial year 2012, together with the College's replies

(2013/C 365/05)

INTRODUCTION

The European Police College (hereinafter 'the College', aka 'CEPOL'), which is located in Bramshill, was established by Council Decision 2000/820/JHA, as repealed in 2005 and replaced by Council Decision 2005/681/JHA (1). The College's task is to function as a network and bring together the national police training institutes in the Member States to provide training sessions, based on common standards, for senior police officers (2).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the College'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.

STATEMENT OF ASSURANCE

- 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 College, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5),

the management is responsible for the preparation and fair presentation of the annual accounts of the College and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the College'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 College 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 College 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.

The auditor's responsibility

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

⁽¹⁾ OJ L 256, 1.10.2005, p. 63.

⁽²⁾ Annex II summarises the College's competences and activities. It is

presented for information purposes.

(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⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the College are free from material misstatement and the transactions underlying them are legal and regular.

- 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 College's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 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 LEGALITY AND REGULARITY OF TRANSACTIONS

11. The College has carried over to 2013 committed appropriations amounting to 355 500 euro for the 2013 Exchange Programme, which is scheduled to take place between March and November 2013. In the absence of any reference to the 2013 Exchange Programme in the College's 2012 Annual Work

Programme and in view of the fact that no financing decision had been made on the matter in 2012, the carry-over is irregular.

COMMENTS ON BUDGETARY MANAGEMENT

- 12. Out of the committed appropriations carried over from 2011 amounting to 1,7 million euro, 0,7 million euro (41,2 %) were cancelled in 2012. This was mainly due to lower than estimated costs to be reimbursed under 2011 grant agreements (0,44 million euro or 62 % of cancelled carry-overs).
- 13. The level of committed 2012 appropriations for the different titles varied between 90 % and 99 % of total appropriations, indicating that legal commitments were made in a timely manner. The level of committed appropriations carried over to 2013 was high for title III (operating expenditure) as it amounted to 1,5 million euro (36 %). This however was not due to delays in implementing the College's 2012 Annual Work Programme, but mainly arose from the carry-over referred to in paragraph 11 and from the fact that costs relating to courses that were organised in the last months of 2012 under 2012 grant agreements were not due for reimbursement until the beginning of 2013 (1 million euro).
- 14. In 2012, the College made 37 budgetary transfers amounting to 1 million euro, out of which 36 within their respective titles.
- 15. The facts presented in paragraphs 11, 12 and 14 are at odds with the budgetary principles of annuality and specification.

OTHER COMMENTS

- 16. Discussions about the College's future that have been ongoing for several years have created a situation of uncertainty which continues to hamper business planning and implementation.
- 17. The College needs to ensure full compliance with the 'Guide to CEPOL recruitment' and to improve further the transparency of recruitment procedures: vacancy notices were not always published at least 6 weeks before applications were due; there was no evidence that assessors checked that the rules for the submission of applications had been respected; the selection criteria that were applied did not always match those that had been specified in the vacancy notices; there were major delays in some cases in the examination of applications.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The high level of carry-overs as well as the high level of cancellations indicate shortcomings in budget planning and/or implementation and are at odds with the budgetary principle of annuality.	Outstanding
2011	The high level of budget transfers indicates weaknesses in budget planning and is at odds with the principle of specification.	Outstanding
2011	The College is located in Bramshill, using premises of the UK National Policing Improvement Agency (NPIA). NPIA is due to close at the end of 2012 and it is not clear until when the College can continue using its current premises.	Outstanding
2011	The College needs to improve the transparency of recruitment procedures. Vacancy notices made no reference to the possibility of appeal; weightings for selection criteria were not set before the examination of applications and reports summarising screening procedures and decisions on reserve lists were not always prepared.	Ongoing

ANNEX II

European Police College (Bramshill) Competences and activities

Areas of Union competence deriving from the Treaty

Approximation of laws

(Article 87 TFEU)

- '1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.
- 2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning: [...]
- (b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection; [...]

Competences of the College

Objectives

(Council Decision 2005/681/JHA)

The aim of College shall be to help train senior police officers in the Member States by optimising cooperation between College's various components. It shall support and develop a European approach to the main problems facing Member States in the fight against crime, crime prevention and the maintenance of law and order and public security, in particular the cross-border dimensions of those problems.

Tasks

- To increase knowledge of the national police systems and structures of other Member States and of cross-border police cooperation within the European Union
- To improve knowledge of international and European Union instruments, particularly in the following sectors:
 - (a) the institutions of the European Union, their functioning and role, as well as the decision-making mechanisms and legal instruments of the European Union, in particular as regards their implications for law-enforcement cooperation;
 - (b) Europol's objectives, structure and functioning, as well as ways to maximise cooperation between Europol and relevant law-enforcement services in the Member States in the fight against organised crime;
 - (c) Eurojust's objectives, structure and functioning.
- To provide appropriate training with regard to respect for democratic safeguards, with particular reference to the rights of defence.

Governance

Governing Board

Composition

One delegation from each Member State.

Each delegation shall have one vote. Representatives of the European Commission and of the General Secretariat of the Council of the European Union and Europol shall be invited to attend meetings as non-voting observers.

Director

Manages the College, is appointed and removed by the Governing Board.

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament, acting on a recommendation from the Council.

Resources made available to the College in 2012 (2011)

Budget

8,4 (8,3) million euro

Staff

The Establishment Plan for 2012 provided for 28 (26) Temporary Staff.

In addition: 10 (8) Contract Staff posts were budgeted for.

Member States also seconded a total of: 5 (7) National Experts during the course of the year.

Products and services in 2012 (2011)

Courses, Seminars and Conferences

The College implemented a total of 82 (88) residential activities (courses, seminars and conferences). The assessment of the evaluation of the activities shows that general satisfaction with the College activities and its learning outcomes remained outstanding at 93 % (93 %). CEPOL has brought together 2 098 (2 043) law enforcement participants and 772 (784) trainers from 33 (37) countries (EU Member States and Third Countries) and 27 EU and international bodies. Attendance rate (attendance/seats available) has considerably increased reaching 96 % (80 %) demonstrating increasing demand for CEPOL training. The College itself organised 15 (17) activities in support of the network and initiated a Grant Agreement application process for 2013. No activities were postponed to the next calendar year.

External Relations

External policy: CEPOL is continuing its fruitful cooperation with strategic partners, partner agencies and EU institutions, including EEAS, and has been clearly identified as one of the key providers of training for police officers taking part in EU police missions. In 2012, CEPOL successfully negotiated two Agreements with Moldova and Albania.

Development of Training Manuals and (Common) Curricula

In 2012, the SIRENE Trainers Manual was edited by the Publications Office of the European Union and distributed to the SIRENE Training Committee and the General Secretariat of the Council of the European Union. The SIRENE Trainers Manual was used in the context of a SIRENE Train and Trainers activity.

Four Common Curricula were updated and one was completed on the basis of a Grant Agreement: Domestic Violence, Money Laundering, Police Ethics and Prevention of Corruption, Trafficking in Human Beings (updated) and Civilian Crisis Management (completed). The Common Curriculum on Europol was updated by Europol with the support of CEPOL in line with the MoU (1/2007/GB, Article 4). (O CCa, 1 Training Manual in 2011).

Research and Science

After intensive preparation efforts for the 2012 CEPOL European Police Research and Science Conference, the event under the title 'Police Science in Europe: Project, Progress and Projections' attracting 120 participants from the Member States and internationally, was considered a success.

One new issue of the 'European Science and Research Bulletin' was published on the website.

A growing e-Library is used as a knowledge repository for registered e-Net users on a regular basis.

European Police Exchange Programme

CEPOL European Police Exchange Programme 2012 comprised of the following elements:

- senior Police Officers and Training Staff;
- commanders;
- study visits to Europol, Frontex, EMCDDA and OLAF;
- a joint study visit to Europol and Eurojust for Eastern ENP, Turkey and WB-countries.

The programme included topics deriving from the Stockholm Programme priorities, the EU Policy Cycle as well as requests from the Member States. The exchange visits are done on bilateral basis, with a maximum of 12 calendar days and a minimum of 5 working days. Study visits were organised for 3-5 days to the abovementioned organisations. The joint study visit was exclusively launched for the countries of the Western Balkans, Turkey, and countries within the Eastern Partnership within the European Neighbourhood Policy. The countries that sent representatives to this study visit were; Albania, Armenia, FYROM, Moldova, Montenegro, Serbia and Turkey. Altogether 293 (292) participants from 25 Member States and the aforementioned countries took part. The programme had a budget of about 800 000 euro financed by CEPOL.

Electronic Network (e-Net)

The College's e-Net (Electronic Network) received 263 450 (109 000) unique visitors and had 13 189 (9 283) registered users at the end of 2012 (an increase of 42 % compared to the figure at the end of 2011). A meeting for national e-Net managers took place in December. CEPOL's LMS (Learning Management System) proved to be highly successful both in supporting CEPOL activities and by offering a platform for information sharing within the CEPOL network. Open Platforms have been made also available, where in a networked learning context communities of practice can learn from and with each other easily using online technology.

E-Learning

In 2012 the College developed 4 (5) e-Learning Modules on the subjects Joint Investigation Teams, Lisbon Treaty, SIRENE and Trafficking of Human Beings. The modules can be used by law enforcement officers for the professionalisation on an any time/any place basis, to support life-long learning and self-directed individual learning. In the period 1 January 2012 – 6 January 2013 a total of 1 961(1 765) unique users registered for the online learning modules. By 31 December 2012, 21 (18) planned CEPOL online seminars (webinars) have been implemented on both policing topics as well as police education and training, attracting 1 310 participants. Another 9 webinars have been implemented based on the ad-hoc needs of CEPOL and the Member States, leading to an additional 357 attendees, bringing the total attendees for CEPOL Webinars in 2012 to 1 667 (398).

Source: Information supplied by the College.

THE COLLEGE'S REPLIES

- 11. The College agrees with the comment of the Court and commits to document similar cases via a formal financing decision. The College would draw attention that although a financing decision was not formalised, the action was implemented in a transparent manner to the Governing Board, which is regularly informed and takes note on the status of budget implementation via the reports provided.
- 12. The agency has taken note of the Court's comments.
- 13. The agency has taken note of the Court's comments.
- 14. During 2012 CEPOL made 37 budgetary transfers of which 23 were within budget chapters, 13 between budget chapters and only 1 between budget titles. These transfers were necessary to maximise the utilisation of the financial resources made available to the agency. All transfers were processed in conformity with the applicable articles in the Financial Regulation and the implementing rules.
- 15. The College agrees with the comments of the Court. In order to increase supervision on the budgetary principles of annuality and specification, CEPOL has introduced a weekly budget monitoring report. The dynamism of the budget consumption including the carry-overs is closely monitored and the reasons for any significant lagging behind are analysed in view of continuously improving the budget planning and implementation.
- 16. The agency has taken note of the Court's comments.
- 17. The College agrees with the comments of the Court. In order to further increase compliance with the rules and principle of transparency, CEPOL continues to improve and strengthen the documentation of the human resources processes through procedures and templates adopted in accordance with the established quality document management system.

REPORT

on the annual accounts of the Community Plant Variety Office for the financial year 2012, together with the Office's replies

(2013/C 365/06)

INTRODUCTION

The Community Plant Variety Office (hereinafter 'the Office', aka 'CPVO'), which is located in Angers, was created by Council Regulation (EC) No 2100/94 (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 Office, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair presentation of the annual accounts of the Office and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Office'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 Office 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 Office 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.

The auditor's responsibility

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 Office are free from material misstatement and the transactions underlying them are legal and regular.

⁽¹⁾ OJ L 227, 1.9.1994, p. 1.

⁽²⁾ Annex II summarises the Office's competences and activities. It is

presented for information purposes.
(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⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

- 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 Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON INTERNAL CONTROLS

11. The CPVO carried out a physical verification of its assets in December 2012. However, no physical verification report was produced. It is therefore not possible to verify the accuracy of the corresponding accounting records.

OTHER COMMENTS

12. Recruitment procedures showed significant shortcomings affecting transparency and equal treatment of candidates: the weightings and thresholds set were not always applied, no consistent evaluation method was used throughout the various recruitment procedures and the possibility of appeal was not mentioned in the vacancy notice.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The high level of carry-overs and cancellations is at odds with the budgetary principle of annuality.	Completed
2011	Weaknesses were noted as regards the recording of four legal commitments in advance of budget commitments (18 791 euro). Purchase orders are frequently dated prior to the approval of the budget commitments.	Completed
2011	The Office did not adopt the Implementing Rules of the Staff Regulations as regards the engagement and use of contract staff and the temporary occupation of management posts.	Ongoing

ANNEX II

Community Plant Variety Office (Angers) Competences and Activities

Areas of Union competence	Free movements of goods	
deriving from the Treaty	Such muchibitions on rectnictions (the protection of industrial and communical	
(Extract of Article 36 of the Treaty on the Functioning of the European Union)	Such prohibitions or restrictions [the protection of industrial and commercial property] shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.	
Competences of the Office	Objectives	
(Council Regulation (EC) No 2100/94 and Strategic Plan 2010-2015)	To apply the system of European Union plant variety rights as the sole and exclusive form of European Union industrial property rights for plant varieties.	
,	To foster innovation in plant varieties by high quality processing of applications for Community plant variety rights at affordable costs while providing policy guidance and assistance in the exercise of these rights for the benefit of stakeholders.	
	Tasks	
	— to decide whether to refuse or grant applications for Union plant variety rights,	
	— to decide on objections,	
	— to decide on appeals,	
	— to decide on the revocation or cancellation of a European Union plant variety right.	
Governance	The President	
	Directs the Office. He is appointed by the Council from a list of candidates proposed by the Commission after obtaining the opinion of the Administrative Council.	
	The Administrative Council	
	Oversees the Office's work programme and draws up rules governing the Office's working methods. It is composed of one representative of each Member State and one representative of the Commission, plus their alternates.	
	Decisions regarding the grant of Community plant variety rights are adopted by Committees composed of three members of staff of the Office and by the Board of Appeal in appeal proceedings.	
	Control of the legality of the Office's acts	
	Review by the Commission of the legality of the acts of the Office's President in respect of which European Union law does not provide for any control on legality by another body and of the acts of the Administrative Council relating to the Office's budget.	
	budget.	
	External audit	
	External audit	

Administrative Council.

Resources made available to the Office in 2012 (2011)	Final Budget
,	14,3 (14,4) million euro
	Staff as at 31 December 2012
	Number of posts in the establishment plan: 46 (46)
	Posts occupied: 45 (45)
	Total staff: 45 (45), undertaking the following tasks:
	— operational: 17,5 (17,5)
	— administrative: 21,5 (21,5)
	— mixed: 6 (6)
Products and services 2012 (2011)	Applications received: 2 868 (3 184)
(====)	Rights granted: 2 640 (2 584)
	European Union rights in force at 31 December 2012: 20 362 (18 907)
	International Cooperation on Plant Variety Protection
	— Contribution to enforcement of plant variety rights.

Contacts and cooperation with the following organisations: European Commission (DG SANCO, Standing Committees), UPOV (¹), CIOPORA (²), ESA3 (³), OAPI (⁴), OECD (⁵), MAFF (⁶) (Japan).

⁽¹) Union pour la Protection des Obtentions végétales.
(²) International Community of Breeders of Asexually Reproduced Ornamental and Fruit Plants.
(²) European Seed Association.
(⁴) Organisation africaine de la Propriété intellectuelle.
(⁵) Organisation for Economic Co-operation and Development.
(⁶) Ministry of Agriculture, Food & Fisheries (JP).

Source: Information supplied by the Office.

THE OFFICE'S REPLIES

- 11. Verification documents (fiches inventaires) were provided for the physical verifications carried out in December 2012. The format of the documents will in future be prepared in line with the request of the Court.
- 12. The CPVO has taken note of the Courts' findings and have modified the Guide for Selection Boards accordingly. The CPVO is nevertheless of the opinion that in the competitions reviewed by the Court, candidates were treated fairly and equally.

REPORT

on the annual accounts of the Education, Audiovisual and Culture Executive Agency for the financial year 2012, together with the Agency's reply

(2013/C 365/07)

INTRODUCTION

The Education, Audiovisual and Culture Executive Agency (hereinafter 'the Agency', aka 'EACEA'), which is located in was established by Commission Decision 2009/336/EC (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission (EC, Euratom) No 2343/2002 (5), the Regulation 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:

- (1) OJ L 101, 21.4.2009, p. 26.
- (2) The Annex summarises the Agency's competences and activities. It is
- presented for information purposes.

 (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) OJ L 357, 31.12.2002, p. 72.

- (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.

The auditor's responsibility

- 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.
- 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

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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 2012 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 2012 are legal and regular in all material respects.
- 10. The comment which follows does not call the Court's opinions into question.

COMMENT ON BUDGETARY MANAGEMENT

11. The level of committed appropriations was high at 99 % for both title I (staff expenditure) and title II (administrative expenditure). Although carry-overs of committed appropriations were relatively high for title II at 28 %, they mainly related to services received in 2012 for which invoices had not been issued at year-end (building costs and IT consultancy) and to the multiannual nature of activities (experts' project reviews and project audits)

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX

Education, Audiovisual and Culture Executive Agency (Brussels) Competences and activities

Areas of Union competence deriving from the Treaty

Collection of information

(Articles 165(1), 166(1), 167(1) and 173(1) TFEU)

The European Union shall contribute to the development of quality education.

The European Union shall implement a vocational training policy.

The European Union shall contribute to the flowering of the cultures of the Member

The European Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.

Competences of the Agency

Objectives

(Council Regulation (EC) No 58/2003; Commission Decision 2009/336/EC, as amended by Decision 2012/797/EU; Commission Decision C(2009) 3355 as amended by Decision C(2012) 9475 final)

In the framework of the education, culture and industry policies, numerous measures have been taken to promote education, vocational training, audiovisual, culture, youth and active citizenship in the European Union. The main objectives of these measures are to reinforce social cohesion and to contribute to competitiveness, to economic growth and to an ever closer union amongst the people of Europe.

These measures include a variety of programmes.

The Agency is responsible for managing certain strands of these programmes – e.g. Lifelong learning, Culture, Youth in Action, Europe for Citizens, MEDIA, Erasmus Mundus, MEDIA Mundus and Tempus. In this respect, it implements the aid of the Union, except for tasks which require discretionary powers in translating political choices.

Tasks

- to manage, throughout their duration, the projects implementing the Union programmes entrusted to it and to perform the necessary checks to that end, by adopting the relevant decisions where the Commission has empowered it to do so.
- to adopt the instruments of budget implementation for revenue and expenditure and to carry out, where the Commission has empowered it to do so, the operations necessary for the management of the Union programmes and, in particular, those linked to the award of grants and contracts,
- to gather, analyse and pass on to the Commission all the information needed to guide the implementation of the Union programmes,
- to implement, at EU level, the network of information on education in Europe (Eurydice) and activities intended to improve understanding and knowledge of the field of youth through the collection, analysis and dissemination of information and production of studies and publications.

Governance

Steering Committee

Composition

Comprises five members appointed by the European Commission.

Duties

It adopts the Agency's annual work programme after approval by the European Commission. In addition, it adopts the administrative budget of the Agency and its annual activity report.

Director

Appointed by the European Commission.

External audit

European Court of Auditors.

Internal audit

Internal Audit Capability.

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Budget

The 2012 administrative budget of the Agency remained at 50 (50) million euro (100 % financed by the general budget of the European Union).

The Agency has managed 728 (621) million euro related to the programmes and projects delegated by the Commission to the Executive Agency.

Staff as at 31 December 2012

Temporary staff: 103 (102) posts for temporary staff in the establishment plan

Post occupied: 99 (102)

Contract staff: 335 (336) contract staff posts

Posts occupied: 329 (331)

Total staff: 428 (433) posts occupied by staff undertaking the following tasks:

Operational: 351
Administrative: 77

Products and services in 2012 (2011)

Communication

- Organisation of two Info days, participation in 16 Info days organised by National Agencies/Structures and several other information sessions in Brussels, update of EVE (¹) database with project results, organisation of events in cooperation with parent Directorates-General (DGs).
- Kick-off meetings were organised in Brussels for new project coordinators and partners.
- Thematic cluster meetings and meetings with project coordinators were held in different locations.

Selections

- 28 calls for proposals were published as well as one call for tenders.
- The corresponding detailed fact sheets (or descriptions) of selected proposals (compendia) were published on the Agency's website.
- Management of the approximately 13 000 proposals received.
- Selection of approximately 3 500 projects and 439 Erasmus University Charters.

Monitoring visits

 More than 431 follow-up meetings (on site or in Brussels) with project participants were organised in order to monitor project implementation.

Simplification measures

- The use of e-forms was extended to cover more actions, i.e. 75 % of all applications
- Simplified contracting was expanded (decisions instead of grant agreements) for some actions.
- The lump sum calculation method was refined and applied to more actions.
- Greater use was made of remote expert briefings and remote project evaluation to evaluate actions.
- Audit certificates were drawn up to simplify financial reporting and will be gradually deployed.
- A financial information kit to enhance guidance for beneficiaries was finalised and made available.

Cooperation with parent DGs

- Organisation of four Steering Committee meetings.
- Periodic coordination meetings on the delegated programmes with the parent DGs Operational Directors (three meetings per year).
- Assistance to the parent DGs in the preparation of the next generation of programmes.
- Providing information on programme implementation to the Commission on request.
- Contribution to the 2nd interim evaluation of the Agency, including support for a satisfaction survey on applicants and beneficiaries.
- Close collaboration with parent DGs in the preparation of the new programmes for 2014-2020.

Policy support

- Continuous management of the Eurydice network for policy support in the field of education; it has been also extended to the field of youth.
- Several reports produced by the Eurydice unit.

Audits

120 audits under the 2011 audit plan are being implemented. 114 new audits are scheduled under the 2012 audit plan.

Contracts and projects:

5 027 contracts were signed, 4 738 projects were closed.

Mandate

 The mandate of the Agency has been extended in 2013. The extension was adopted by the Commission in December.

⁽¹⁾ Electronic platform for the dissemination and exploitation of results of projects supported by programmes managed by the European Commission in the fields of education, training, culture, youth and citizenship.

Source: Information supplied by the Agency.

THE AGENCY'S REPLY

1. The Agency takes note of the Court's comment. As regards the multiannual nature of activities, this particularly relates to project audits which take on average about 18 months between commitment and final payment. By planning such audits earlier, the Agency aims at further reducing carry-overs.

REPORT

on the annual accounts of the Executive Agency for Competitiveness and Innovation for the financial year 2012, together with the Agency's replies

(2013/C 365/08)

INTRODUCTION

The Executive Agency for Competitiveness and Innovation (hereinafter 'the Agency', aka 'EACI'), which is located in Brussels, is the former Intelligent Energy Executive Agency (IEEA). Its mandate and duration were modified by Commission Decision 2007/372/EC (1) amending Decision 2004/20/EC (2). The Agency was established for a period beginning on 1 January 2004 and ending on 31 December 2015, to manage EU actions in the field of energy, entrepreneurship and innovation, and sustainable freight transport (3).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 (4) and the reports on the implementation of the budget (5) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (6),

- (1) OJ L 140, 1.6.2007, p. 52.
- (2) OJ L 5, 9.1.2004, p. 85.
- (3) Annex II summarises the Agency's competences and activities. It is
- presented for information purposes.

 (4) 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.
- (5) These comprise the budgetary outturn account and the annex to the budgetary outturn account.
- (6) OJ L 357, 31.12.2002, p. 72.

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:

- (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 (7); 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.

The auditor's responsibility

The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (8) 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

⁽⁷⁾ 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.

⁽⁸⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON INTERNAL CONTROLS

11. The Agency's Internal Audit Capability (IAC) is also responsible for the Agency's *ex post* verifications, which form part of its internal control system. This reduces the IAC's resources for internal audit activities and means that it is not in a position to carry out independent audits in this area. This dual role is incompatible with the Internal Control Standards and International Standards for the professional practice of Internal Auditing.

OTHER COMMENTS

12. There is room for improving the recruitment procedures: selection criteria were not fully in line with those mentioned in the vacancy notice; certain selection criteria were weighted disproportionately; no threshold scores for the pre-selection phase and no maximum number of candidates for the reserve lists were set in advance; the justification for the exclusion of candidates at the final stage of the procedures was not always sufficiently documented and declarations on confidentiality and absence of conflict of interest were not always signed.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors Vítor Manuel da SILVA CALDEIRA President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The Agency's initial 2011 budget of 16,2 million euro included 10,7 million euro for staff costs. Actual staff expenditure was 10 million euro. While the budget was overestimated by 0,7 million euro, the underutilisation was less than in previous years (for example 1,5 million euro in 2010 (¹)).	Completed
2011	Under the rental agreement concluded in 2010 for its new premises, the Agency has to pay a total amount of 2,4 million euro in respect of refurbishment of the offices by the landlord. The Agency made an initial payment of 2 million euro in 2010. The remaining amount was to be paid in three further instalments in 2011, 2012 and 2013. The Agency incorrectly calculated the amount to be paid in 2011 and, as a consequence, made an overpayment of 108 287 euro. The landlord reimbursed the overpaid amount in January 2012. However, the incorrect payment by the Agency indicates the need to reinforce its controls in order to prevent such overpayments.	Completed

 $^(^1)$ See paragraph 13 of the Report on the annual accounts 2010 (OJ C 366, 15.12.2011, p. 81).

ANNEX II

Executive Agency for Competitiveness and Innovation (Brussels) Competences and activities

Areas of Union competence deriving from the Treaty on the Functioning of the European Union (TFEU) The Union policy on the environment shall contribute to preserving, protecting
and improving the quality of the environment; protecting human health; prudent
and rational utilisation of natural resources; and promoting measures at international level to deal with regional or worldwide environmental problems, and in
particular combating climate change.

(Article 191 of the TFEU)

2. The Union policy on industry shall ensure that the conditions necessary for the competitiveness of the Union's industry exist by speeding up the adjustment of industry to structural changes, encouraging an environment favourable to initiative and to the development of and cooperation between undertakings, fostering better exploitation of the industrial potential of policies of innovation, research and technological development. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The Commission may take any useful initiative to promote such coordination

(Article 173 of the TFEU)

3. The common transport policy shall lay down common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States. It shall also set out the conditions under which non-resident carriers may operate transport services within a Member State, and lay down measures to improve transport safety.

(Articles 91(1) and 100(2) of the TFEU)

4. Union policy on energy shall aim to ensure the functioning of the energy market; ensure security of energy supply in the Union; promote energy efficiency and energy saving and the development of new and renewable forms of energy; and promote the interconnection of energy networks.

(Article 194(1) of the TFEU)

Competences of the Agency

Objectives

(as defined in Commission Decision 2004/20/EC, amended by Decision 2007/372/EC)

Within the framework of the Lisbon strategy for growth and jobs, the European Union has taken measures to promote and develop competitiveness and innovation. These measures include the establishment of the Competitiveness and Innovation Framework Programme (CIP) 2007-2013 (Decision No 1639/2006/EC of the European Parliament and of the Council), notably with the programmes Intelligent Energy - Europe (IEE) and Entrepreneurship and Innovation (EIP). The main objectives are to foster competitiveness of enterprises, in particular SMEs; to promote all forms of innovation, as well as eco-innovation; to promote energy efficiency and new and renewable energy sources. The measures taken in the framework of the Lisbon strategy also include the second Marco Polo (MP) programme (Regulation (EC) No 1692/2006 of the European Parliament and of the Council). The main objectives are to reduce congestion, improve the environmental performance of the transport system and to enhance inter-modal transport, thereby contributing to efficient and sustainable transport systems and to competitiveness and innovation, especially of SMEs. Under these EU programmes, the Agency is responsible for all implementing tasks concerning EU aid, except for programme evaluation, monitoring of legislation and strategic studies, or any other action which comes under the exclusive competence of the European Commission.

Tasks

Implementing the EU programmes according to the delegations received from the Commission:

- to manage all phases in the lifetime of specific projects,
- to carry out all operations necessary to manage the EU programmes, in particular budget implementation including awarding of contracts and grants,
- to gather, analyse and pass on to the Commission all the information needed to guide the implementation of the programmes as well as to promote coordination and synergy among the programmes,
- as regards the EIP, to be in charge of project management and network animation
 of the Enterprise Europe Network, eco-innovation pilot and market replication
 projects, and innovation actions with a high degree of standardisation (IP Base
 project).

Governance

Steering Committee

Comprises five members appointed by the European Commission. It adopts the Agency's annual work programme after approval by the European Commission. In addition, it adopts the administrative budget of the Agency and its annual activity report.

Director

Appointed by the European Commission.

External audit

European Court of Auditors.

Discharge authority

European Parliament, acting on a recommendation by the Council.

Resources made available to the Agency in 2012 (2011)

Budget

Operational budget

The 241,34 (229,6) million euro planned (100 % general budget of the EU) were committed and 129,5 million euro paid. The EACI implements the operational budget under the responsibility of the Commission:

- for IEE 83,87 (83,8) million euro,
- for EIP-eco-innovation 35 (38,1) million euro,
- for EIP-Networks 57,4 (50,9) million euro,
- for MP 65,07 (56,8) million euro.

Administrative budget

16.4~(15.6) million euro (100~% EU subsidy) for the administrative budget for which the EACI is autonomous.

Staff at 31 December 2012

- Total staff: 162 (159) posts planned, of which 156 (156) occupied,
- TA posts: 37 (37) planned, of which 37 (33) occupied,
- Contract staff: 125 (122) posts planned, of which 119 (123) occupied.

Products and services 2012

EACI is responsible for the management of Union actions in the fields of energy, entrepreneurship and innovation (including eco-innovation), and sustainable freight transport under the following Union programmes:

- the following parts of the Competitiveness and Innovation Framework programme: Intelligent Energy Europe programme II (2007-2013), project management and animation activities of the Enterprise Europe Network, IPR-projects and Eco-innovation first application and market replication projects,
- the Marco Polo I (2003-2006) and II (2007-2013) programmes,
- the Intelligent Energy Europe I programme (2003-2006).

Intelligent Energy Europe (IEE)

Key activities

- For the Intelligent Energy Europe programme (IEE), 433 applications were received in response to the 2012 call for proposals, involving nearly 4 000 organisations from 32 countries, and a total of 67 proposals were selected for funding;
- regarding the 2011 call, following the evaluation of 280 proposals, 48 projects were successfully negotiated;
- in January the Agency held the most popular IEE information day thus far, with 780 participants from 31 countries. In addition the Agency participated in 21 other info days in the Member States. It also answered more than 1 300 enquiries sent to the IEE mailbox, 80 % of them in less than five days.

Eco-innovation

Eco-innovation is supported via the CIP through several types of measures (financial instruments, networks of national and regional actors, first application and market replication projects). The Agency is entrusted with the management of the eco-innovation first application and market replication projects with a budget of approximately 200 million euro for the 2008-2013 period.

In 2012 efforts were concentrated on:

- completion of the implementation of the 2011 call for proposals: negotiations were completed by end of November 2012; 47 contracts were signed;
- new call for proposals: the call launched in April 2012 and closed in September attracted 284 proposals. Central evaluation took place from 19 November to 7 December 2012;
- for the first time in the programme, an eco-innovators day was organised in November in Brussels with more than 200 participants. With the help of a tool used by the Enterprise Europe Network, a business matchmaking event was organised that resulted in 120 meetings between the participants, i.e. manufacturers, marketing experts, salespersons, innovators, opinion multipliers, etc., from across Europe.

Marco Polo programme

Key activities

- in relation to Marco Polo, the European info day in June attracted 172 participants (and a further 115 live web stream viewers). On this occasion, no less than 36 bilateral meetings with potential Marco Polo beneficiaries were organised;
- the 2012 call was published on 20 June and closed on 19 October. Fifty four proposals were received. The pre-evaluations took place between 19 and 27 November:

- as regards the 2011 call, out of the 50 proposals received, 18 projects were successfully negotiated. The Award Decision was adopted on 20 July (after approval by DG MOVE);
- management of ongoing projects: 35 on-site verification visits took place in respect of 32 projects.

EIP programme - Enterprise Europe Network

The programme is made up of more than 600 partner organisations in more than 50 countries, including the 27 EU Member States. In addition to project management tasks for 92 contracts (specific grant agreements) and the IPeuropAware project, the EACI is also responsible for the 'animation' of the Enterprise Europe Network and for managing the IT tools and databases for interactive communication among the network partners.

A new IT system for the Network ('Merlin') was gradually rolled-out during 2012, preparing for a major release in 2013.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

11. The Agency is aware that it is not an ideal situation for the IAC to have responsibilities for an operational function. When starting up the *ex post* control function, this situation was seen as the best option regarding the effectiveness and efficiency of controls given the small size of the Agency. If the size of the Agency increases significantly under the next Multiannual Financial Framework (MFF) (2014-2020), the *ex post* control and the IAC functions will be separated.

As regards the potential for self-review and conflict of interest, these risks are mitigated by the audit scope limitation in the IAC charter which states that any audit on the *ex post* control function shall be carried out by auditors external to the Agency.

12. The Agency is regularly updating its recruitment procedures to meet the required standards and improve its process. The procedural improvements suggested by the Court only impact a limited part of the recruitment steps and the majority of these improvements have already been included in the recruitment manual and implemented.

The Agency would like to reiterate that its aim is to strike the right balance between the recognised best practices in recruitment in public and in private sectors with the operational requirements of an executive agency with only a small number of overhead staff.

REPORT

on the annual accounts of the Executive Agency for Health and Consumers for the financial year 2012, together with the Agency's replies

(2013/C 365/09)

INTRODUCTION

1. The Executive Agency for Health and Consumers (hereinafter 'the Agency', aka 'EAHC'), located in Luxembourg, was set up by Commission Decision 2004/858/EC (¹) and amended by Decision 2008/544/EC (²). The Agency was established for a period beginning 1 January 2005 and ending 31 December 2015 for the management of Union actions in the field of health and consumer policy (³).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 (4) and the reports on the implementation of the budget (5) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission

- (1) OJ L 369, 15.12.2004, p. 73.
- (2) OJ L 173, 3.7.2008, p. 27.
- (3) Annex II summarises the Agency's competences and activities. It is presented for information purposes.
- (4) 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.
- (5) These comprise the budgetary outturn account and the annex to the budgetary outturn account.

Regulation (EC, Euratom) No 2343/2002 (6), 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:

- (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 (7); 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.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (8) 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.

- (7) 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.
- (8) Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

⁽⁶⁾ OJ L 357, 31.12.2002, p. 72.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY MANAGEMENT

- 11. Of the 1,1 million euro carried over from 2011, 0,2 million euro (18 %) were cancelled in 2012. Although this is partly related to difficulties in forecasting costs for meetings with external participants, such a high level indicates deficits in terms of budget planning.
- 12. The 2012 payment rates against committed appropriations are satisfactory for title I and II at 96 % and 84 % respectively. Carry-overs for title III, however, are high at 1,1 million euro or 47 % of committed title III appropriations. Although this is partly related to the late presentation of mission cost claims by external meeting participants, such a high level is at odds with the budgetary principle of annuality.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	For title III – Expenditure related to operational expenditure, an amount of 0,8 million euro, or 46 % of commitments made, was carried forward to 2012. The high level of carry-over is at odds with the budgetary principle of annuality.	

ANNEX II

Executive Agency for Health and Consumers (Luxembourg) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 168 and 169 of the Treaty on the Functioning of the European Union) A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities. Union action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education. The Union shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.

In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.

Competences of the Agency

Objectives

- The Agency is responsible for carrying out the implementation tasks for the management of the second Public Health Programme 2008-2013 as adopted by Decision No 1350/2007/EC, the Consumer Programme for 2007-2013 as adopted by Decision No 1926/2006/EC and the food safety training measures covered by Regulation (EC) No 882/2004 and Directive 2000/29/EC.
- The Agency also manages all the phases in the lifetime of the implementing measures delegated to it in the framework of the programme of Union action in the field of public health 2003-2008, adopted by Decision No 1786/2002/EC of the European Parliament and of the Council.

Tasks

Under the Union programmes mentioned below, the Agency is responsible for implementing the following tasks as defined in the delegation act adopted on 9 September 2008 $(^1)$:

Public Health Programme 2003-2008 - Decision No 1786/2002/EC

Public Health Programme 2008-2013 - Decision No 1350/2007/EC

Consumers Programme 2007-2013 - Decision No 1926/2006/EC

Food Safety Training Measures - Regulation (EC) No 882/2004 and Directive 2000/29/EC:

- (a) Managing all the phases of the cycle of projects (for monitoring and dissemination purposes, the Agency shall take the necessary steps to create a database of projects or to continue an existing one, incorporating a project description and the final results).
- (b) Monitoring projects implemented under these programmes and measures including the necessary checks.
- (c) Collecting, processing and distributing data and in particular compiling, analysing and transmitting to the Commission all information required to guide implementation of the Union programmes and measures, promote coordination and synergy with other programmes of the Communities, the Member States or international organisations.
- (d) Organising meetings, seminars, talks, and training measures.

	(e) Helping to evaluate the programme's impact, in particular the annual and/or midterm evaluation of implementation of the programmes, and implementing the follow-up actions on evaluations decided by the Commission.
	(f) Disseminating the results of the information operations planned and implemented by the Commission.
	(g) Producing overall control and supervision data.
	(h) Participating in preparatory work on financing decisions.
Governance	Steering Committee
	Comprises five members appointed by the European Commission. The members of the Steering Committee are appointed for two years.
	It adopts the Agency's annual work programme after approval by the European Commission. In addition, it adopts the administrative budget of the Agency and its annual activity report.
	Director
	Appointed by the European Commission for four years.
	External audit
	European Court of Auditors.
	Discharge authority
	European Parliament following a recommendation from the Council.
Resources made available to the Agency in 2012 (2011)	Final Budget
	The Agency's administrative budget for 2012 amounted to 7,22 (7,04) million euro.
	Staff at 31 December 2012
	On 31 December 2012, the Agency employed 50 (49) statutory staff members, including 11 (11) temporary staff and 39 (38) contract staff.
Products and services 2012	1. Monitoring the 2005, 2006, 2007, 2008 and 2009 grants provided under the 2003-2008 Public Health Programme (PHP); successfully finalising negotiations for grants under the 2009 calls for proposals, including projects, for conferences, operating grants, joint actions; managed the 2011 call for proposals; and the grants and contracts awarded under the 2008 calls for proposals and for tenders under the 2007-2013 Consumer Programme (CP); projects awarded under the 2007, 2008 and 2009 calls for tenders under Food Safety Training Measures.
	2. PHP work programme
	 The 2012 call for proposals was launched on 8 December 2011 and closed on 9 March 2012. It was published in the EU Official Journal (²) and on the EAHC (³) and Europa websites.
	 Project proposals: 16 out of 84 evaluated project proposals (19,5 %) were recommended for a total of 13 312 116 euro of EU co-funding.
	 Conference proposals: 7 out of 41 conference proposals (17 %) were recommended for funding amounting to 599 097 euro.

— Operating grant proposals: 19 out of 40 operating grant proposals (47,5 %) were recommended for total EU co-funding of 4 330 590 euro.

- Joint actions: All five joint action proposals submitted were recommended for EU co-funding of 8 941 660 euro.
- Reserve lists comprise five projects, two conference proposals and two operating grant proposals. They may be eligible for total EU co-funding of 4 540 962 euro, 90 000 euro and 273 754 euro respectively.
- Three calls for tender, including one for a framework contract on health security, one negotiated procedure and 10 requests for services were published in 2012.
- As most contracts were concluded in the second half of 2012, work on them began towards the end of the year. EAHC hosted a kick-off meeting for each contract and closely monitored execution, in coordination with DG SANCO.

3. CP work programme

- In 2012, within the framework of the Consumer Programme, the Agency launched seven calls for proposals.
- The Agency co-funded 64 grants, which gave the opportunity to enforcement officials from several Member States to share experiences and knowledge about the implementation of Directive 2001/95/EC on general product safety and of Regulation (EC) No 2006/2004 on consumer protection cooperation
- Within the framework of the GPSD Call, EAHC co-funded a project for the exchange and implementation of best practices between the Member States, thereby improving cross-border cooperation and increasing consumer product safety. Its main goal is to increase consumer product safety within the following group of products: childcare articles, nanotechnology and cosmetics, cords and drawstrings, ladders and CO and smoke detectors.
- With regard to CPC joint actions, EAHC co-funded two projects. The first one will carry out activities in order to develop a shared understanding of online trading laws. The second CPC joint action will develop activities that will focus on the 'unfair terms in consumer contracts'.
- In 2012 the Agency signed specific grants with the Bureau Européen des Unions de Consommateurs (BEUC) and the European Association for the Coordination of Consumer Representation in Standardisation (ANEC).
- The co-financing of BEUC will contribute to further promoting the interests of European consumers in the EU policy process as purchasers or users of goods and services.
- The financial support given to ANEC ensures the representation and defence of consumer interests in the process of standardisation and certification.
- Practical consumer problems such as product or service quality, late delivery of a product from abroad or unfair terms in a contract are among the issues handled daily by the ECC in 29 countries. In 2012, the ECC-Net handled over 72 000 contacts with consumers who experienced a cross-border problem. In total, the ECC-net has helped consumers in about 416 000 cases since its creation in 2005. EAHC launched in 2012 a Call for Proposals concerning the financial contribution to the ECCs for their activities during 2013 and concluded 29 grant agreements.
- Within the framework of the Consumer Programme in 2012 the Agency launched two calls for tender and 11 requests for specific services.

- Dolceta is an on-line education tool, developed within the context of the EU Consumer Programme. The Agency launched two requests for services in 2012, one aiming at promoting the new website and enriching its content and another aiming at maintaining and hosting the existing one and ensuring web maintenance and the hosting and moderation of the new site for the next year.
- During 2012 a new interactive platform for secondary school teachers was developed to replace the existing Dolceta website. The interactive platform has been set-up following a needs' analysis of teachers in terms of content, features, branding and design. The website is expected to be launched in March 2013.
- During 2012, EAHC signed three specific contracts in implementation of the consumer market studies framework contract. The first contract aims at analysing whether the vehicle fuels market is working for consumers and whether consumers are able to make informed purchasing decisions. The second will explore to what extent voluntary certification and self-declaration schemes that are present on food products are compliant with the applicable legislation. The third market study is to provide information on the current state of play of the presence of green claims in the single market for non-food products.
- With the aim of developing data to help the Commission better understand, monitor and take account of the consumer interest in the internal market, the Agency signed a contract to carry out a survey market monitoring of 52 consumer markets in 27 Member States, Croatia, Norway and Iceland. The results of these surveys will be analysed and policy recommendations will be identified in order to remedy the shortcomings detected either in relation to the functioning of the single market or with regard to the ability of consumers to make informed decisions.
- In 2012, EAHC monitored the implementation of the multiple framework contracts to reopen competition for the provision of behavioural economic studies to EAHC, DG SANCO and other Commission Services (DG JUST and DG CLIMA).
- In specific, EAHC launched three requests for the conclusion of such studies in the following areas: Multilateral Interchange Fees for Credit Cards; online gambling and adequate measures for the protection of consumers of gambling services and online sustainability information displays on smart purchasing behaviours at the point of purchase (Eco-Search).
- EAHC worked on the preparation of a new project on capacity building for consumer organisations. EAHC launched an open Call for the conclusion of a FWC for the implementation of training activities, including multilingual elearning and web platform development; a study for the assessment of training needs of consumer organisations in Europe was contracted in August. Its final results will support the implementation of the new project.

4. BTSF work programme

— EAHC is now responsible for the implementation of almost all BTSF activities, with only training on Genetically Modified Organisms still managed by DG SANCO. Despite the expansion of the range of courses on offer, EAHC has managed to break the 85 % participant satisfaction barrier a year ahead of schedule. Moreover, the recent interim evaluation of BTSF shows that more than 96 % of participants view the knowledge gained from the training as beneficial to their daily work.

- In 2012, some 6 300 participants, mostly Member State officials, were trained over 156 workshops and training missions. The majority of programmes were EU-based. Others were for third countries, with training aimed at participants from the regions of the world where the events took place.
- An important development in 2012 was the extension of EAHC's mandate (4) to allow it to use funding sources under DG TRADE and DG DEVCO budget lines for BTSF activities other than those provided for by the BTSF legal basis (5). This has led to the publication of a first Call for Tender for a new programme to be managed by EAHC aimed at enabling non-EU countries to participate more effectively in international standard setting bodies (ISSB).
- (¹) Commission Decision of 9 September 2008 delegating powers to the Agency.
 (²) OJ C 358, 8.12.2011, http://ec.europa.eu/eahc/documents/health/calls/2012/WP_2012_en_for_projects.pdf.
- (3) http://ec.europa.eu/eahc/health/projects.html.
- (4) See COM implementing Decision C(2012) 8448. (5) Regulation (EC) No 882/2004 and Directive 2000/29/EC.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

- 11. The Agency takes note of the Court's observation. Efforts are made on continuous basis, which resulted in a reduction by half (e.g. from 36 % to 18 %) of the percentage carry over cancellations, during the period 2009-2012. This positive trend shall be further reinforced in the coming years, through improved planning and monitoring of the actions under the Budget's title III.
- 12. The Agency shall further improve its budget execution, with a view to further increase the payment executions of the Budget's title III, thereby reducing the percentage of payment appropriations carried forward to the subsequent year. Contractors shall be actively requested to promptly issue invoices, within the calendar year, when appropriate.

REPORT

on the annual accounts of the European Aviation Safety Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/10)

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 (¹) as last amended by Regulation (EC) No 1108/2009. The Agency has been given specific regulatory and executive tasks in the field of aviation safety (²).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair

- (1) OJ L 240, 7.9.2002, p. 1. (2) Annex II summarises the Agency's competences and activities. It is
- presented for information purposes.

 (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) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (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.

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

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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.

- 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 2012 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 2012 are legal and regular in all material respects.

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

COMMENTS ON INTERNAL CONTROLS

- 11. The Agency established a standard procedure for *ex ante* verifications. However, the related checklists were not completed and documentation justifying the validation of expenditure was not always available (8).
- 12. A methodology for *ex post* verifications was approved in 2009. Although the Agency made further developments in its implementation, room for improvement still exists in the following areas: there is still no annual planning of verifications, the sample of transactions to be checked is not risk-based and the methodology does not cover public procurement procedures.

COMMENTS ON BUDGETARY MANAGEMENT

13. The overall level of appropriations committed was 95 %, varying between 96 % for title I (staff expenditure), 95 % for title II (administrative expenditure) and 89 % for title III (operational expenditure). However, carry-overs of committed appropriations were high for title III at 46 %. Although this is partly justified by the multiannual nature of the Agency's operations and the carry-overs included in the Court's sample were duly justified, such a high level is at odds with the budgetary principle of annuality.

OTHER COMMENTS

14. In one of the audited recruitment procedures, the selected candidate did not meet the Staff Regulations' requirements as regards university degrees or equivalent professional training.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 24 September 2013.

For the Court of Auditors Vítor Manuel da SILVA CALDEIRA President

⁽⁸⁾ Timesheets to justify services charged on a man/days basis did not

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The decrease in the country coefficient for Germany in June 2010 caused a significant surplus in the Agency's title I (staff expenditure) appropriations for 2011. About 3 million euro (7 % of the appropriations) were transferred from title I to various budget lines in title III (operational expenditure), despite their low implementation rate in terms of payments (¹). As permitted by EASA's Financial Regulation, this significant cross-title transfer, which changed considerably the structure of the budget, was not put to the Agency's management board for approval (²). This situation is however at odds with the budgetary principle of specification.	Completed
2011	The transfer increased title III appropriations to 13,7 million euro. However, at the end of the year 7,8 million euro were carried over to 2012. This is at odds with the budgetary principle of annuality.	Ongoing
2011	The Agency needs to improve the management of fixed assets. Assets are recorded in two different systems which can only be reconciled manually. Physical inventories should be better reported and summarised. The estimation of project cost of internally generated fixed assets was inadequate and deviations were not monitored. Not all internal staff costs were taken into account and the documentation of external costs was insufficient.	Completed
2011	At the end of 2011, the Agency held bank balances of 55 million euro (2010: 49 million euro) at one bank only. There was no treasury policy in place to limit this risk while gaining appropriate investment returns.	Ongoing
2011	The Court identified further need to improve the transparency of staff selection procedures. There is no evidence that the Agency established the questions for written tests and interviews, the maximum number of candidates for the reserve list or the threshold scores for being put on this list before applications were examined.	Completed
2011	The Agency's current lease contract requires it to restore the rented premises at the end of the lease and to restore them to their original condition. A provision of 1 million euro was made in the accounts on the basis of the Agency's estimate of dilapidation costs. However, the owner's estimate is 4 million euro. The Agency needs to obtain an independent external estimate of dilapidation costs and reflect them in the accounts accordingly.	Completed

⁽¹) Budget line 3 2 0 0 (development of business applications) increased by 37 % to 3,5 million euro; budget line 3 6 0 0 (rule making) increased by 87 % to 1,4 million euro; budget line 3 6 0 1 (international cooperation) increased by 123 % to 778 000 euro and budget line 3 9 0 3 (research) increased by 550 % to 1,3 million euro.

(²) According to both EASA's and the general Financial Regulation, only transfers of more than 10 % of the appropriations must be submitted to the Management Board for approval. However, unlike the general EU Financial Regulation, EASA's Financial Regulation does not limit transfers to a maximum of 30 % of the appropriations in the receiving budget lines.

ANNEX II

European Aviation Safety Agency (Cologne) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 100 of the Treaty on the Functioning of the European Union)

The European Parliament and the Council may, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport. They shall act after consulting the Economic and Social Committee and the Committee of the Regions.

Competences of the Agency

(The Agency's powers as defined in Regulation (EC) No 216/2008 of the European Parliament and of the Council (the 'Basic Regulation'))

Objectives

 to maintain a high uniform level of civil aviation safety in Europe and to ensure the proper functioning and development of civil aviation safety.

Tasks

- to issue opinions and recommendations to the Commission,
- to issue certification specifications, including airworthiness codes and acceptable means of compliance, and any guidance material for the application of the Basic Regulation and its implementing rules,
- to take decisions regarding airworthiness and environmental certification, pilot certification, air operation certification, third country operators, inspections of Member States and investigation of undertakings,
- to conduct standardisation inspections of the competent authorities in the Member States, associated States and ex Joint Aviation Authority (JAA) States (in this case in accordance with working arrangements).

Governance

Management Board

Composition: consisting of one representative of each Member State and one representative of the Commission,

Tasks

sets up an advisory body of interested parties.

Executive Director

Manages the Agency and is appointed by the Management Board on a proposal from the Commission.

The Board of Appeal

Decides on appeals against the Agency's decisions in accordance with Article 44 of Regulation (EC) No 216/2008 in certain respects such as certification, fees & charges and investigation of undertakings.

External audit

European Court of Auditors.

Discharge authority

European Parliament, acting on a recommendation by the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

Total budget: 150,2 (138,7) million euro, including:

- own revenue: 83,0 (75,2) million euro (55,3 %)
- union subsidy: 34,9 (34,4) million euro (23,2 %)

- contribution from non-EU countries: 1,7 (1,7) million euro (1,1 %)
- assigned revenue from fees and charges: 25,2 (24,7) million euro (16,8 %)
- other revenue: 0,9 (1,4) (0,6 %)
- other subsidies: 4,4 (1,2) (2,9 %)

Staff as at 31 December 2012

634 (574) temporary staff in the establishment plan

Posts occupied: 612 (573)

Other staff: 74,6 (68); contract staff: 63,3 (57); seconded national experts: 11,3 (11);

special advisors: 0 (0).

Total temporary staff: 613 (1) (574).

Filled posts subsidy-financed: 216 (2) (223).

Filled posts fee-financed: 396 (2) (350).

Products and services in 2012 (2011)

Opinions

Six Opinions, including one alignment of Commission Regulation No (EC) 2042/2003 with Regulation (EC) No 216/2008

Rulemaking Decisions

22 Decisions related to: Certification specifications (eight); Acceptable Means of Compliance and Guidance Material (13)

Additional deliverables in 2012 (which will lead to Rules in the forthcoming years)

32 Terms of Reference (ToRs), 23 Notice of Proposed Amendment (NPAs), 19 Comment Response Document (CRDs)

International Cooperation

18 Working Arrangements.

Three Implementation Procedures to the Working Arrangements.

13 recommendations provided on International Civil Aviation Organization (ICAO) State Letters.

BASA (Bilateral Aviation Safety Agreement)

Support for the implementation of the EU – US Bilateral Aviation Safety Agreement (BASA) including for the preparation of two Bilateral Oversight Board, two Certification Oversight Board, two Joint Maintenance Coordination Board and one Flight Standards meetings with the Federal Aviation Administration (FAA).

Initiation of the development of three new annexes under the EU – US Bilateral Aviation Safety Agreement (Flight Crew Licensing, Flight Simulation Training Devices, Pilot Training Organisations).

Support for the negotiations of the EU – Ukraine Common Aviation Area Agreement.

Support for the preparation of one Joint Committee with Transport Canada Civil Aviation (TCCA), one joint sectorial committee on certification with Transport Canada Civil Aviation (TCCA) and one joint sectorial committee on maintenance with TCCA.

Certification decisions at 31 December 2012

Type Certificates/Restricted Type Certificates (TCs/RTCs): 10 (3))

Supplemental Type Certificates (STCs): 752

Airworthiness Directives (ADs): 319

Alternative Method of Compliance (AMOC): 65

European Technical Standard Order Authorisation (ETSOA): 264

Major changes/Major repairs/TC New Derivatives: 952

Minor changes/Minor repairs: 814

Aircraft Flight Manual (AFM): 360

Approval of flight conditions (PTF): 498

Flight Simulation Training Devices (FSTD): 237

Approval of Design organisations (AP and Alternative Procedures to DOA (AP-DOA): 495

Approval of Maintenance organisations (bilateral) (4): 1 505

Approval of Maintenance organisations (foreign) (4): 299

Approval of Maintenance training organisations (4): 46

Approval of Manufacturing (4): 24

Standardisation inspections (number of inspections by type) at 31 December 2012

In the field of Airworthiness (AIR): 26

In the field of Operations (OPS): 27

In the field of flight crew licensing (FCL): 19

In the field of medical flight crew licensing (MED): 14

In the field of flight simulation training devices (FSTD): 9

In the field of Air Traffic Management / Air Navigation Services (ANS): 10

⁽¹⁾ Two structural part-time pilots occupy one post.

⁽²⁾ The split of filled posts between fee-financed and subsidy-financed may change subject to possible revision of the cost-accounting allocation keys as of 31 December 2012.

⁽³⁾ Only those TCs/RTCs are counted which were issued for a new type design. TCs issued as a result of grandfathering, transfer or administrative re-issuance are excluded.

⁽⁴⁾ The organisation approval activity is subdivided into a main surveillance activity of already approved organisations (with a renewal every 2/3 years) and an activity linked to new approvals. The data supplied concern the total number of approvals on 31 December 2012. Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

- 11. Ex ante verifications are performed according to article 39 of the EASA Financial regulation and as such formally approved in the Agency's financial ERP system (SAP). The Agency fully complies with the 4 eyes principle. Checklists are used as a guide by financial verifying agents (FVAs) to assist them in their exante verification role, but are not physically completed and attached to each financial transaction, due to their large number (30 000 transactions per annum).
- 12. For 2013 the Agency has an annual plan in place which is risk-based and approved by the Executive Director. The annual plan for 2013 includes public procurement procedures.
- 13. Due to the nature of EASA's activities and the timing of completion of related contracts, legal obligations entered into often have to extend beyond the end of the calendar/financial year to ensure their effectiveness, i.e. research projects, rulemaking studies and their related translations etc.

Nevertheless, great efforts have been made to encourage responsible authorising officers to commit earlier. This is already demonstrated by the improvement in title III carry over levels compared to the previous year which have reduced significantly from 59 % in 2011 to 46 % in 2012.

14. The candidate was selected in compliance with the Agency recruitment procedure, which takes into account both professional training and increased professional experience, as equivalence, in case of non-university degree, to ensure services of the highest standard of ability, efficiency and integrity and recruitment on the broadest possible geographical basis from among nationals of Member States of the Union.

REPORT

on the annual accounts of the European Asylum Support Office for the financial year 2012, together with the Office's replies

(2013/C 365/11)

INTRODUCTION

- 1. 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 (¹). The Office's task is to support the development of the Common European Asylum System. It was established 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. EASO acts as a centre of expertise on asylum. It also provides support to Member States whose asylum and reception systems are under particular pressure.
- 2. The Commission granted financial autonomy to the Office on 20 September 2012. Therefore the audited period for the financial year 2012 runs from 20 September 2012 to 31 December 2012.

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 system. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

- 4. 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 Office, which comprise the financial statements (²) and the reports on the implementation of the budget (³) for the financial year ended 31 December 2012, and

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

The management's responsibility

- 5. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (4), the management is responsible for the preparation and fair presentation of the annual accounts of the Office and the legality and regularity of the underlying transactions:
- (a) The management's responsibilities in respect of the Office'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 (5); making accounting estimates that are reasonable in the circumstances. The Director approves the annual accounts of the Office 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 Office 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 L 132, 29.5.2010, p. 11.

⁽²⁾ 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.

⁽³⁾ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁽⁴⁾ OJ L 357, 31.12.2002, p. 72.

⁽²⁾ 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

- 6. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (6) 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 Office are free from material misstatement and the transactions underlying them are legal and regular.
- 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.
- 8. 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

9. In the Court's opinion, the Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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

10. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2012 are legal and regular in all material respects.

11. The comments which follow do not call the Court's opinions into question and should be considered in the light of the fact that the process of setting up the new Office and establishing its procedures is still ongoing.

COMMENT ON THE RELIABILITY OF ACCOUNTS

12. The Office's accounting system has not yet been validated by the Accounting Officer.

COMMENT ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

13. A carry-over of 0,2 million euro was not covered by a legal commitment (contract) and was therefore irregular.

COMMENTS ON INTERNAL CONTROL

- 14. No physical inventory has been performed to ensure that all equipment purchased to set up the Office is included in the register.
- 15. Fifty payments, representing about 20 % of the total amount of payments, were made after the deadlines set by the Financial Regulation.
- 16. Ten of the 16 internal control standards (7) have not yet been fully implemented.

COMMENTS ON BUDGETARY MANAGEMENT

- 17. The budgetary needs for 2012 were considerably overestimated: only 4,8 million euro out of the 7 million euro transferred upon receiving financial autonomy were committed.
- 18. Committed appropriations of 3,2 million euro have been carried over, representing 65,13 % of total committed appropriations for the period of financial autonomy (8). These carry-overs concern title I (staff expenditure) at 0,3 million euro, title II (other administrative expenditure) at 1,4 million euro and title III (operational activities) at 1,5 million euro. They are mostly related to invoices not yet received and/or paid at year-end and to pending reimbursements of costs relating to experts. Furthermore, some 0,8 million euro concern refurbishment work carried out at the Office's premises in 2012, for which the payments will be made following final acceptance (9). Such a high level of carry-overs is however at odds with the budgetary principle of annuality.

⁽⁶⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

⁽⁷⁾ ICS Nos 3, 4, 5, 6, 8, 9, 10, 11, 13 and 14.

^{(8) 40,32 %} when taking the full 2012 calendar year into account.

⁽⁹⁾ Final acceptance was ongoing in May 2013.

19. The amounts of several budget commitments were insufficient to cover the related goods and services delivered. The estimated amount of deliveries not covered was 0,2 million euro, resulting in a corresponding overstatement in the Budget Outturn Account.

OTHER COMMENTS

- 20. EASO coordinates the deployment of Member States' experts to support other Member States in crises (emergency support actions) and reimburses experts' mission costs on a flatrate basis. Total reimbursed mission costs amounted to some 417 000 euro (24 % of total payments). Flat-rate reimbursements of costs were also made to external participants attending meetings held at EASO's premises. Meeting costs are spread over various budget lines and the total amount is unknown. Although the application of flat rates reduces administrative burdens, they may be higher than the actual costs incurred.
- 21. To host EASO, the Maltese Government offered the building (10) and the lease agreement with the Maltese Transport Authority stipulates that the premises 'are being transferred in a finished state with essential service points

being provided'. For the building to become functional, however, it needed to be adapted (11) at an estimated cost of 4,3 million euro, of which 3,8 million euro was to be covered by the Commission. By the end of 2012, most of the work had been completed and advance payments amounting to some 3 million euro had been made to the Maltese Government. Furthermore EASO will pay rent amounting to some 3,7 million euro over a nine-year period.

- 22. The Commission had informed the European Parliament and Council about the host arrangements and the fact that the building required some adaptation to be financed by the Maltese Government and the Commission. Although the budgetary authorities were informed about the project, there is no evidence that they were aware of the expected costs and the EU's share thereof.
- 23. 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.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

⁽¹⁰⁾ Described in the bid as state of the art.

⁽¹¹⁾ According to the related grant agreement between the Commission and the Maltese Government, this includes i.e. the modification of office space layout, double glazing, IT and security infrastructure, installation of a conference room, etc.

ANNEX

European Asylum Support Office, EASO (Valletta Harbour, Malta) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 3 of the Treaty on the European Union and Articles 67, 78 and 80 of the Treaty on the Functioning of the European Union)

The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.

The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

For that purpose, measures should be adopted for a common European asylum system comprising: a uniform status of asylum for nationals of third countries, valid throughout the Union; a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection; a common system of temporary protection for displaced persons in the event of a massive inflow; common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status; criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection; standards concerning the conditions for the reception of applicants for asylum or subsidiary protection; partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, provisional measures may be adopted for the benefit of the Member State(s) concerned.

The policy of the Union on asylum and its implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States.

Competences of the Office

Objectives

(Regulation (EU) No 439/2010 of the European Parliament and of the Council establishing a European Asylum Support Office) EASO contributes to the creation of a Common European Asylum System. EASO's purpose is to facilitate, coordinate and strengthen practical cooperation among Member States on the many aspects of asylum, such as: providing practical and operational support to Member States; providing operational support to Member States subject to particular pressure on their asylum systems, including the coordination of asylum support teams made up of national asylum experts; providing scientific and technical assistance for EU policymaking and legislation in all areas having a direct or indirect impact on asylum.

Tasks

- Permanent support: supporting and stimulating the common quality of the asylum process through common training, a common asylum curriculum, common quality and common Country of Origin Information.
- Special support: tailor-made assistance, capacity building, relocation, specific support and special quality-control processes.
- Emergency support: organising solidarity for Member States confronted with particular pressures by providing temporary support and assistance to repair or to rebuild the asylum system.

- Information and analysis support: sharing and merging information and data, analysis and assessment: not only comparing and sharing information, but also common trend analysis and common assessment.
- Third country support: supporting the external dimension, supporting partnerships with third countries to reach common solutions, for example by capacity building and regional protection programmes, and coordinating Member States' actions on resettlement.

Governance

Management Board

Composition

The EASO Management Board is composed of one member from each Member State except Denmark, two members from the European Commission and one non-voting member from the UNHCR. All members are appointed on the basis of their experience, professional responsibility and high degree of expertise in the asylum field.

Denmark is invited to attend all meetings of the Management Board and other relevant meetings as an observer.

Croatia is also invited to attend all the meetings of the Management Board and other relevant meetings as an observer, until becoming a full member of EASO following the entry into force of the Treaty of Accession between the EU and Croatia of 9 December 2011.

Tasks

The key functions of the Management Board, as the governing and planning body of EASO, are outlined in Article 29 of the EASO Regulation and include the appointment of the Executive Director and the adoption of EASO's work programmes and annual reports, and of EASO's general budget. It has overall responsibility for ensuring that EASO performs its duties effectively.

Executive Director

The Executive Director, who is independent in the performance of his tasks, is the legal representative of the Office and is responsible, inter alia, for the administrative management of EASO and for the implementation of the work programme and the decisions of the Management Board. The Executive Director of EASO, Dr Robert K. Visser, took up office on 1 February 2011. His term of office is five years, renewable once for a further three years.

Working Parties

According to Article 32 of the EASO Regulation, EASO may set up working parties composed of experts.

Consultative Forum

In 2011 – the first year of its operation – EASO set up a Consultative Forum in accordance with Article 51 of the EASO Regulation. The Consultative Forum enables EASO to ensure there is close dialogue with civil society organisations and relevant competent bodies. The Consultative Forum constitutes a mechanism for the exchange of information and pooling of knowledge between EASO and civil society organisations and relevant bodies operating in the asylum field. In accordance with the EASO Regulation, the Consultative Forum meets in plenary at least once a year. In addition, EASO has an annual consultation calendar to organise its various consultation methodologies and activities, i.e. expert meetings, workshops, seminars and online consultation.

Internal audit

European Commission's Internal Audit Service (IAS).

External	audit
LACCITION	auuit

European Court of Auditors.

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources made available to the Office in 2012

Final Budget

10 million euro (EASO was granted financial autonomy on 20 September 2012, the budget having been implemented by the European Commission until that date).

Staff as at 31 December 2012

Authorised posts (temporary staff): 38. Posts occupied: 38

Other posts (contract staff and SNEs): 23. Posts occupied: 20

Total posts: 61

Posts occupied: 58, by staff assigned to the following duties:

operational tasks: 30

— administrative and support tasks: 28

Products and services in 2012

EASO's activities can be divided into five focus areas: permanent support, special support, emergency support, information and analysis support and third country support.

Permanent support: EASO organised 15 train-the-trainer sessions, updated 10 training modules, adopted a Training Strategy and organised the Annual Didactic Seminar. EASO also developed a quality assessment methodology, organised 16 COI meetings with Working parties and the Task Force, published two COI reports on Afghanistan, organised three workshops for practical cooperation and arranged four expert meetings on Unaccompanied Minors.

Special support: EASO launched special support for Sweden and presented its evaluation report on relocation projects to the Commission, the Council and the European Parliament.

Emergency support: EASO gave emergency support to Greece for a full year, and to Luxembourg in February 2012.

Information and analysis support: EASO published its Annual Report on the state of asylum in the EU in 2011. Moreover, EASO presented an early warning analysis and trends prognosis on the asylum situation in the EU to the Council and other partners.

Third country support: EASO organised a conference on resettlement.

With regard to EASO's organisation, EASO achieved financial independence, organised four Management Board meetings, moved to its new premises, signed a working agreement with Frontex, held its second Consultative Forum meeting and consulted civil society on various topics including its annual report.

Source: Information supplied by the Office.

THE OFFICE'S REPLIES

- 12. A report on the validation of EASO accounting system was drafted in May 2013. The final report was signed on 29 May 2013.
- 13. During the start-up phase of EASO and prior to financial independence, several provisional commitments were established to cover different type of expenditures. Before the financial independence, it was decided not to de-commit them. At the year-end 2012, it was decided to carry forward the said commitments to 2013, in order to ensure that (possible outstanding) 2012 related payment requests were covered by a budgetary commitment. Currently, EASO continuously monitors the consumption of budgetary commitments. This will ensure a regular carrying forward to 2014.
- 14. A physical inventory will be performed during the third quarter of 2013.
- 15. The backlog was a consequence of the transfer of data in ABAC as well as of the transfer of physical files for the purposes of the financial independence. EASO expects late payments to decrease radically by summer 2013.
- 16. Following the self-assessment of April 2013, EASO is now close to the full implementation and will finalise this process by the end of 2013.
- 17. 2012 was an exceptional year in terms of budgetary requirements due to the financial independence, and EASO had only two and a half months to commit the mentioned 4,8 million euro.
- 18. Even if the percentage of carry-over was considerably high, it was mostly related to the late date of the financial independence, at the end of September 2012, and the moving to the new permanent premises, also in September of the same year.
- 19. The insufficient amount to cover legal obligations related to good and services delivered were due to exceptional circumstances of 2012 (financial independence). EASO has already established effective planning, monitoring and reporting systems for budget commitments in order to ensure that legal obligations are fully covered by sufficient budgetary commitments.
- 20. The framework for the reimbursement of the travel costs of experts on the basis of flat rates was prepared with the technical support of DG HOME in 2011 and then was presented to and adopted by the EASO Management Board. The flat rate system took into account the flexibility to deploy experts on short term notice with corresponding high flight costs, including the costs to travel to remote areas such as the border areas. In order to ensure sound financial management, this system will be subject to regular review.
- 21. The European Commission awarded a *de facto* grant to the Maltese Ministry of Justice and Home Affairs on the basis of the annual financing decision of DG JLS/HOME for agencies (2010 financing decision on procurement and subsidies for the Community bodies referred to in Article 185 of Council regulation (EC, Euratom) No 1605/2002, in the field of Justice, freedom and security for 2010), whereby the aim was to carry out the necessary fitting out and installation of security equipment in the EASO building that was provided by the Maltese Government.
- 22. The budgetary provisions for this project were included in the EASO approved budget. The specifications of the project and estimates were part of the Grant Agreement. The Lease Agreement and project were subject of specific discussion in the Budget Committee of the European Parliament in 2011.
- 23. Transparency in recruitment procedures has been improved. Upon EASO's administrative and financial independence, new selection/recruitment practices have been introduced. These practices are also stated in the EASO Recruitment Policy.

REPORT

on the annual accounts of the European Banking Authority for the financial year 2012, together with the Authority's replies

(2013/C 365/12)

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 (¹). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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 (where relevant) and an analysis of management representations.

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 Authority, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.
- (1) OJ L 331, 15.12.2010, p. 12.
- (2) Annex II summarises the Authority's competences and activities. It is presented for information purposes.
- (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.

The management's responsibility

- 4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair presentation of the annual accounts of the Authority and the legality and regularity of the underlying transactions:
- (a) The management's responsibilities in respect of the Authority'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 Authority 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 Authority 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.

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

- (e) 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.
- (7) Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

⁽⁵⁾ OJ L 357, 31.12.2002, p. 72.

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 Authority are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Authority's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 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 LEGALITY AND REGULARITY OF TRANSACTIONS

11. 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 (8). Total 2012 education contributions amounted to some 76 000 euro. They are not covered by the Staff Regulations and therefore irregular.

COMMENTS ON INTERNAL CONTROLS

12. In accordance with the Authority's IT strategy which was drawn up by its predecessor organisation (9), the EBA's IT core application systems were outsourced to an external IT provider (10) until December 2013. This poses risks related to the Authority's limited control and supervision over its IT systems.

COMMENTS ON BUDGETARY MANAGEMENT

13. The overall level of appropriations committed was 89 %, varying between 84 % for title I (staff expenditure), 86 % for title II (administrative expenditure) and 100 % for title III (operational expenditure) (11). Carry-overs of committed appropriations were high for title II (45 %) mainly for reasons beyond the Authority's control, such as the unsuccessful attempt to find new premises and delays in the implementation of some IT projects for which it was difficult to obtain information needed from the predecessor organisation. For title III, carry-overs of committed appropriations were high (85 %), mainly due to the complexity and lengthy duration of two IT procurement procedures which however were carried out according to plan, delays in the launching and implementation of three other IT projects and the late invoicing for certain IT services by the suppliers.

OTHER COMMENTS

14. The Court identified the following weaknesses in the audited recruitment procedures affecting transparency and equal treatment: candidates were given a global score instead of one score for each of the selection criteria; there was no evidence that the questions for interviews and tests had been set before the date of the examinations.

(10) Banque de France.

⁽⁸⁾ Article 3 of Annex VII provides for twice the basic allowance of 252,81 euro = 505,62 euro.

⁽⁹⁾ Committee of European Banking Supervisors.

⁽¹¹⁾ Following an analysis of needs for the remaining part of the year, the budget was revised and appropriations were reduced by 8,9 % in September 2012.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The low budget execution rates show difficulties in budget planning and implementation.	Ongoing
2011	The Authority's budget for the financial year 2011 was 12,7 million euro. In accordance with its Founding Regulation (¹), 60 % of the 2011 budget was financed from Member States' and EFTA countries' contributions and 40 % from the Union budget. At the end of 2011, the Authority recorded a positive budget outturn of 3,6 million euro. In compliance with Articles 15(4) and 16(1) of its Financial Regulation the full amount was then recorded in the accounts as a liability towards the European Commission.	Ongoing
2011	Weaknesses were noted as regards three legal commitments made in advance of budget commitments (742 000 euro).	Completed
2011	The Authority's accounting system has still to be validated by the Accounting Officer, as required by the Financial Regulation.	Completed
2011	Not all the audited procurement procedures were fully consistent with the provisions of the general Financial Regulation. Contracts worth 299 182 euro had been launched under national rules, leading to payments in 2011 of 248 775 euro. The Authority should ensure that all new contracts are awarded in full compliance with the EU procurement rules.	Completed
2011	The Authority needs to improve the transparency of recruitment procedures: weightings for selection criteria and threshold scores for being invited to interviews or for inclusion in the list of suitable candidates were not set before the examination of applications.	Ongoing

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ANNEX II

European Banking Authority (London) Competences and activities

Areas of Union competence deriving from the Treaty

Article 26

(Articles 26 and 114 of the Treaty on the Functioning of the European Union)

- '1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties.
- 2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.
- 3. The Council, on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.'

Article 114

1. Save where otherwise provided in the Treaties, the following provisions shall apply for the achievement of the objectives set out in Article 26. The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.'

Competences of the Authority

Objectives

(Regulation (EU) No 1093/2010 of the European Parliament and of the Council)

- (a) Improving the functioning of the internal market, including, in particular, a sound, effective and consistent level of regulation and supervision;
- (b) ensuring the integrity, transparency, efficiency and orderly functioning of financial markets;
- (c) strengthening international supervisory coordination;
- (d) preventing regulatory arbitrage and promoting equal conditions of competition;
- (e) ensuring the taking of credit and other risks are appropriately regulated and supervised;
- (f) enhancing customer protection.

Tasks

- (a) To contribute to the establishment of high-quality common regulatory and supervisory standards and practices;
- (b) to contribute to the consistent application of legally binding Union acts;
- (c) to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities;
- (d) to cooperate closely with the ESRB (1);
- (e) to organise and conduct peer review analyses of competent authorities;
- (f) to monitor and assess market developments in the area of its competence;
- (g) to undertake economic analyses of markets to inform the discharge of the Authority's functions;
- (h) to foster depositor and investor protection;

(i)	to contribute to the consistent and coherent functioning of colleges of super-
	visors, the monitoring, assessment and measurement of systemic risk, the devel-
	opment and coordination of recovery and resolution plans, providing a high level
	of protection to depositors and investors throughout the Union and developing
	methods for the resolution of failing financial institutions and an assessment of
	the need for appropriate financing instruments;

- (j) to fulfil any other specific tasks set out in this Regulation or in other legislative
- (k) to publish on its website, and to update regularly, information relating to its field of activities;
- (l) to take over, as appropriate, all existing and ongoing tasks from the Committee of European Banking Supervisors (CEBS).

Governance

Board of Supervisors

Composed of the Chairperson, one representative per Member State (head of NSA (²)), Commission, ECB (³), ESRB, EIOPA (⁴) and ESMA (⁵).

Management Board

Composed of the Chairperson and six other members of the Board of Supervisors.

Chairperson

Appointed by Board of Supervisors.

Executive Director

Appointed by Board of Supervisors.

Board of Appeal

Joint body of the three ESAs.

External audit

European Court of Auditors.

Discharge authority

European Parliament.

Resources made available to the Authority in 2012 (2011)

2012 Budget

20,7 (12,7) million euro

Including:

European Union subsidy: 8,3 (5,1) million euro

Contributions from Member States: 12,1 (7,4) million euro

Contributions from observers: 0,3 (0,2) million euro

Staff as at 31 December 2012

68 temporary staff (40)

12 contract staff (6)

14 Seconded National Experts (5)

Products and services in 2012

- Public consultations on 23 draft Regulatory and Implementing Technical Standards, of which 16 on capital/own funds.
- Submission to the Commission of the first draft Regulatory Technical Standards on capital requirements for central counterparties under European Market Infrastructure Regulation.
- Issuance of six Guidelines, four Discussion Papers and 14 Consultation Papers.
- Provision of seven Opinions addressed to the Commission, European Parliament and Council, three comment letters on accounting issues to the IASB/IFRS Foundation and one comment letter on auditing issues to the IAASB.
- Follow-up to the EBA'S July 2011 EU-wide stress test Recommendation and EBA's December 2011 Recapitalisation Recommendation with implementation to be done by 30 June 2012 (monitoring of banks' capital plans, publication of individual data on capital positions of 61 banks).
- Work in relation to the colleges of supervisors focusing on improving the consistency of supervisory practices, better coordination of activities, and the articulation of joint decisions on institution-specific prudential requirements, with specific focus on the 40 largest EU cross-border banks.
- Participation in 116 meetings and activities of colleges.
- Development of the EBA Crisis Management Manual for managing emergency situations, addressing information exchange within the colleges and with the EBA in emergency situations.
- Development of the Good Practices paper on consistency in the content and articulation of joint decisions.
- Issuance of a number of expert reports (e.g. report on a review of the prudential framework for SME lending, report on Basel III/CRDIV monitoring exercise, report on the follow-up review aimed at assessing the disclosures banks made in response to the Pillar 3 requirements set out in the Capital Requirements Directive, report on the functioning of colleges and fulfilment of action plans for colleges, etc.).
- Performance of risk analysis, assessment and monitoring, and presenting risk reports to a wide range of stakeholders (including annual report to the EU parliament, semi-annual and quarterly updates and reports, and weekly overview reporting on liquidity and funding conditions for European banks), strengthening risk assessment and analysis infrastructure, including exploration of internal and external data.
- Providing input and contribution to the process of the review of the European System of Financial Supervision in the context of the Article 81 of the EBA Regulation, jointly with ESMA and EIOPA (provision of quantitative and qualitative data and self-assessment report to the Commission).
- Contribution to the EU Financial Sector Assessment Program of the International Monetary Fund.
- Work related to EURIBOR and benchmark-related issues, performed jointly with ESMA, including issuance of recommendations to the Euribor-EBF and national authorities and work on principles for benchmark setting processes.
- Conduct of surveys of national competent authorities with regard to national regulations on professional indemnity insurance, and with regard to responsible lending and treatment of borrowers in payment difficulties, publication of the Consumer Trends Report 2012.
- Organisation of the EBA Consumer Protection Day in October 2012.

- Creation of the Standing Committee on Consumer Protection and Financial Innovation (SCConFin) and its subgroups working on responsible lending and arrears handling; exchange traded funds; and contracts for difference.
- Provision and coordination of 13 seminars to staff from EBA and national supervisory authorities.
- Establishment of a set of key performance indicators for the finance area, reported to the EBA's Management Board on a regular basis.
- Further extension of an integrated e-HR system (Allegro) to facilitate an efficient and transparent working environment.
- 11 meetings of Board of Supervisors (seven physical meetings, four teleconferences), eight meetings of Management Board (six physical meetings, two telecon-
- Approximately 180 meetings held by EBA Internal Committees/Groups/Task forces/Panels.
- (1) European Systemic Risk Board.
- (2) National Supervisory Authority. (3) European Central Bank.
- (4) European Insurance and Occupational Pensions Authority.
- (5) European Securities and Markets Authority.

Source: Information supplied by the Authority.

THE AUTHORITY'S REPLIES

11. The high level of schooling fees and the absence of a European School in London is a major obstacle to attract and retain highly qualified staff with sufficient experience to fulfil the EBA's mandate.

Following unsuccessful negotiations with the UK authorities, the EBA has adopted an internal policy in order to avoid discrimination and promote equal opportunities in the framework of the staff policy, thus reflecting the spirit of the Staff Regulations. Agency staff at the EBA ought to receive the same social support for educational costs as staff employed under the Staff Regulations in other locations.

The background and reasons for this approach have always been included in detail in the EBA's Budget (Staff Policy Plan) in the annual budgetary procedure.

- 12. The EBA agrees with the Court's comment. The new IT strategy, approved by the Management Board in 2012 and implemented in 2013, will return to the Authority an extended control over its IT systems on 1 January 2014 when the contract with the current IT provider is ended.
- 13. The EBA takes note of the European Court of Auditors' finding.

In case of IT related carry-overs in title III, this can be attributed to the start up stage of the agency and the implementation of a new IT strategy which is aiming to phase out legacy solutions and establish a robust IT platform in line with the long term mandate of the EBA. Once the start up phase is completed, the IT spending will be more evenly spread throughout the fiscal year, which will significantly reduce a risk of carry-overs.

14. The EBA acknowledges the weaknesses identified by the Court and has promptly implemented the corrective measures. Since January 2013, candidates are given a score for each of the selection criteria and evidence that the questions and tests have been set before the date of the examinations is systematically included in the recruitment files.

REPORT

on the annual accounts of the European Centre for Disease Prevention and Control for the financial year 2012, together with the Centre's replies

(2013/C 365/13)

INTRODUCTION

The European Centre for Disease Prevention and Control (hereinafter 'the Centre', aka 'ECDC'), which is located in Stockholm, was established by Regulation (EC) No 851/2004 of the European Parliament and of the Council (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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 (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

- 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 Centre, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5),

- (1) OJ L 142, 30.4.2004, p. 1.
- (2) Annex II summarises the Centre's competences and activities. It is
- presented for information purposes.
 (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) OJ L 357, 31.12.2002, p. 72.

the management is responsible for the preparation and fair presentation of the annual accounts of the Centre and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Centre'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 Centre 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 Centre 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.

The auditor's responsibility

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

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Centre are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Centre's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 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 LEGALITY AND REGULARITY OF TRANSACTIONS

11. The opinion on the legality and regularity of the Centre's transactions was qualified for the year 2011 because the Centre did not respect the maximum amount of a framework contract from 2009. According to this framework contract, the Centre could sign specific contracts with selected suppliers up to a

maximum amount of 9 million euro. By the end of 2011 however, payments of 12,2 million euro had been made.

- 12. In order to purchase essential services for the continuation of the related project, the Centre in 2012 concluded additional specific contracts for an amount of 2,5 million euro. Together with 2,7 million euro of payments made in 2012 for contracts signed already in 2011, payments made totalled 17,4 million euro by the end of 2012. Whilst payments above the 9 million euro ceiling set in the framework contract are irregular, the Centre has taken corrective action in 2012 and signed a replacement framework contract in June 2012 (no further payments will be made under the old contract) and has improved monitoring the consumption of framework contracts in general.
- 13. The 2012 payments amounting to 5,2 million euro stem from failures in previous years when the ceiling of the framework contract was not respected. They relate to contractual obligations stemming from previous years (2,7 million euro) or taken in 2012 for business continuity reasons (2,5 million euro) pending the finalisation of the procurement procedure for the new framework contract. Given the corrective action taken by the Centre in 2012, the Court has not qualified the opinion on the legality and regularity of transactions this year.

COMMENTS ON INTERNAL CONTROLS

In 2012, the Centre awarded grants to research institutions and individuals. Total grant expenditure amounted to 752 000 euro, representing 1,4 % of 2012 operating expenditure. The Centre's ex ante verifications before reimbursement of costs claimed by beneficiaries consist of a desk analysis of cost claims and partly also of audit certificates issued by independent audit firms contracted by the beneficiaries. The Centre does not usually obtain from beneficiaries any documents to substantiate the eligibility and accuracy of the costs claimed. In order to strengthen controls, the Centre has adopted an ex post verification strategy and planned for its implementation in 2012. However, it experienced a 10-month delay in gaining access to an interinstitutional audit contract and, at the time of the audit, no ex post verifications of 2012 grant expenditure had yet taken place. For the transactions audited by the Court, supporting documentation was obtained by the Centre on the Court's behalf which provided reasonable assurance as to their legality and regularity.

COMMENTS ON BUDGETARY MANAGEMENT

15. Budget implementation rates were satisfactory for title I (staff expenditure) and title II (administrative expenditure) at 97 % and 80 % of committed appropriations respectively. While the level of carry-overs related to title III is high at 8,3 million euro (41 % of title III appropriations committed), this did not arise from delays in the implementation of the Centre's Annual Work Programme, but reflects the multiannual nature of activities. The Centre has adopted a budgetary planning module that is linked directly to its Annual Work Programme and payments were planned and made according to operational needs.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	As in the previous year, a high level of carry-over is reported for 2011. This high level of carry-over, coupled with a low level of accrued expenditure (5,4 million euro), is at odds with the budgetary principle of annuality.	Completed
2011	Irregularities in the management of one framework contract, leading to a qualified opinion on the legality and the regularity of the transactions underlying the accounts, are reported in paragraph 10. The Court found additional cases in which the Centre's controls did not prevent poor management of contracts.	Completed
2011	In one case, under a multiple framework contract, a specific contract was amended by the Centre in 2010 and again in 2011. The amendments were covered by the conditions of the framework contract, but did not comply with the Centre's Implementing Rules to its Financial Regulation. The amendments related to the contract's duration and increases in both the services and contract amounts. Payments in excess of the original contract value amounted to 0,2 million euro.	Completed
2011	For another framework contract concluded for a maximum amount of 1,7 million euro, the four specific contracts signed in 2011 implementing it made no reference to the volume or value of services to be supplied. In 2011 payments related to these specific contracts amounted to 0,06 million euro. The framework contract itself had an excessive duration of 8 years and the Centre failed to create a clear link between the technical specifications, the award criteria and the pricing structure as set out in the tender documents sent to suppliers to procure the contracted services.	Completed
2011	One grant agreement for an amount of 0,2 million euro was signed in 2011 more than four months after the start of the activities. Activities carried out and expenditure incurred before the signature of the grant agreement are ineligible.	Completed
2011	As in the previous year, the Court identified weaknesses regarding staff recruitment procedures. There was no evidence that the questions for the written tests and interviews and their weightings had been set before the examination of applications. Selection criteria had partly not been checked and eligibility requirements were changed at the assessment stage.	Completed

ANNEX II

European Centre for Disease Prevention and Control (Stockholm) Competences and activities

Areas of Union competence deriving from the Treaty

 A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

(Article 168 of the Treaty on the Functioning of the European Union)

Union action, which shall complement national policies, shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education, and monitoring, early warning of and combating serious cross-border threats to health.

Competences of the Centre

Objectives

(Regulation (EC) No 851/2004 of the European Parliament and of the Council)

- To strengthen Europe's defences against infectious diseases; specifically, to identify, asses and communicate current and emerging threats to human health from communicable diseases.
- To this end the Centre shall operate dedicated surveillance networks, provide scientific opinions, operate the early warning and response system (EWRS) and provide scientific and technical assistance and training.

Tasks

- To operate dedicated disease surveillance networks and enhance networking activities. The Centre has a specific role in data collection, validation, analysis and dissemination.
- To provide authoritative expert advice and scientific opinions and studies on communicable diseases.
- To operate the Early Warning and Response System. Develop procedures for identifying emerging health threats.
- To strengthen Member States' capacity in preparedness planning and in training.
- To inform the general public and interested parties of its work.

Governance

Management Board

Composition

One member designated by each Member State, two members designated by the European Parliament and three representatives of the Commission.

Tasks

The Board adopts the Centre's annual programme and budget and monitors their implementation.

Director

Appointed by the Management Board on the basis of a list of candidates proposed by the Commission.

Advisory Forum

Composition

A representative of each Member State and three non-voting representatives of the Commission.

Tasks

The Forum is to assure the scientific excellence of the work and the independence of the activities and opinions of the Centre.

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament acting on recommendation from the Council.

Resources made available to the Centre in 2012 (2011)

Final Budget

58,2 (56,6) million euro

Staff as at 31 December 2012

Authorised posts: 200 (200)

Posts occupied: 187 (177)

Other posts: 91 (88)

Total: 278 (265), assigned to the following duties:

- operational tasks: 183 (174)
- administrative and support tasks: 95 (91)

Products and services in 2012 (2011)

69 (64) health threats identified and monitored using the Threat Tracking Tool (TTT).

52 (52) weekly threat reports on communicable diseases sent to 334 (331) recipients. In addition, as from 2012, the report is also available on ECDC website every week.

Provision of support to epidemic intelligence for 3 (3) large mass-gathering events.

In addition, 3 (5) events of exceptional nature/public importance were also monitored

Preparation of 6 risk assessments, 16 (17) new rapid risk assessments and 16 (11) rapid risk assessment updates.

1 (2) simulation exercise workshops conducted for testing and improving preparedness and response to communicable diseases.

94 (98) fellows coached in the European Programme for Intervention Epidemiology Training (EPIET).

10 (8) fellows coached in the European Public Health Microbiology Training (EUPHEM).

114 (181) public health experts from 30 EU-EEA countries participated in the Centre's short training modules.

780 000 (500 000) visitors to the Centre's web portal.

240 (122) scientific publications published.

Fifth European Antibiotic Awareness Day organised, with the participation of 43 (37) countries; in an effort to show global solidarity, the US 'Get Smart About Antibiotics' Week, the Canadian initiative 'AntibioticAwareness.ca' and the Australian Antibiotic Awareness Week were also launched during the same week.

 $13\ (11.2)$ million unique records in the TESSy databases; $1\ 324\ (845)$ active users from $56\ (53)$ countries.

Enhanced surveillance; integration into the Centre of 15 (15) of the 17 dedicated surveillance networks at the end of 2012; (one discontinued and the last one outsourced).

Annual Epidemiological Report published.

Tuberculosis, HIV/AIDS and anti-microbioresistance annual reports published.

40 (32) weekly influenza bulletins/weekly influenza surveillance overviews for 2012.

34 (27) scientific opinions produced, based on stakeholders requests.

Organisation of the sixth European Scientific Conference on Applied Infectious Disease Epidemiology (ESCAIDE) on 24-26 October 2012 in Edinburgh, with 511 (500) participants.

Organisation of the first Eurovaccine.net conference with 200 participants.

Weekly publication of the Eurosurveillance scientific journal, with $14\,000\ (13\,302)$ online subscribers.

Eurosurveillance received its first impact factor. A stunning 6,15 was awarded for the year 2011. This places Eurosurveillance at rank 6 among the 70 journals in the category Infectious Diseases, worldwide.

Source: Information supplied by the Centre.

THE CENTRE'S REPLIES

- 11-13. The Centre became aware of this case in September 2011 and brought it to the attention of the Court of Auditors during their audit in October 2011. The Centre opted for full transparency on the matter to seek guidance and advice from the Court of Auditors. Following the discussions at that time, the Centre had put all necessary measures in place: immediate launch of a new tender to establish a new Framework Contract (FWC) and a registration of exception. In December 2011, together with the Centre's answer to this preliminary finding, it included, detailed information related to the contract volumes that would still be signed under the current FWC in order to insure its business continuity, a schedule with the timeline for the new FWC and the measures put in place to avoid this in the future like managing the new FWC by one Authorising Officer and its consumption by one Resource Officer. The Centre emphasises that no funds were lost and no parties have been disadvantaged.
- 14. The ECDC Grant Verification Policy is due to be revised in July 2013. The revised policy will take into consideration the observations made by the European Court of Auditors. All the verifications of grant expenditure planned for 2012 will be performed in 2013 instead, together with the verifications selected for this year. Hence, the unavailability of the inter-institutional framework contract for audits will not lead to any reduction in the controls performed.
- 15. The Court's comment is welcomed as it confirms the multiannual nature of most of the Centre's operational activity.

REPORT

on the annual accounts of the European Chemicals Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/14)

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 (¹). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission

Regulation (EC, Euratom) No 2343/2002 (5), 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:

- (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.

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

⁽¹⁾ OJ L 396, 30.12.2006, p. 1.

⁽²⁾ Annex II summarises the Agency's competences and activities. It is presented for information purposes.

⁽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⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON INTERNAL CONTROLS

11. Physical inventory results show serious weaknesses in the safeguarding and tracking of fixed assets. There is no tracking procedure for software and internal components (2 370 items out of the 5 878 ICT fixed assets recorded). In addition, 306 items could not be found, of which 93 laptops and 29 computers.

COMMENTS ON BUDGETARY MANAGEMENT

12. Budget implementation rates for the year 2012 were satisfactory for titles I and II. While the rate of committed appropriations carried over was high for title III at 50 % (11,3 million euro), this primarily relates to the multiannual nature of significant IT development projects (3,7 million euro), substance evaluations with an annual regulatory deadline set at February N+1 (1,8 million euro), translations not yet delivered by year-end (1,3 million euro) and the start of two new activities Biocides (1,2 million euro) and PIC (1,3 million euro) in the second half of the year.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The Agency's 2011 budget amounted to 93,2 million euro, of which 14,9 million euro (16 %) were carried over to 2012. Carry-overs related to title III (operational expenditure) amounted to 11,5 million euro (55 %). The level of carry-overs is excessive and at odds with the budgetary principle of annuality.	Ongoing
2011	The results of the latest physical inventory carried out in 2011 show several shortcomings, notably as regards the low proportion of ICT assets checked in terms of value. No formal policy on the inventory of fixed assets is in place.	Ongoing
2011	The Agency records costs related to ICT projects that are already in use as expenditure instead of recognising them as fixed assets.	Completed
2011	The Court identified shortcomings in the recruitment procedures. There is no evidence that thresholds for passing the various stages of the procedures or questions for interviews or written tests were set before the examination of applications. Declarations of interests were inadequate to detect and prevent conflict of interests of members of the selection board. In one case the selection procedure was irregular since the agent was recruited for a post different from the one published.	Completed

ANNEX II

European Chemicals Agency (Helsinki) Competencies and activities

Areas of Union competence deriving from the Treaty

Collection of information

 The legal base of ECHA's founding regulation – the REACH Regulation (EC) No 1907/2006 – is Article 114 of the Treaty on the Functioning of the European Union.

Competences of the Agency

(as defined in Regulation (EC) No 1907/2006 of the European Parliament and of the Council (REACH Regulation), Regulation (EC) No 1272/2008 of the European Parliament and of the Council (Classification, labelling and packaging of substances and mixtures), Regulation No 528/2012 of the European Parliament and of the Council (Biocidal Products Regulation) and Regulation (EU)No 649/2012 of the European Parliament and of the Council (Prior informed consent)

Objectives

- The purpose of the REACH and CLP Regulations is to ensure a high level of protection of human health and the environment, including the promotion of alternative methods for the assessment of hazards of substances, as well as the free circulation of substances on the internal market while enhancing competitiveness and innovation (Article 1(1) of the REACH Regulation, Article 1 of CLP Regulation).
- ECHA is established for the purposes of managing and, in some cases, carrying out the technical, scientific and administrative aspects of the REACH Regulation and to ensure consistency at Union level in relation to these aspects (Article 75 of the REACH Regulation) and to manage tasks related to the classification and labelling of chemical substances deriving from the CLP Regulation.

Tasks

- To receive registrations and other dossiers of chemical substances and undertake a completeness check thereof (Title II of the REACH Regulation).
- To process inquiries regarding the registrations and take decisions on data sharing disputes (Title III of the REACH Regulation).
- To examine registration dossiers for compliance with the REACH Regulation and the testing proposals therein, and coordinate the substance evaluation process (Title VI of the REACH Regulation).
- To process proposals of substances of very high concern for the Candidate List and make recommendations for some of these substances to be included in the Authorisation List and handle authorisation applications (Title VII of the REACH Regulation).
- To process restriction dossiers (Title VIII of the REACH Regulation).
- To establish and maintain public database(s) with information on all registered substances and make certain information publicly available over the Internet (Article 77, 119 of the REACH Regulation).
- To provide technical and scientific guidance and tools where appropriate (Article 77 of the REACH Regulation, Article 50(2) of CLP Regulation).
- To provide the Member States and the EU institutions with the best possible scientific and technical advice on questions relating to chemicals which fall within its remit and which are referred to it in accordance with the provisions of the REACH and CLP Regulations (Article 77(1) of the REACH Regulation, Article 50(1) of CLP Regulation).
- To receive C&L notifications, maintain a public C&L inventory, handle requests for alternative names and process proposals for the harmonised classification and labelling of substances (CLP).
- To implement technical and scientific tasks in accordance with the Biocidal Products Regulation when it enters into operation.
- To implement tasks under the PIC ('Prior Informed Consent') Regulation when it enters into operation.

Governance

Management Board

One representative of each Member State appointed by the Council and a maximum of six representatives appointed by the Commission, including three individuals from interested parties without voting rights and, in addition, two independent persons appointed by the European Parliament. (Article 79 of the REACH Regulation).

Tasks

Article 78 of the REACH Regulation and framework financial regulation for agencies, mainly adopting annual and multiannual work programmes, the final budget, a general report, internal rules of procedures and the appointment of and disciplinary authority over the Executive Director. In addition, the appointment of the Board of Appeal and Committee members.

Executive Director

Tasks

Article 83 of the REACH Regulation.

Committees

The Agency comprises three Scientific Committees (Risk Assessment, Member States and Socio-Economic Analysis).

Tasks

Article 76(1)(c-e) of the REACH Regulation.

Forum for Exchange of Information on Enforcement

Tasks

Article 76(1)(f) of the REACH Regulation.

Secretariat

Tasks

Article 76(1)(g) of the REACH Regulation.

Board of Appeal

Tasks

Article 76(1)(h) of the REACH Regulation.

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament, upon recommendation from the Council (Article 97(10) of REACH Regulation.

Resources made available to the Agency in 2012 (2011)

Budget (including amending budgets)

- 98,9 (93,2) million euro, including:
- Revenue from fees: 26,6 (33,5) million euro;

— Union contribution: 4,9 (0,0) million euro to support the implementation of Regulation (EU) No 528/2012 concerning the making available on the market and use of biocidal products (3,2 million euro), 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 (1,5 million euro) and the instrument for pre-accession – IPA (0,2 million euro).

Staff at 31 December 2012

- Number of posts in the establishment plan: 470 (456)
- Number of posts occupied: 447 (441)
- Other staff: 65 (90) (contract staff and seconded national experts)
- Total staff: 506 (537), assigned to the following:
 - Operational tasks: 352 (333);
 - Administrative and support tasks: 185 (173)

Activities and services provided 2012 (2011)

ECHA's Work Programme was divided into the following 16 Activities:

Registration, Pre-registration and Data-sharing

- Number of registration dossiers processed: 9 773 (6 100)
- Number of confidentiality requests assessments completed: 871 (630) [note: 639 (229) confidentiality requests in accordance with Article 119(2)]
- Number of inquiries received: 1 632 (1 970)
- Number of decisions issued on data sharing disputes: 1 (3)
- Number of substances on which info made public (excluding confidential info): 7 884 (4 100)

Evaluation

- Number of compliance checks completed: 198 (146)
- Number of final decisions on testing proposals: 171 (22)

Risk Management

- Number of substances identified for inclusion in the Candidate List: 67 (28)
- Number of recommendations of substances for inclusion in Authorisation List: 0 (1)
- Number of restriction dossiers submitted for Commission decision: 1 (4)
- Number of authorisation applications received: 0 (0)
- Number of notifications of Candidate List substances in articles: 31 (203)

Classification and Labelling (C&L)

- Number of C&L notifications received: 5,7 million for over 120 000 substances
- Number of proposals for harmonised classification and labelling received: 27 (56)
- Number of requests for alternative names for substances in mixtures: 13 (0)

Advice and assistance

- Number of questions answered by helpdesk: 5 684
- Number of new guidance documents issued: 0 (3) and no. of guidance updates issued: 30 including 17 corrigenda (14)

Scientific IT Tools

- REACH-IT modifications for the 2013 deadline.
- Further enhancement and release of IT Tools: IUCLID, CHESAR, Odyssey.
- IT solutions for Member States to access dossier and substance data.
- Further enlargement of the scope of the disseminated information on substances.
- Release and maintenance of the C&L Inventory.
- Development of a C&L platform for collaboration.
- Release of IT workflow support for the evaluation processes.

Scientific and Technical Advice to EU institutions and bodies

- Contract signed to support further development of risk assessment methodologies for 'complex' substances.
- Computational methods are routinely applied in support of the different processes.
- First GAARN (Group Assessing Already Registered Nanomaterials) meeting organised.
- Publication of 'Best Practices on physicochemical and substance identity information for nanomaterials' and other guidance documents updated.
- OECD expert meeting hosted where testing strategy for skin irritants was drafted.
- Contributions provided to the development of core genotoxicity test methods provided for in REACH ITS (Integrated Test Strategy) and to the work of PARERE (Preliminary Analysis of Regulatory Relevance).

Committees and Forum

- Number of unanimous MSC agreements: 179 (2)
- Number of RAC opinions: 34 (36)
- Number of SEAC opinions: 1 (0)

Board of Appeal

- Number of appeals lodged: 8 (6)
- Number of decisions on appeals:1 (6) and Number of procedural decisions: 6 (10)

Communication

- 4 Stakeholder events organised:
 - 1st Lead Registrant Workshop in February (74 + 175 via web-stream),
 - 2nd Lead Registrant Workshop in October (76 + 200 via web-stream),
 - 7th Stakeholders' Day in May (287 external participants + 353 via webstream),
 - Accredited Stakeholder Workshop in November (21 participants).
- 16 webinars organised with 2 999 participants.
- 276 documents translated.

- 92 publications.
- 39 press releases, 62 news alerts, 6 newsletters.
- 3 million website visitors.

International Cooperation

Scientific and technical cooperation with OECD (e.g. ChemPortal; QSAR Toolbox).

Management

 Continued development and improvement of administrative and management systems, including IQMS.

Finance, Procurement and Accounting

- Rigorous budget and cash reserve management.
- High number of procurement actions undertaken, e.g. to establish a new generation of framework contracts for IT services and framework contracts in the areas of scientific services, communication and administrative services.
- Total number of companies verified regarding SME status: 315.

Human resources and corporate services

 — 23 (24) selection procedures finalised; 65 (93) staff members recruited (TA and CA).

Information and Communication Technology

- Provision of services to keep the ICT infrastructure and ICT resources operational and at the appropriate level of performance.
- Establishment of a Business Continuity solution for mission-critical IT systems leveraging on the outsourced hosting services.
- Deployment of a time recording system.
- Migration of all the workstations software to update versions.

Biocides

- Analysis, design and implementation of the Register for Biocidal Products (R4BP).
- First draft key guidance documents developed.
- Preliminary work plan for the Biocidal Products Committee.
- Member States have been invited to appoint Members, provide the Chair and Secretariat for the new Committee and undertake preparations for the Coordination Group.

PIC

Preparatory activities.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

- 11. A new feature/version for ABAC Assets (v. 2.7.2.) was deployed in July 2012 and which allows for better tracking of internal components that cannot be physically accessed. However, this process requires considerable manual work, and could not be completed for the 2012 asset inventory exercise. The Agency confirms that the asset inventory management will be reinforced. The physical inventory check will therefore be done earlier in 2013 in order to allow for sufficient analysis and complete tracking of all assets. Meanwhile, a project has already been initiated for establishing a software system for licence management that will enable the appropriate follow-up of the intangible assets.
- 12. The Agency appreciates the above conclusion from the Court and will continue to be attentive to ensure justification for carry-over operations in Title III.

REPORT

on the annual accounts of the European Environment Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/15)

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 (¹). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5),

(1) OJ L 120, 11.5.1990, p. 1.

(2) Annex II summarises the Agency's competences and activities. It is presented for information purposes.

(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) OJ L 357, 31.12.2002, p. 72.

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:

- (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.

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

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON INTERNAL CONTROLS

- 11. In 2012 the Agency awarded grants under three major grant programmes (8) to consortia consisting of environmental institutions and bodies in Europe, UN organisations and national environment organisations. Total grant expenditure in 2012 was 11,9 million euro, representing 27 % of the total operating expenditure. The Agency's *ex ante* verifications before reimbursement of costs claimed by beneficiaries consist of a desk analysis of cost claims. It does not usually obtain from beneficiaries any document to substantiate the eligibility and accuracy of the staff costs claimed, which represent the main part of costs (9). *Ex ante* on-the-spot verifications of costs at beneficiary level are rare (10).
- 12. Existing controls therefore provide only limited assurance to the Agency's management as to the eligibility and accuracy of the costs claimed by beneficiaries. For the transactions audited by the Court supporting documentation was obtained by the Agency on the Court's behalf which provided reasonable assurance as to their legality and regularity. A random verification of supporting documents for staff expenses and a higher coverage of beneficiaries by on-the-spot verifications could considerably increase assurance.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

⁽⁸⁾ European Topic Centres (ETC), European Neighbourhood Partnership Instrument (ENPI) and Global Monitoring for Environment and Security Initial Operations (GIO).

⁽⁹⁾ For other types of costs (i.e. sub-contracting, acquisition of equipment), supporting documents are requested and analysed.

⁽¹⁰⁾ 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.

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	A payment was made to an international environmental organisation amounting to 6 061 euro which was related to the participation of Agency staff in expeditions organised by this organisation which took place in February and May 2011. No procurement procedure had taken place and no contract was drawn up for these expeditions. Related additional travel costs borne by the Agency were 11 625 euro. The Executive Director was a member of the organisation's board of trustees until April 2011. This constitutes an apparent conflict of interest.	Completed
2011	The Agency improved the transparency of recruitment procedures considerably over the years. However, the audit still found confusion between eligibility and selection criteria as regards the relevant years of professional experience. There was also no evidence that the content of, and thresholds for, written tests were determined before applications were examined.	Completed

ANNEX II

European Environment Agency (Copenhagen) Competences and activities

Areas of Union competence deriving from the Treaty

Environment policy

(Article 191 of the Treaty on the Functioning of the European Union)

Union policy on the environment shall contribute to pursuit of [...] the objectives of preserving, protecting and improving the quality of the environment, protecting human health, prudent and rational utilisation of natural resources, promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay. [...] In preparing its policy [...], the Union shall take account of available scientific and technical data, environmental conditions in the various regions of the Union, the potential benefits and costs of action or lack of action, the economic and social development of the Union as a whole and the balanced development of its regions [...].

Competences of the Agency

Objectives

(Council Regulation (EEC) No 1210/1990)

To set up a European environment information and observation network to provide the Union and the Member States with:

- 1. Objective, reliable and comparable information at European level enabling them to:
 - (a) take the requisite measures to protect the environment,
 - (b) assess the results of such measures,
 - (c) ensure that the public is properly informed about the state of the environment.
- 2. The necessary technical and scientific support.

Tasks

- to establish, in cooperation with the Member States, and coordinate the European Environment Information and Observation Network;
- to provide the Union and the Member States with the objective information necessary for framing and implementing sound and effective environmental policies;
- to assist the monitoring of environmental measures through appropriate support for reporting requirements;
- to advise individual Member States on the development, establishment and expansion of their systems for the monitoring of environmental measures;
- to record, collate and assess data on the state of the environment, to report on the quality of and pressures on the environment within the territory of the Union, to provide uniform assessment criteria for environmental data to be applied in all Member States and to develop further and maintain a reference centre of information on the environment;
- to help ensure that environmental data at European level are comparable and, if necessary, to encourage by appropriate means improved harmonisation of methods of measurement;

- to promote the incorporation of European environmental data into international environment monitoring programmes;
- to publish a report on the state of, trends in and prospects for the environment every five years, supplemented by indicator reports focusing upon specific issues;
- to stimulate the development of environmental forecasting techniques, exchanges of information on technologies for preventing or reducing damage to the environment, methods of assessing the costs of damage to the environment and the costs of environmental preventive, protection and restoration policies;
- to ensure the broad dissemination of reliable and comparable environmental information, in particular on the state of the environment, to the general public and, to this end, to promote use of new telematics technology for this purpose;
- to cooperate actively with other Union bodies and programmes and other international bodies and in areas of common interest with those institutions in countries which are not members of the Union, taking account of the need to avoid duplication of effort;
- to support the Commission in the process of exchange of information on the development of environmental assessment methodologies and best practice and in the diffusion of information on the results of relevant environmental research and in a form which can best assist policy development.

Governance

Management Board

Composition

One representative of each Member State, one of each EEA member country, two representatives of the Commission, and two scientists appointed by the European Parliament.

Tasks

To adopt the multiannual and annual work programmes and to ensure their implementation and to adopt the annual report on the Agency's activities.

Executive Director

Appointed by the Management Board on a proposal from the Commission.

Scientific Committee

Consisting of qualified persons in the field of the environment, designated by the Management Board.

External audit

European Court of Auditors.

Discharge authority

European Parliament, acting on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

41,7 (62,2) million euro

Union subsidy: 100 % (66 %)

Staff as of 31 December 2012

Number of posts in the establishment plan: 136 (134)

Posts occupied: 131 (132) plus 86 (82) other posts (contract staff and seconded national experts)

Total staff numbers: 217 (214)

	Establishment plan posts assigned to the following tasks:		
	— operational 96 (90)		
	— administrative 40 (43)		
Products and services in 2012	Articles	19	
(2011)	Highlights	50	
	Press releases	12	
	Data sets	36	
	Indicators	66	
	Maps, graphs	466	
	Promotional matr.	1	
	Corporate docs	3	
	Reports	11	
	Technical reports	18	
	EEA Signals	1	
	Pan-European assessments	1	
	SOER 2010	2	

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

11. Over the past decades, the EEA has accumulated a vast experience in dealing with grant agreements and the cost structure of especially the European Topic Centres. Hence, there is a solid basis upon which cost statements (including staff costs) are evaluated. However, we acknowledge the European Court of Auditors' observation and, based upon a further risk analysis, an action plan has been drawn up to ensure reasonable assurance.

The call for proposals launched in 2013 includes a revised framework partnership agreement in which contractual provisions have been updated.

12. The EEA has decided to increase the number of on-the-spot verifications in line with the Court of Auditors' recommendation. A sampling rate of approximately 20 % will be pursued for staff and travel costs, in addition to the full coverage done as desk analysis. All other cost types are sampled up to 100 % should the documentation not be included in the original cost statements.

REPORT

on the annual accounts of the European Fisheries Control Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/16)

INTRODUCTION

The European Fisheries Control Agency (hereinafter 'the Agency', aka 'EFCA'), which is located in Vigo, was established by Council Regulation (EC) No 768/2005 (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), management is responsible for the preparation and fair

- - 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

(1) OJ L 128, 21.5.2005, p. 1.

(2) Annex II summarises the Agency's competences and activities. It is

presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (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.

The auditor's responsibility

(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.

(7) Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

presented for information purposes.

(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⁾ OJ L 357, 31.12.2002, p. 72.

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.

- 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 2012 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 2012 are legal and regular in all material respects.

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

COMMENTS ON BUDGETARY MANAGEMENT

The level of committed appropriations for the different titles varied between 94 % and 99 % of total appropriations, indicating that legal commitments were signed in a timely manner. However, the level of committed appropriations carried over to 2013 was high for title II (administrative expenditure) at 35 % and title III (operating expenditure) at 46 %. For title II, this was caused, to a large extent, by events beyond the Agency's control, such as the late invoicing of the 2012 office rental costs by the Spanish authorities. Also, in order to meet the increased operational needs that it was faced with in the last quarter of 2012, the Agency ordered a high volume of goods and services for which delivery was still pending by the year end. For title III, an important reason for the high level of carryovers was the considerable workload faced by the agency as a result of the large number of IT projects that were either launched or ongoing during 2012. This workload had an impact on the timeliness of procurement procedures in the case of two IT projects launched in 2012. Furthermore, expenses related to training and missions undertaken by staff and experts in the last quarter of 2012 were only due for reimbursement at the beginning of 2013.

OTHER COMMENTS

12. In response to the Court's 2011 report, the Agency took corrective action in June 2012 to improve the transparency of recruitment procedures. In 2012, the only weaknesses identified related to three audited recruitment procedures that were initiated prior to the Court's 2011 report: the vacancy notices did not provide information to the candidates on complaint and appeal procedures; candidates were given a global score instead of one score for each of the selection criteria; there was no evidence that the questions for interviews and written tests had been set before the date of the examinations.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The Court identified a need to improve procurement procedures. The Agency did not adequately document the estimation of contract values in the procurement files. Some selection criteria for tenderers need to be more specific to further improve the transparency of procedures.	Completed
2011	The Agency does not yet have adequate procedures in place to record and account for costs related to the generation of internal intangible assets.	Completed
2011	In the course of the appointment procedure of the executive Director, a member of the Administrative Board contravened the regulations governing appointments to key posts by announcing the candidate the Commission intended to vote for.	N/A
2011	The Court identified a need to further improve staff selection procedures. Vacancy notices did not provide information on complaint and appeal procedures. Meetings of the Selection Board were insufficiently documented and in one recruitment case the Appointing Authority did not follow the order of the Selection Board's list without providing a reason.	Ongoing

ANNEX II

European Fisheries Control Agency (1) (Vigo) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 43 TFEU)

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article 40(1) and the other provisions necessary for the pursuit of the objectives of the common fisheries policy.

Competences of the Agency

(Council Regulation (EC) No 768/2005, amended by Regulation (EC) No 1224/2009)

Objectives

— The Regulation establishes a European Fisheries Control Agency (EFCA), the objective of which is to organise operational coordination of fisheries control and inspection activities by the Member States and to help them cooperate so as to comply with the rules of the Common Fisheries Policy in order to ensure its effective and uniform application.

Tasks/Mission

- to coordinate control and inspection by Member States relating to the control and inspection obligations of the EU;
- to coordinate the deployment of the national means of control and inspection pooled by the Member States concerned in accordance with this Regulation;
- to assist Member States in reporting information on fishing activities and control and inspection activities to the Commission and third parties;
- in the field of its competences, to assist Member States to fulfil their tasks and obligations under the rules of the Common Fisheries Policy;
- to assist Member States and the Commission in harmonising the application of the Common Fisheries Policy throughout the EU;
- to contribute to the work of Member States and the Commission on research into and development of control and inspection techniques;
- to contribute to the coordination of inspector training and the exchange of experience between Member States;
- to coordinate the operations to combat illegal, unreported and unregulated fishing in conformity with EU rules;
- to assist in the uniform implementation of the control system of the common fisheries policy, including in particular:
 - (i) organisation of operational coordination of control activities by Member States for the implementation of specific control and inspection programmes, control programmes related to illegal, unreported and unregulated (IUU) fishing and international control and inspection programmes;
 - (ii) inspections as necessary to fulfil the Agency's tasks.

Please note that, among other competences, after the amendment of the Agency's establishing Regulation by Council Regulation (EC) No 1224/2009:

- Officials of the Agency may be assigned in international waters as Union inspectors.
- 2. The Agency may acquire, rent or charter the equipment as necessary for the implementation of the joint deployment plans.
- And the Agency shall, upon a notification by the Commission or on its own initiative, set up an Emergency Unit, where a serious risk to the common fisheries policy is identified.

⁽¹⁾ Please note that the name of the Agency has changed from 'Community Fisheries Control Agency' to 'European Fisheries Control Agency' as of the 1 January 2012.

Governance

Administrative Board

Composition

Comprises one representative from each Member State and six representatives of the Commission.

Duties

To adopt the budget, work programme and annual report. To adopt the final budget and the establishment Plan. To give an opinion on the final accounts.

Executive Director

Appointed by the Administrative Board from a list of at least two candidates proposed by the Commission.

External audit

European Court of Auditors.

Internal control

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

Total Budget 2012: 9,22 (12,85) million euro

- Title I 6,22 (6,04) million euro
- Title II 1,28 (1,23) million euro
- Title III 1,71 (5,57) million euro

Staff as at 31 December 2012

54~(53) temporary staff foreseen in the establishment plan, of which occupied: 50~(52)

+ 5 (5) contract staff foreseen of which occupied 5 (4)

Total staff foreseen: 59 (58), of which occupied 55 (56)

Products and services 2012 (2011)

Operational Coordination

- Implementation of JDP (Joint Deployment Plan) cod fishery in the North Sea, Skagerrak, Kattegat and the Eastern Channel and Western Waters (West of Scotland and the Irish Sea).
- JDP cod and salmon fisheries in the Baltic Sea.
- JDP bluefin tuna fishery in the Mediterranean Sea and Eastern Atlantic.
- Implementation of JDP in Northwest Atlantic Fisheries Organisation area and North East Atlantic Fisheries Organisation area.
- JDP pelagic species in Western Waters of the European Union.
- Support to national control programmes in the Black Sea.
- Consolidation of the JDPs through promoting a regional approach.

Capacity Building

- Mapping study on information systems supporting fisheries controls in the European Union.
- Development and maintenance of the Core Curricula.
- Development of the web-based collaboration platform for training.
- Assistance to the Member States' national training programmes.
- Training of trainers and training of Union inspectors before their first deployment.
- Operation, maintenance, enhancement and development of ICT monitoring capabilities: Vessel Monitoring System (VMS), Electronic Reporting System (ERS), Fishnet.
- Support activities to fight Illegal unreported and unregulated fisheries.
- Provision of contractual services to charter an EFCA Fisheries Patrol Vessel.
- Advanced training for Union inspectors (officials involved in fight against IUU) (exchange of best practice, refresher courses, etc.), and training for third countries' inspectors at European Commission's request.

(see Annual Work Programme 2012 of the Agency for details.)

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

11. The Agency takes note of the comments of the Court.

In particular in relation to title III, the Agency is dealing with complex and lengthy IT projects. Careful consideration will be given to each new IT project with a view to optimising its lifecycle, in order to avoid where possible carryover of significant amounts from one year to the next.

12. As mentioned by the Court, in June 2012 the Agency took measures to deal with the weaknesses referred to in the Court's comment. The three files audited relate to procedures which had been carried out prior to this June 2012 date.

REPORT

on the annual accounts of the European Food Safety Authority for the financial year 2012, together with the Authority's replies

(2013/C 365/17)

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 (¹). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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 (where relevant) and an analysis of management representations.

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 Authority, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and

- (1) OJ L 31, 1.2.2002, p. 1.
- (2) Annex II summarises the Authority's competences and activities. It is presented for information purposes.
- (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) OJ L 357, 31.12.2002, p. 72.

fair presentation of the annual accounts of the Authority and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Authority'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 Authority 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 Authority 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.

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

⁽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.

 ⁽⁷⁾ A 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Authority are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Authority's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 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 THE ACCOUNTS

11. The validation of the accounting systems by the Authority's accounting officer covers the central ABAC and SAP systems, but not the local systems and the reliability of data exchanges between central and local systems. This represents a risk as to the reliability of accounting data.

COMMENTS ON INTERNAL CONTROLS

12. Following high level risk assessments carried out by an external consultant in 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 ongoing and implementation of corrective actions is planned for 2013.

COMMENTS ON BUDGETARY MANAGEMENT

13. The overall level of appropriations committed was 99 %. The level of committed appropriations carried over was however high for title II (administrative expenditure) at 2,3 million euro (22 % of title II appropriations) and title III (operational expenditure) at 5,6 million euro (30 % of title III appropriations). For title II, carry-overs amounting to 1,1 million euro were made in conformity with EFSA's management plan or were related to payments suspended for reasons beyond the Authority's control. In case of title III, carry-overs of 2,1 million were made in conformity with EFSA's management plan and an amount of 0,83 million euro was carried-over for reasons beyond the Authority's control.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	This high number of budget transfers indicates weaknesses in budget planning and implementation and is at odds with the principle of specification.	Ongoing
2011	The Authority purchased a new headquarters building in December 2011 for 36,8 million euro which will be paid by quarterly instalments over 25 years, resulting in interest payments of 18,5 million euro. The Court questions whether a more economic alternative could have been sought from the budgetary authorities in accordance with the principle of sound financial management and ensuring full respect of the Financial Regulation.	Ongoing (The Commission did not accept to provide additional funds to repay loan in full).
2011	There is room for improving the transparency of recruitment procedure. Questions for written tests and interviews were set after the examination of the applications by the selection board and declarations on confidentiality and absence of conflict of interest were signed by the selection board members only during, not before the evaluation of candidates' applications.	Ongoing (New recruitment guidelines were put in place in March 2012 to remedy these weaknesses in the future).

ANNEX II

European Food Safety Authority (Parma) Competences and activities

Areas of Union competence deriving from the Treaty	Collection of information
,	— Common agricultural policy (Article 38 of the Treaty on the Functioning of the European Union (TFEU)).
	— Functioning of the Internal Market (Article 114 TFEU).
	— Public health (Article 168 TFEU).
	— Common trade policy (Article 206 TFEU).
Competences of the Authority	Objectives
(Regulation (EC) No 178/2002 of the European Parliament and of the Council)	To provide scientific opinions and scientific and technical support for the legis lation and policies which have a direct or indirect impact on food and feed safety
	— to provide independent information on risks relating to food safety;
	— to contribute to the achievement of a high level of protection of human life and health;
	 to collect and analyse data needed to allow characterisation and monitoring or risks.
	Tasks
	— To issue scientific opinions and studies;
	— to promote uniform risk-assessment methodologies;
	— to assist the Commission;
	— to search for, analyse and summarise the requisite scientific and technical data
	— to identify and characterise emerging risks;
	— to establish a network of organisations operating in similar fields;
	— to provide scientific and technical assistance in crisis management;
	— to improve international cooperation;
	— to provide the public and interested parties with reliable, objective and easily comprehensible information;
	— to take part in the Commission's rapid alert system.
Governance	Management Board
	Composition
	14 members appointed by the Council (in cooperation with the European Parliamen and the Commission) and one representative of the Commission.
	Task
	To adopt the work programme and the budget and ensure that they are implemented.

Executive Director

Appointed by the Management Board on the basis of a list of candidates proposed by the Commission, following a hearing before the European Parliament.

Advisory Forum

Composition

One representative per Member State.

Task

To advise the Executive Director.

Scientific Committee and scientific panels

To draw up the Authority's scientific opinions.

External audit

European Court of Auditors.

Internal audit

EFSA'S Internal Audit unit.

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament acting on recommendation by the Council.

Resources made available to the Authority in 2012 (2011)

Budget

78,3 (78,8) million euro of which 100 % (100 %) is a European Union subsidy.

Staff as at 31 December 2012

Posts in the establishment plan: 355 (355), of which occupied:

- staff (temporary staff and officials): 342 (334)
- other staff (contractual, seconded national experts): 124 (109).

Total staff (including nine offer letters sent as per 31.12.2012): 466 (443), of which for

- operational duties: 383 (326)
- administrative duties: 83 (117).

Products and services 2012 (2011)

Scientific outputs and supporting publications 2012 (2011)

Activity 1: Provision of scientific opinions and advice and risk assessment approaches

- Guidance of the Scientific Committee/Scientific Panel: 4 (9)
- Opinion of the Scientific Committee/Scientific Panel: 46 (38)
- Scientific Report of EFSA: 9 (3)
- Statement of EFSA: 2 (3)
- Statement of the Scientific Committee/Scientific Panel: 4 (4)

Total scientific outputs activity 1 = 65 (57)

Activity 2: Evaluation of products, substances and claims subject to authorisation

- Conclusion on Pesticides Peer Review: 60 (54)
- Guidance of EFSA: 0 (2)
- Guidance of the Scientific Committee/Scientific Panel: 7 (17)
- Opinion of the Scientific Committee/Scientific Panel: 241 (298)
- Scientific Report of EFSA: 1 (1)
- Statement of the Scientific Committee/Scientific Panel: 7 (9)
- Statement of EFSA: 4 (3)

Total scientific outputs activity 2 = 320 (384)

Activity 3: Data Collection, scientific cooperation and networking

- Guidance of EFSA: 1 (3)
- Statement of EFSA: 4 (0)
- Reasoned Opinion: 114 (88)
- Scientific Report of EFSA: 12 (16)

Total scientific outputs activity 3 = 131 (107)

Supporting Publications

- Event report: 11 (8)
- External Scientific Report: 74 (37)
- Technical report: 77 (65)

<u>Total Supporting Publications</u> = 162 (110)

<u>Total outputs</u> = 678 (658)

- Scientific outputs supported by communication activities: 9,5 % (35 %)
- Public consultations: 39 (78)
- Web visits: 4,4 (3,5) million
- Highlights subscribers: 30 309 (27 933)
- Media coverage: 9 194 (9 397)
- Media queries: 893 (1 086)
- Press releases: 25 (15)
- Web News stories: 60 (63)
- Interviews: 111 (126)

Source: Information supplied by the Authority.

THE AUTHORITY'S REPLIES

- 11. The risk mentioned by the Court did not materialise in the use of inaccurate data by EFSA's Accounting Officer. The Authority will however integrate its local systems in the validation process by its Accounting Officer.
- 12. As part of its management and internal control procedures the Authority carries out on a regular basis high level risk assessments so as to identify and adopt adequate mitigation measures to potential risks. This exercise is a key internal control put in place to increase the likelihood of achieving the Authority's objectives. The Authority will continue enhancing such preventive risk-based management approach.
- 13. The Authority will continue to improve the monitoring of the budget execution in order to keep the carry-over in line with the budget execution objectives set for the operational activities.

REPORT

on the annual accounts of the European Institute for Gender Equality for the financial year 2012, together with the Institute's replies

(2013/C 365/18)

INTRODUCTION

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 (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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 (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

- 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 Institute, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

Commission Regulation (EC, Euratom) No 2343/2002 (5),

- In accordance with Articles 33 and 43 of
- (1) OJ L 403, 30.12.2006, p. 9. (2) Annex II summarises the Institute's competences and activities. It is
- presented for information purposes.
 (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) OJ L 357, 31.12.2002, p. 72.

the management is responsible for the preparation and fair presentation of the annual accounts of the Institute and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Institute'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 Institute 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 Institute 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.

The auditor's responsibility

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

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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 Institute are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Institute's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY MANAGEMENT

The Institute has reduced the overall level of carry-overs of committed appropriations from 50 % in 2011 to 32 % in 2012. The carry-overs to 2013 amount to 2,5 million euro and mainly concern title II (administrative expenditure) with 0,3 million euro and title III (operational expenditure) with 2,1 million euro, representing 23 % and 59 % of the corresponding committed appropriations. Carry-overs for title II mainly relate to commitments made at year-end in connection with the move to new premises, which took place in January 2013. Carry-overs for title III mainly relate to procurement procedures that were concluded late in the year. The Institute does not have a formalised procurement planning and monitoring procedure. In particular, its Annual Work Programme does not include a procurement schedule linked to the planned activities that would define the optimal scope and timing of procurements. However, only 7 % of committed appropriations carried over from 2011 to 2012 have not been used and needed to be cancelled.

OTHER COMMENTS

12. The Court identified shortcomings in the documentation of recruitment procedures. There is no evidence that questions for written tests and interviews, as well as their respective weightings were prepared before the examination of the applications.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The high level of carry-over is at odds with the budgetary principle of annuality.	Outstanding
2011	The Court identified the need to improve the documentation of physical inventory-taking for fixed assets and of the estimation of accrued charges.	Completed
2011	The European Commission's Internal Audit Service carried out a 'Limited review of the implementation of Internal Control Standards' at the Institute in December 2011. The Institute accepted the recommendations to finalise the procedure for the implementation of the Internal Control Standards and management adopted an action plan to be implemented in 2012.	Ongoing

ANNEX II

European Institute for Gender Equality (Vilnius) Competences and activities

Areas of Union competence deriving from the Treaty

(Articles 2 and 3 of the Treaty of the European Union) The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, **equality between women and men**, solidarity between generations and protection of the rights of the child.

Competences of the Institute

(Regulation (EC) No 1922/2006 of the European Parliament and of the

Objectives

To contribute to and strengthen the promotion of gender equality including gender mainstreaming in all Union policies and the resulting national policies, and the fight against discrimination based on sex, and to raise EU citizens' awareness of gender equality.

Tasks

- To collect, analyse and disseminate relevant comparable and reliable information as regards gender equality;
- to develop methods to improve the objectivity, comparability and reliability of data at European level;
- 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 and to support gender mainstreaming in all Union institutions and bodies;
- to carry out surveys on the situation in Europe as regards gender equality;
- to set up and coordinate a European Network on Gender Equality;
- to organise ad-hoc meetings of experts to support the Institute's research work;
- in order to raise EU citizens' awareness of gender equality, to organise, with relevant stakeholders, conferences, campaigns, meetings at EU-level, and present the findings and conclusions to the Commission;
- to disseminate information regarding positive examples of non-stereotypical roles for women and men in every walk of life, present its findings and initiatives designed to publicise and build on such success stories;
- to develop dialogue and cooperation with non-governmental and equal opportunities organisations, universities and experts, research centres, social partners;
- to set up documentation resources accessible to the public;
- to make information on gender mainstreaming available to public and private organisations;
- to provide the Union institutions with information on gender equality and gender mainstreaming as well as to accession and candidate countries.

Governance

Management Board

Composition

Eighteen representatives appointed by the Council, on a proposal from each Member State concerned and one member representing the Commission, appointed by the Commission. The members are appointed on the basis of the highest standards of competence and a broad range of relevant and trans-disciplinary expertise in the area of gender equality. The Council and the Commission aim to achieve a balanced representation between men and women on the Management Board. The members appointed by the Council shall represent 18 Member States in the order of the rotating Presidencies.

Duties

- To adopt the annual and mid-term work programmes, the budget and annual report;
- adopt the internal rules of the Institute and rules of procedure of the Management Board.

Experts' Forum

Composition

Members from competent bodies specialised in gender equality issues, one representative designated by each Member State, two members designated by the European Parliament representing other relevant organisations specialised in gender equality issues, three members designated by the Commission.

Duties

Supports the Director in ensuring the excellence and independence of the Institute's activities, constitutes a mechanism for an exchange of information in relation to gender equality issues and the pooling of knowledge, and ensures close cooperation between the Institute and competent bodies in the Member States.

The **Director** is appointed by the Management Board on the basis of a list of candidates proposed by the Commission after an open competition.

Duties

Responsible for performance of the tasks referred to in Regulation (EC) No 1922/2006, preparing and implementing the Institute's annual and medium-term programmes of activities; preparing the meetings of the Management Board and the Experts' Forum; preparing and publishing the annual report; all staff-related matters: matters of day-to-day administration; implementation of effective monitoring and evaluation procedures relating to the Institute's performance.

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament on a recommendation from the Council.

Resources made available to the Institute in 2012 (2011)

Final Budget

7,7 (7,5) million euro of which the Union subsidy is 100 % (100 %)

Staff as at 31 December 2012

30 (27) posts foreseen in the establishment plan, of which occupied: 30 (26);

21 (8) other staff (contract staff, seconded national experts, trainee).

Total staff as at 31 December 2012

51 (35), undertaking the following tasks:

— operational: 37 (24)

— administrative: 11 (8)

— mixed: 3 (3)

Products and services in 2012 (2011)

Focal Areas:

Comparable and reliable data and indicators on gender equality; collecting and processing methods and good practices for gender equality work; resource and documentation centre; awareness-raising, networking and communication.

Number of studies launched: 7 (6)

Number of contributions to Presidency countries: 2 (2)

Number of experts' and working group meetings: 23 (19)

International conferences: 1 (1)

Number of research reports: 2 (2)

Annual reports: 1 (1)

Source: Information supplied by the Institute.

THE INSTITUTE'S REPLIES

- 11. Agreed. In 2012 the improvement has been significant compared to 2011. However the majority of the operational projects were finalised by the end of 2012. This led to carry-forward of appropriations up to 60 % under the procurement of Title III (around 2,1 million euro). It is important to note that the procurement of the two largest contracts (amounting to ca. 740 thousand euro in total) under operational appropriations was delayed due to the circumstances outside EIGE's control, i.e. a delayed decision by the Presidency of the Council of the EU regarding a subject of one study and the need to re-tender the other study because of absence of acceptable offers. In order to improve the procurement planning and monitoring EIGE is creating a monitoring tool which follows the expected dates of each step of the annual procurement proceedings. In addition EIGE will also create budget monitoring guidelines (in Q3), including control function and deviations, in order to assure an adequate budget implementation monitoring and reporting.
- 12. Agreed. EIGE's recruitment guidelines have been updated so that (i) an indicative maximum number of candidates to be placed on the Reserve List appears in the vacancy announcement of posts for Temporary and Contract staff and (ii) both the interview and test questions are to be completed by the appointed selection committee before the review of any candidates takes place.

REPORT

on the annual accounts of the European Insurance and Occupational Pensions Authority for the financial year 2012, together with the Authority's replies

(2013/C 365/19)

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 (¹). 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 Authority was set up on 1 January 2011.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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 (where relevant) and an analysis of management representations.

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 Authority, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5),

(1) OJ L 331, 15.12.2010, p. 48.

(2) Annex II summarises the Authority's competences and activities. It is presented for information purposes.

(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) OJ L 357, 31.12.2002, p. 72.

the management is responsible for the preparation and fair presentation of the annual accounts of the Authority and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Authority'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 Authority 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 Authority 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.

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

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Authority 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 Authority's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 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 LEGALITY AND REGULARITY OF TRANSACTIONS

11. EIOPA has improved its procurement procedures in order to become fully compliant with EU procurement rules. However, one contract related to the design of a financial database was subdivided into four lots of 60 000 euro each, which were all directly awarded to two companies. Given the total value of the services to be procured for the same project (240 000 euro), an open or restricted procedure should have been applied and the related commitments and payments are thus irregular.

COMMENTS ON INTERNAL CONTROLS

12. A physical verification of assets was carried out in May and June 2012, but no physical verification report was produced. The Authority has not adopted any procedures or guidelines on physical checks on tangible assets.

COMMENTS ON BUDGETARY MANAGEMENT

13. The carry-over of committed appropriations to 2013 was very high for title III (operational expenditure) at 79 % of total appropriations. This mainly results from the complexity and lengthy duration of one IT procurement procedure for which the contract of 2,2 million euro was signed as planned in December 2012.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The commitment rates were low especially for title II 'Administrative expenditure' (60 %) and title III 'Operational expenditure' (12 %). This impacted on the Authority's IT objectives, which were not entirely achieved.	Completed
2011	The Authority's budget for the financial year 2011 amounted to 10,7 million euro. In accordance with Article 62(1) of its Founding Regulation, 55 % of the 2011 budget was financed from Member States' and EFTA countries' contributions and 45 % from the Union budget. At the end of 2011 the Authority recorded a positive budget outturn of 2,8 million euro. In compliance with its Financial Regulation the full amount was then recorded in the accounts as a liability towards the European Commission.	Ongoing
2011	The Authority's accounting system has yet to be validated by the Accounting Officer, as required by the Financial Regulation.	Completed
2011	The audited procurement procedures were not fully consistent with the provisions of the general Financial Regulation. For five purchases of IT equipment (total amount of 160 117 euro) the award criteria applied were not set in advance and no written contracts were signed. In another case related to recruitment services (55 000 euro), the award criteria were incorrectly applied. The Authority should ensure that all new contracts are awarded in full compliance with the EU procurement rules.	Ongoing
2011	The Authority needs to improve the transparency of recruitment procedures: threshold scores for admission to written tests and interviews or for inclusion in the list of suitable candidates, and questions for oral and written tests, were not set before the examination of applications, and there was no decision of the Appointing Authority to appoint the selection boards.	Ongoing

ANNEX II

European Insurance and Occupational Pensions Authority (Frankfurt am Main) Competences and activities

Areas of Union competence deriving from the Treaty

Establish or ensure the functioning of the internal market, in accordance with the relevant provisions of the Treaties.

(Articles 26, 114, 290, 291 of the Treaty on the Functioning of the European Union)

Prepare draft technical standards as preparatory work for non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act or where uniform conditions for implementing legally binding Union acts are needed.

Competences of the Authority

Objectives

(Regulation (EU) No 1094/2010 of the European Parliament and of the Council establishing the Authority, Articles 1(6) and Article 8 on tasks and powers)

Protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses.

Tasks

- 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 cooperate closely with the ESRB,
- to organise and conduct peer review analyses of competent authorities,
- to monitor and assess market developments in the area of its competences,
- to undertake economic analyses of markets to inform the discharge of the Authority's functions,
- to foster the protection of policyholders, pension scheme members and beneficiaries.
- to contribute to the consistent and coherent functioning of colleges of supervisors, the monitoring, assessment and measurement of systemic risk, the development and coordination of recovery and resolution plans, providing a high level of protection to policy holders, to beneficiaries and throughout the Union,
- to fulfil any other specific tasks set out in this Regulation or in other legislative
- to publish on its website, and to update regularly, information relating to its field of activities.
- to take over, as appropriate, all existing and ongoing tasks from the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).

Governance

Board of Supervisors (BoS)

Composition

(Regulation (EU) No 1094/2010 establishing the Authority: Articles 40-44: Board of Supervisors; 45-47: Management Articles Board; Articles 48-50: Chair; Articles 51-53: Executive Director)

Chairperson (non-voting), the head of the national public authority competent for the supervision of financial institutions in each Member State (voting), one representative of the Commission, of the European Systemic Risk Board, the European Banking Authority, the European Securities Markets Authority (all non-voting); observers may be permitted.

Tasks

The Authority's main decision-making body.

Management Board (MB)

Composition

Chairperson of the Authority, six representatives of national supervisory authorities. The Executive Director and a representative of the European Commission shall participate in meetings of the MB without the right to vote.

Tasks

The MB shall ensure that the Authority carries out its mission and performs the tasks assigned to it in accordance with Regulation No 1094/2010. The MB shall exercise budgetary powers and adopt the staff policy plan and staff implementing measures.

The Authority's Chairperson

Represents the Authority, prepares the work of the Board of Supervisors (BoS), chairs the BoS and MB meetings.

The Authority's Executive Director

Is in charge of the management of the Authority and the implementation of the annual work programme and the budget; prepares the work of the Management Board, the budget, the work programme.

Quality Control Committee

Composition

The Authority's Alternate Chairperson, two Members of the Management Board, the Executive Director.

Tasks

To oversee and assess appropriate implementation of the internal procedures and decisions.

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources made available to the Authority in 2012

Final Budget

Final Budget Appropriations: 15 655 000 euro

Establishment Plan

Statutory staff: 69 posts authorised in the establishment plan, of which occupied: 69

Establishment plan 100 % fulfilled

Contract staff posts: 12 planned in the budget, 14 occupied

Seconded National Experts posts: eight planned in the budget, of which occupied: eight

Total: 91 staff

Products and services in 2012

Regulatory tasks

- Opinion on Interim Measures Regarding Solvency II.
- Opinion on External Models and Data.
- Four public consultations related to different areas of the Authority's activities (Insurance and Pensions).
- Provision of advice on the review of the Institutions for Occupational Retirement Provision (IORP) directive.
- Report on the Role of Insurance Guarantee Schemes in the Winding-Up Procedures of Insolvent Undertakings in the EU/EEA.
- EIOPA Final Report on Public Consultation N11/008 on the proposal for Guidelines on Own Risk and Solvency Assessment.
- EIOPA Final Report on Public Consultation N11/009 and 11/011 on the Proposal for the Reporting and Disclosure Requirements.

Supervisory tasks

- The Authority's participation in Colleges of Supervisors of 75 insurance groups.
- Action Plan for Colleges 2012 including annexes, e.g. catalogue with elements for information exchange, End of year Report on the Functioning of Colleges and the Accomplishments of the 2011 Action Plan.

Consumer protection and financial innovation

- Guidelines on Complaints-Handling by Insurance Undertakings.
- Report on Best Practices by Insurance Undertakings in handling complaints.
- Methodology Report for collecting, analysing and reporting on consumer trends.
- EIOPA's updated Survey of the competences of national competent authorities in the field of Consumer Protection.
- Procedures for issuing warnings and temporary restrictions/prohibitions.
- Report on Good Practices for Disclosure and Selling of Variable Annuities.
- Initial Overview of Consumer Trends in the European insurance and occupational pensions sectors.

Common supervisory culture

- Four cross-sector seminars.
- 17 seminars for national competent authorities.
- Development of methodology for three peer reviews.

Financial stability

- Two bi-annual Financial Stability Reports.
- Preparation of Europe-wide stress test for the insurance sector (test postponed due to LTGA).
- Production of quarterly Risk Dashboard.
- Preparation of the Long-Term Guarantee Assessment.

Crisis management

- Finalisation of a comprehensive, decision-making framework setting in detail the processes that the Authority will follow in discharging its crisis pre-emption and management responsibilities.
- Agreement of an EIOPA common approach on dealing with sovereign and banking exposures.
- Development of an EIOPA Opinion on the supervisory response to a prolonged period of low interest rates.
- Detailed contribution to the European Commission consultation on recovery and resolution for non-bank financial institutions.

External relations

- 11 meetings, including a joint one with BoS, of IRSG and OPSG, nine official opinions and feedback statements, eight informal consultations on 'work-in-progress'.
- Approximately 20 Regulatory and Supervisory Dialogues with third country supervisors and supervisory associations from Austral-Asia, Latin and North America, South Africa, Iceland and Switzerland. Active participation in and contributions to the IAIS Technical and Executive Committee, Financial Stability Committee, Solvency & Actuarial Subcommittee and IAIS Annual Conference.
- EU-US Dialogue Project: Publication of the strategic 'Way Forward' document and the final Report of the seven Technical Committees, two Public Hearings in Washington DC and Brussels.
- Gap analysis of the (re)insurance regimes of Australia, Chile, China, Hong Kong, Israel, Mexico, Singapore, South Africa, including full professional secrecy assessment, as basis for an EC decision on equivalence transitionals.
- Cooperation agreement with the Croatian Financial Services Supervisory Agency (CFSSA/HANFA).

Conferences / other public events 2012

 Four conferences and events ('Conference on Global Insurance Supervision (GIS)', Launch Event 'QIS (Quantitative Impact Study) for Pensions', annual EIOPA Conference and second Consumer Strategy Day).

Source: Information supplied by the Authority.

THE AUTHORITY'S REPLIES

11. EIOPA acknowledges and shares the concerns raised by the Court. However, there is sound business rationale backing both the decision to run a procurement, and to do it in 4 separate lots, in order to deepen our knowledge on how to design our system, reducing the risk of acquiring the wrong services and products and ensuring sufficient competition in the core stage of the process, namely the main procurement.

EIOPA's strong intention to be compliant and improve its processes is underlined by the following facts: Evaluation committees were set up for each procedure even when they would not have been necessary; EIOPA's aim was to find different contractors for different domains to prepare for upcoming open procedures, which is documented by that fact that for each of the procedures, more than the necessary number of companies were invited to tender. The duplication of contractors was due to the limited number of offers received. EIOPA wanted to have effective competition and in order to avoid a single provider coming with a 'tailored' solution that would *de facto* in the main procurement lead to the same company being the only suitable runner it decided to run 4 separate lots.

- 12. EIOPA took note of the Court's finding. In 2012, the priority laid on the safeguarding of the authority's assets itself instead of the implementation of the underlying procedures and the documentation of the verification process. EIOPA meanwhile has taken corrective action. A training took place for new financial actors, in view to streamline the asset processes. EIOPA has also adopted guidelines documenting the asset processes. The implementation of these processes is ongoing.
- 13. EIOPA took note of the Court's finding. In case of the IT related carry-overs, this can be attributed to the start up stage of the Authority, after having first adopted the IT strategy end 2011 and the IT strategy implementation plan early 2012. Once the start up phase will be completed, the IT spending will be more evenly spread throughout the fiscal year which will significantly reduce a risk of carry-overs.

REPORT

on the annual accounts of the European Institute of Innovation and Technology for the financial year 2012, together with the Institute's replies

(2013/C 365/20)

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 (¹). 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 three 'Knowledge and Innovation Communities' (KICs), linking the higher education, research and business sectors with one another and thereby boosting innovation and entrepreneurship (²). KICs coordinate the activities of hundreds of partners. The grants provided by EIT reimburse partners' costs and costs stemming from the KICs' coordination activities.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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 (where relevant) and an analysis of management representations.

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 Institute, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.
- (1) OJ L 97, 9.4.2008, p. 1.
- (2) Annex II summarises the Institute's competences and activities. It is presented for information purposes.
- (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.

The management's responsibility

- 4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair presentation of the annual accounts of the Institute and the legality and regularity of the underlying transactions:
- (a) The management's responsibilities in respect of the Institute'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 Institute 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, interalia, that he has reasonable assurance that they present a true and fair view of the financial position of the Institute 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.

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

- (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.
- (7) Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

⁽⁵⁾ OJ L 357, 31.12.2002, p. 72.

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 Institute are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Institute's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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.

Basis for a qualified opinion on the legality and regularity of the underlying transactions

- 9. In 2012, the Institute made final payments and clearings of pre-financings (transactions) for grants amounting to 11,3 million euro (2010 activities) and 48,6 million euro (2011 activities).
- 10. All grant transactions are subject to review by the Commission before authorisation by EIT. The Institute itself made considerable efforts to implement effective *ex ante* verifications with the aim of providing reasonable assurance on the legality and regularity of grant transactions. About 80 % of grant expenditure claimed by KIC's is covered by certificates issued by independent audit firms contracted by the KICs and their partners. EIT itself

carried out *ex ante* verifications consisting of comprehensive desk checks. Supporting documents obtained from the KICs and their partners were reviewed by EIT initially only in the case of particular risks identified.

- 11. The Court found however that the quality of the audit certificates is inadequate in many instances (8). In order to have a second layer of assurance on the legality and regularity of grant transactions, at the end of 2012 the Institute introduced complementary *ex post* verifications for grants related to 2011 activities. They were carried out by independent audit firms contracted by EIT and are assessed as reliable. *Ex post* verification results confirmed that *ex ante* verifications are not fully effective. The Institute has however recovered the irregular payments found and the residual error rate for 2011 grant transactions is not material.
- 12. No *ex post* verifications have been carried out yet for the transactions related to grants for 2010 activities (11,3 million euro). In addition, given the limited assurance that can be drawn from *ex ante* verifications, there is no reasonable assurance as to the legality and regularity of these transactions. The Court could not obtain sufficient appropriate audit evidence on the legality and regularity of the audited grant transactions related to 2010 activities.

Qualified opinion on the legality and the regularity of the transactions underlying the accounts

- 13. In the Court's opinion, except for the possible effects of the matters described in the basis for a qualified opinion paragraphs 9 to 12, the transactions underlying the annual accounts for the year ended 31 December 2012 are legal and regular in all material respects.
- 14. The comments which follow do not call into question the Court's opinion on the reliability of the accounts or its qualified opinion on the legality and regularity of the underlying transactions.

COMMENTS ON INTERNAL CONTROLS

15. In addition to the matter described in paragraphs 9 to 13, budgets for grant agreements signed in 2010 and 2011, which resulted in payments in 2012, were not sufficiently

⁽⁸⁾ I.e. Audit certificates did not always indicate the cost claim audited. Not all cost categories had to be audited in sufficient detail (as an example, actual indirect costs, which can be declared without threshold, was not checked on the basis of original supporting evidence). The risk of double funding of equipment declared as cost was not comprehensively checked. Most audit certificates did not mention the coverage of costs audited and there was no common methodology to identify the overall error in the cost claims.

specific. There was no link between the approved funds and the activities to be implemented. Grant agreements did not set individual thresholds for specific cost categories (i.e. staff costs, sub-contracting, legal services, etc.) and did not include rules for the procurement of goods and services by the KICs and their partners.

16. EIT also carried out technical verifications for all funded projects as part of its *ex ante* verifications. However, there was a lack of quantifiable targets that hampered an effective assessment of project activities and results. Business plans did not define in detail the activities to be implemented; nor did they set clear milestones, deliverables per activity or quality criteria.

COMMENT ON BUDGETARY MANAGEMENT

17. Out of the committed appropriations carried over from 2011 amounting to some 22 million euro, some 10 million euro (45 %) were cancelled in 2012. The high level of cancellations is mainly due to lower than estimated costs claimed by beneficiaries under 2011 grant agreements (9,2 million euro or 92 % of cancelled carry-overs).

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The rate of execution of the Institute's budget for the audited period of financial autonomy (see paragraph 2) was low. Comparing payments with appropriations committed, the rate was 56 % for title I (staff expenditure), 30 % for title II (administrative expenditure) and 11 % for title III (operational expenditure).	Completed
2011	Grant agreements resulting in payments in 2011 were systematically signed by the European Commission (Directorate General for Education and Culture) and the Institute after most of the activities had already been implemented. Between September and December 2011, the Institute made final payments (¹), amounting to 4,2 million euro, related to three grant agreements that were signed well after the start of activities (²). This is an issue in terms of good financial management.	Ongoing

⁽¹) Advance payments had been made by the European Commission. (²) In one case, the contract was signed 14 days before the end of the 13-month implementation period.

ANNEX II

European Institute of Innovation and Technology (Budapest) Competences and activities

Areas of Union competence deriving from the Treaty

The Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.

(Article 173 of the Treaty on the Functioning of the European Union)

For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:

- speeding up the adjustment of industry to structural changes,
- encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings,
- encouraging an environment favourable to cooperation between undertakings,
- fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

Competences of the Institute

Objectives

(Regulation (EC) No 294/2008 of the European Parliament and of the Council) 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 Community. It shall do this by promoting and integrating higher education, research and innovation of the highest standards.

Tasks

In order to achieve its objective, the Institute shall:

- (a) identify its priority fields;
- (b) raise awareness among potential partner organisations and encourage their participation in its activities;
- (c) select and designate KICs in the priority fields and define their rights and obligations by agreement; provide them with appropriate support; apply appropriate quality control measures; continuously monitor and periodically evaluate their activities; and ensure an appropriate level of coordination between them;
- (d) 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;
- (e) encourage the recognition in the Member States of degrees and diplomas which are awarded by higher education institutions that are partner organisations and which may be labelled EIT degrees and diplomas;
- (f) promote the dissemination of good practices for the integration of the knowledge triangle in order to develop a common innovation and knowledge transfer culture:
- (g) seek to become a world class body for excellence in higher education, research and innovation;
- (h) ensure complementarity and synergy between the Institute's activities and other Community programmes.

Governance

Governing Board

Composition

The Institute's Governing Board (GB) consists of 18 appointed members providing a balance between experience and excellence in business, higher education and research, and four representative members proposed by the Knowledge and Innovation Communities (KICs). The European Commission has observer status.

Tasks

The Governing Board is responsible for steering the activities of the Institute, for the selection, designation, grant allocation to and evaluation of the KICs, and for all other strategic decisions.

Executive Committee

Composition

The Executive Committee consists of five Governing Board members, including the Chairperson and Vice-Chairperson. It is chaired by the Chairperson of the Governing Board.

Tasks

The Executive Committee oversees the running of the Institute and takes such decisions as are necessary between meetings of the Governing Board.

Director

Appointed by and responsible to the Governing Board for the administrative and financial management of the Institute; the Institute's legal representative.

External audit

European Court of Auditors.

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources made available to the Institute in 2012 (2011)

Final Budget

95,30 million euro for commitment appropriations and 77,09 million euro for payment appropriations.

Staff as at 31 December 2012

Authorised posts: 52 (52)

Posts occupied: 47 (40)

Other posts: 0 (0)

Total staff: 47 (40) assigned to the following duties:

- operational tasks: 26 (19)
- administrative and support tasks: 21 (21)

Products and services in 2012

- Organisation of three EIT Forum meetings with KICs (a platform created to establish regular dialogue between the Director of the Institute and the KIC CEOs).
- Decision of the Governing Board on the 13 December 2012 for the allocation in the year 2013 of a budget totalling 120 million euro to the funding of KIC Value Added Activities for the three KICs, after the implementation for the first time of a process of Competitive Funding corresponding to 1/3 of the overall budget.
- In 2012 the three KICs managed a total budget of 89 814 878 euro for EIT funding of KIC Value Added Activities and a budget of 300 009 659 euro for non-EIT Funding of KAVA activities and complementary activities.
- For the first time the KICs provided consolidated data for Key Performance Indicators (KPIs) in Innovation Value Added Activities and retroactively for the years 2010 and 2011 and estimates for 2012.
- In 2012 the total number of KIC partners involved in the three KICs came to 293 institutions from EIT ICT Labs (87), Climate KIC (100) and KIC InnoEnergy (106).
- Joint contribution by the Chairman of the Institute's Governing Board, the Institute's Director and Head of Unit KIC Operations and KIC CEOs at the Cyprus Presidency of the European Union EIT Stakeholders Conference organised by the European Commission, in Larnaca, 8-9 November 2012.
- A large number of success stories following the implementation of KIC activities.

Source: Information supplied by the Institute.

THE INSTITUTE'S REPLIES

- 10. EIT welcomes the acknowledgement by the Court of Auditors concerning the considerable efforts made by EIT to implement effective *ex-ante* verifications with the aim to obtain reasonable assurance on the legality and regularity of grant transactions.
- 11. EIT welcomes the acknowledgement by the Court of Auditors concerning the reliability of EIT's *ex* post verifications of grants for 2011 activities. As regards certificates, certifying auditors had to verify the eligibility of actual indirect costs reported in accordance with the Terms of Reference for the Certificates on Financial Statements. Furthermore, the majority of expenditure was subject to sample based verifications by the certifying auditors. Finally, the Terms of Reference have been updated and improved for the Grant Agreements 2012.
- 12. As regards the assurance that can be drawn from *ex ante* verifications of transactions related to grants for 2010 activities, EIT foresaw the need to reinforce the *ex ante* verification to mitigate the risks related to the first year of operation of the KICs. In order to obtain reasonable assurance, EIT, beyond requesting audit certificates from the KICs, verified supporting documents related to an important percentage of expenditure based on a random sample. As a result, ineligible costs were corrected before the final payments. The combined assurance obtained from certificates and EIT's reinforced verifications was considered sufficient to prevent material errors in the final payments made under the Grant Agreements 2010. Eventually, *ex post* verifications on Grant Agreements 2010 were launched by EIT and final results are expected in October 2013. Any irregularities will be corrected and amounts unduly paid will be recovered in 2013.
- 15. The link between grants and activities to be implemented was established at a strategic level by focusing on outcomes and impact as well as at operational level through the KICs portfolio of activities. This approach is fully compliant with EIT Regulation and allowed to experiment new simplified approaches for enhancing the flexibility and efficiency of the KICs. Individual thresholds for specific cost categories (i.e. staff costs, sub-contracting, legal services, etc.) are not set as the Financial Regulation does not require them and, in addition, they do not help meet EIT/KICs objectives and operating needs. As regards subcontracting, Grant Agreements stipulate that contracts must be awarded on a best value for money basis and that conflicts of interest must be avoided. This is consistent with the relevant provisions of the Financial Regulation.
- 16. Concerning quantifiable targets in the KICs' Business Plans, EIT issued Guidelines to the KICs for the preparation of Business Plans in March 2012 and requested their data on the level of achievement of the Key Performance Indicators during 2010 and 2011. These guidelines have been recently revised in 2013 for the Business Plans 2014 in order to further improve the quality of the planning and reporting from the KICs as well as EIT's assessment of their performance.
- 17. EIT acknowledges the Court's comment. By the end of 2012 the KICs completed their initial phase, which is also reflected in the use of grants (see also the explanations provided at point 15). Although there is a high level of carry-overs from 2012 to 2013, significant progress is expected since cancellations of carry-overs will be considerably reduced from 45 % (2011 carry-overs) to estimated 13 % (2012 carry-overs). EIT will follow up this matter closely.

REPORT

on the annual accounts of the European Medicines Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/21)

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 (¹). The Agency operates through a 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5),

- (1) 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.
- (2) Annex II summarises the Agency's competences and activities. It is presented for information purposes.
- (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) OJ L 357, 31.12.2002, p. 72.

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:

- (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.

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

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

- 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 2012 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 2012 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 THE ACCOUNTS

11. The Agency applies differing recognition criteria for fee revenue and associated expenditure. Revenue from application fees is recognised on a straight-line basis over a set time period. Expenditure for the evaluation of such applications by the competent national authorities is however accrued when a specific milestone in service delivery is reached. This is in contradiction with the matching principle.

- 12. The Agency has not yet validated its accounting system in the area of intangible fixed assets. Given the considerable investment in the ICT development (8), this is a crucial part of the whole accounting system.
- 13. In 2011 and 2012, the Council refused salary increases for EU staff. The Commission appealed this decision to the Court of Justice which did not yet rule on the matter. Since the Agency is located in London, the salary increases in question will be paid in GBP whereas the Agency's accounts are prepared in Euros. Given the fluctuations in the exchange rate over the period concerned, the possible back pay to staff would lead to an estimated exchange rate loss for the Agency of 2,9 million euro. The Agency has included this amount in the calculation of its budgetary outturn account, leading to an equivalent understatement of funds to be paid back to the Commission (9).

COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

- 14. In 2012, the Agency issued cascading framework contracts for the provision of services (10). The procurement procedure presented some irregularities affecting the principle of transparency.
- 15. In addition to the education allowances provided for in the Staff Regulations (11), the Agency pays education contributions directly to schools for staff whose children attend primary or secondary school without having contracts with schools in place. Total 2012 education contributions amounted to some 389 000 euro. Such expenditure is not covered by the Staff Regulations and irregular.

COMMENTS ON BUDGETARY MANAGEMENT

16. The Agency's budget implementation rates for the year 2012 were satisfactory for titles I and III. While the rate of committed appropriations carried over was high for title II at 27 %, this primarily relates to the Agency's planned move to new premises in 2014 (4 205 000 euro) and the development of ICT systems (1 596 000 euro). While the latter is of a multiannual nature that can partly justify the carry-overs, the Agency's ICT Unit was significantly reorganised in 2012 and a number of projects planned for 2012 were delayed.

^{(8) 2012} investments in ICT development amounted to 11 625 000

⁽⁹⁾ In so doing, the Agency followed an instruction from the Commission dated December 2012 which however was further clarified in June 2013

clarified in June 2013.

(10) By 31 December 2012, total budgetary commitments of 13 475 000 euro had been made for specific contracts under these framework contracts, and payments of 4 690 000 euro had been made.

⁽¹¹⁾ Article 3 of Annex VII provides for twice the basic allowance of 252,81 euro = 505,62 euro.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The level of carry-over is excessive and at odds with the principle of annuality.	Completed
2011	The Agency increased in 2011 the financial envelope of an irregular framework contract for IT services concluded in 2009 for which the Court had qualified its opinion on the legality and regularity of the transactions underlying the Agency's 2009 accounts. The original contract ceiling was 30 million euro. This was irregularly increased in 2011 by 8 million euro and specific contracts were signed for an amount of 8,1 million euro, leading to irregular payments and accrued charges in 2011 amounting to 3,6 million euro. The IT project is ongoing and the Agency has started preparing in 2011 a new framework contract.	N/A (contract expired)
2011	There is scope for improving the transparency of procurement procedures.	Outstanding
2011	The Court identified a need to improve the transparency of staff selection procedures. Selection Board members did not always complete their conflict of interest declarations, or did not do so in a timely manner, and there was no evidence of any action taken to address the issues raised by these declarations. The documentation of the Selection Board's proceedings was not always adequate and there is no evidence as to how the method for the short-listing of candidates was established and that the questions for the written tests or interviews were set before the examinations.	Ongoing

ANNEX II

European Medicines Agency (London) Competences and activities

Areas of Union competence deriving from the Treaty

Collection of information

(Article 168 of the Treaty on the Functioning of the European Union)

A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

Union action, which shall complement national policies, shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education, and monitoring, early warning of and combating serious cross-border threats to health.

Competences of the Agency

Objectives

(Regulation (EC) No 726/2004 of the European Parliament and of the Council)

- To coordinate the scientific resources that the Member States' authorities make available to the Agency for the authorisation and supervision of medicinal products for human and veterinary use,
- to provide the Member States and the institutions of the European Union with scientific advice on medicinal products for human or veterinary use.

Tasks

- To coordinate the scientific evaluation of medicinal products which are subject to Union marketing authorisation procedures,
- to coordinate the supervision of medicinal products which have been authorised within the Union (*Pharmacovigilance*),
- to advise on the maximum limits for residues of veterinary medicinal products which may be accepted in foodstuffs of animal origin,
- to coordinate verification of compliance with the principles of good manufacturing practice, good laboratory practice and good clinical practice,
- to record the status of marketing authorisations granted for medicinal products.

Governance

The **Committee for Medicinal Products for Human Use** (*CHMP*), consisting of one member and one alternate from each Member State and five co-opted members, advises on any question relating to the evaluation of medicinal products for human

The **Committee for Medicinal Products for Veterinary Use** (CVMP), consisting of one member and one alternate from each Member State, advises on any question relating to the evaluation of veterinary medicinal products.

The Committee for Orphan Medicinal Products (COMP), consisting of one member and one alternate from each Member State, advises on any question relating to the evaluation of orphan medicinal products.

The **Committee on Herbal Medicinal Products** (*HMPC*), consisting of one member and one alternate from each Member State and five co-opted members, advises on any question relating to the evaluation of herbal medicinal products.

The **Paediatric Committee** (*PDCO*), consisting of one member and one alternate from each Member State, six members and alternates representing healthcare professionals and patients' associations, is responsible for the scientific assessment and agreement of paediatric investigation plans and for the system of waivers and deferrals thereof.

The **Committee for Advanced Therapy** (CAT), consisting of five members of CHMP and their (five) alternates, one member and one alternate from each Member State, two members and two alternates representing clinicians, two members and two alternates representing patients' associations, is responsible for any question relating to the assessment of advanced therapy medicinal products and ATMP certification and classification.

The **Pharmacovigilance Risk Assessment Committee** (PRAC), consisting of one member and one alternate from each Member State, six independent scientific experts nominated by the European Commission, one member and an alternate nominated by the European Commission after consultation of the European Parliament to represent healthcare professionals and one member and an alternate nominated by the European Commission after consultation of the European Parliament to represent patients' organisations.

The **Management Board** consists of one member and one alternate from each Member State, two representatives of the Commission, two representatives appointed by the European Parliament, two representatives from patients' organisations, one representative from doctors' organisations and one representative from veterinarians' organisations. The Board adopts the work programme and the annual report.

The **Executive Director** is appointed by the Management Board on a proposal from the Commission.

Internal audit

Commission's Internal Audit Service (IAS).

EMA Internal Audit Capability.

External audit

European Court of Auditors.

Discharge authority

European Parliament, acting on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

222,489 (1) (208,863) million euro (2); Union contribution: 9,6 % (3) (13,4 % (4))

Staff as at 31 December 2012

590 (567) in the establishment plan, of which occupied: 575 (552)

 $160\ (177)$ other staff (contract staff, seconded national experts, employment agency staff)

Total staff: 735 (728), undertaking the following tasks: operational: 594 (584), administrative 141 (144)

Products and services in 2012 (2011)

Products and services in 2012 | Medicinal Products for Human Use

- Applications for marketing authorisations: 96 (100)
- Favourable opinions: 57 (87)

- Average evaluation time: 188 (178) days
- Opinions after authorisation: 5 137 (4 982)
- Pharmacovigilance (CAP EEA and non-EEA ADR reports): 522 073 (362 231)
- Periodic safety update reports: 463 (583)
- Scientific advice finalised: 420 (430)
- Mutual Recognition Procedures and Decentralised Procedures: started 6 991 (6 401); ended 6 709 (6 715)
- Applications for paediatric investigation plans: 178 (187) relating to 218 (220) indications

Medicinal Products for Veterinary Use

- Applications for marketing authorisations: 13 (11)
- Applications in respect of variants: 261 (287)

Inspections

Inspections: 450 (450)

Herbal Medicinal Products

Herbal monographs: 15 (20)

List of herbal substances, preparations and combinations thereof: 0 (0)

Orphan Medicinal Products

- Applications: 197 (166)
- Favourable opinions: 139 (111)

SMEs

- Requests for SME status 684 (433)
- Applications for fee reduction or deferrals 316 (350)
- (1) This is the final budget, not the actual total of the budgetary outturn account.
- (*) This is the final budget, not the actual total of the budgetary outturn account.
 (*) This is the final budget, not the actual total of the budgetary outturn account.
 (*) This is the percentage of the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgetary authority) in relation to the final budget.
 (*) This is the percentage of the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgeted EU contribution feet n-2 by the surplus n-2 by the budgeted EU contribution feet n-2 by the budgeted EU contribution feet n-2 by the surplus n-2 by the budgeted EU contribution feet n-2 by the budgeted EU contribution feet n-2 by the surplus n-2 by the budgeted EU contribution feet n-2 by the budget
- of surplus n-2 by the budgetary authority) in relation to the final budget. Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

- 11. The introduction of the SAP accounting system in 2011 has enabled the Agency to recognise revenue for all fee application types with more precision, on a straight-line basis over a set time period. The significant act with regard to the evaluation of applications by the National Competent Authorities is considered by the Agency to be the delivery of the rapporteur report and review by the competent scientific committee. The accounting policy since 2006 has been to recognise the associated expenditure when that milestone is reached. In light of the Court's observation the Agency will review its accounting policy on recognising fee revenue and associated expenditure to ensure future compliance with the matching principle. The Agency notes that the Court concluded that the effect on the 2012 accounts is not material.
- 12. The ICT systems providing accounting information for the regulation and control on expenditure on intangible assets have been validated from a technical perspective. The Agency has now made the necessary adjustments to the 2012 provisional accounts and the positive validation of the accounting systems has been completed.
- 13. The amount was included in the Agency's accounts following an instruction from the Accounting Officer of the EU Commission that all unrealised exchange losses should be included in the budgetary accounts as well as the financial accounts. The Agency expects to need this money in order to cover the salaries payable in GBP to EMA staff when the 2011 and 2012 rappels are adopted. The Agency is aware that DG BUDG considers the 'rappel' an unforeseeable expenditure, but judges this position to be untenable because the adaptation of exchange rates and weightings which are part of any 'rappel' is not only fore-seeable, but legally required and long overdue. For the budgetary accounts the Agency applies the same methodology used to calculate the provision in the financial accounts. The Agency's primary concern is that if these figures are not included in the 2012 budgetary accounts it will find itself returning funds to the Commission when in fact those funds will be needed to pay salary liabilities once the weighting and applicable exchange rates are adapted to real levels.
- 14. Whilst the Agency does not share the view of the Court that the principle of transparency was infringed in its tender procedure, it has discussed the Court's findings, in particular within its Advisory Committee on Contracts and Procurement, and will make improvements on the issues highlighted by the Court to ensure even greater transparency in the future.
- 15. It has not been possible to establish a European School for the Agency's staff. Taking account of the spirit of the Staff Regulations, the absence of a European school, the preferred option to use educational institutions providing multilingual education and the local complex geographic situation, the Agency has established an educational contribution benchmarked against and in line with financial support for pupils at the European Schools. This payment is made to the school in respect of school fees only and not to the staff member in the interest of equal treatment of all staff of the European Union.

If such direct payments to schools with mother tongue tuition are now considered irregular, the general question of European School subsidies for EU employees is concerned.

16. The relatively high level of appropriations for title II carried over from year 2012 to 2013 (27 %) was due to the reasons stated. It needs to be noted that the Agency has already substantially reduced its carry over levels as the equivalent carry over in 2011 was 33 % and 2010 36 %. The Agency strives by respecting its operational requirements to further reduce its carry over to a level within tolerable margins of the Financial Regulation.

REPORT

on the annual accounts of the European Monitoring Centre for Drugs and Drug Addiction for the financial year 2012, together with the Centre's replies

(2013/C 365/22)

INTRODUCTION

1. The European Monitoring Centre for Drugs and Drug Addiction (hereinafter 'the Centre', aka 'EMCDDA'), which is located in Lisbon, was established by Council Regulation (EEC) No 302/93 (¹). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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 (where relevant) and an analysis of management representations.

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 Centre, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5),

(¹) 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).

(2) Annex II summarises the Centre's competences and activities. It is presented for information purposes.

- (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) OJ L 357, 31.12.2002, p. 72.

the management is responsible for the preparation and fair presentation of the annual accounts of the Centre and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Centre'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 Centre 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 Centre 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.

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 Centre are free from material misstatement and the transactions underlying them are legal and regular.

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1.).

- 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 Centre's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON INTERNAL CONTROLS

- In 2012, the Centre gave grants to Member States' national drug monitoring centres (beneficiaries) in order to support cooperation under the REITOX network (8). Total grant expenditure in 2012 was 2,6 million euro, representing 16 % of total operating expenditure. The Centre's ex ante verifications before reimbursement of costs claimed by beneficiaries consist of a desk analysis of cost claims and of audit certificates issued by external auditors contracted by the beneficiaries. The Centre does not usually obtain from beneficiaries any documents to substantiate the eligibility and accuracy of the costs claimed. Ex post on-the-spot verifications of costs at beneficiary level are rare (9). Existing controls therefore provide only limited assurance to the Centre's management as to the eligibility and accuracy of the costs claimed by beneficiaries. For the transactions audited by the Court supporting documentation was obtained by the Centre on the Court's behalf which provided reasonable assurance as to their legality and regularity. A random verification of supporting documents and a higher coverage of beneficiaries by on-the-spot verifications could considerably increase assurance.
- 12. No ex post verifications were carried out for any transactions made after 2008, except for grants (see paragraph 11).
- 13. The Centre had not yet adopted Business Continuity or Disaster Recovery Plans.

OTHER COMMENTS

14. The Centre currently bears the annual cost of about 200 000 euro for unused office space in its former building and in the new Headquarters. The Centre should continue, in cooperation with the Commission and National Authorities, to seek adequate solutions for this unused office space.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors Vítor Manuel da SILVA CALDEIRA President

⁽⁸⁾ Under the European Information Network on Drugs and Drug Addiction (REITOX) the Centre collects country data on drugs from national drug monitoring centres.

⁽⁹⁾ In 2011, two ex post verifications were carried out in two Member States. No such verifications took place in 2012.

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The Court identified 51 cases with a total value of 90 053 euro in which appropriations carried over to 2012 were not related to existing legal commitments and should have been decommitted and paid back to the Commission. However, the Centre initiated the process too late. As a consequence, due to restrictions imposed by the IT system, the funds will be blocked for one year and will only be decommitted and paid back at the end of 2012.	Completed
2011	The Centre currently bears the annual cost of about 275 000 euro for unused office space in its former building and in the new Headquarters. The Centre should continue, in cooperation with the European Commission and National Authorities, to seek adequate solutions for the unused office space.	Outstanding
2011	The Centre has not yet adopted and implemented a treasury policy to minimise and spread financial risk while aiming at adequate returns.	Completed
2011	The Centre has not yet adopted a comprehensive policy on exceptions and deviations from established processes and procedures (1).	Completed
2011	There is room to further improve the recruitment procedures. The questions for oral and written tests were not set before the applications were examined by the selection board.	Completed
2011	The Centre's procurement files were not always complete and adequately organised (2).	Ongoing

⁽¹) Internal Control Standards No 8. (²) Several relevant documents such as the estimation of contract values and letters to unsuccessful tenders were missing.

ANNEX II

European Monitoring Centre for Drugs and Drug Addiction (Lisbon) Competences and activities

Areas of Union competence deriving from the Treaty

The Union shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.

(Articles 168 and 114 of the Treaty on the Functioning of the European Union)

Objectives

Competences of the Centre (Regulation (EC) No 1920/2006 of the Parliament and of the Council)

To provide the Union and its Member States with factual, objective, reliable and comparable information at Union level concerning drugs, drug addiction and their consequences.

- (1) The Monitoring Centre is to focus on the following priority areas: monitoring the state of the drugs problem, and emerging trends, in particular those involving multi-drug use;
- (2) monitoring the solutions and providing information on best practices;
- assessing the risks of new psychoactive substances and maintaining a rapid information system;
- (4) developing tools and instruments to help Member States to monitor and evaluate their national policies and the Commission to monitor and evaluate Union policies.

Tasks

- To collect and analyse data;
- to improve data-comparison methods;
- to disseminate data;
- to cooperate with European and international bodies and organisations and with countries outside the Union; to identify new developments and changing trends.

Governance

Management Board

Comprises one representative from each Member State, two representatives from the Commission and two independent experts, designated by the European Parliament, who are particularly knowledgeable in the field of drugs.

To adopt the work programme, the general activities report and the budget. To give an opinion on the final accounts.

Executive Committee

Composition

Chairperson of the Management Board.

Vice-Chairperson of the Management Board.

Two other elected members from the Management Board representing the Member States

Two representatives from the Commission.

Director

Appointed by the Management Board at the Commission's proposal.

Scientific Committee

Delivers opinions. It consists of, at most, 15 well-known scientists appointed in view of their excellence by the Management Board following a call for expressions of interest. The Management Board may also appoint a panel of experts to the extended Scientific Committee for the risk assessment of new psychoactive substances.

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament, acting on a recommendation from the Council.

Resources made available to the Centre in 2012 (2011)

Budget

16,32 (16,27) million euro. Union subsidy: 95,30 % (94,63 %).

Staff at 31 December 2012

Number of posts in establishment plan: 84 (84)

Posts occupied: $79\ (77) + 25\ (27)$ other staff (seconded national experts, contract staff and temporary replacements). Total staff: $104\ (104)$

Allocated to:

- operational: 64,5 (64)
- administrative and IT support: 29 (28,5)
- mixed: 10,5 (11,5)

Products and services 2012 (2011)

Network

The Centre runs a computerised network for the collection and exchange of information called the 'European Information Network on Drugs and Drug Addiction'' (Reitox); this network connects national drug information networks, specialist centres in the Member States and the information systems of international organisations working with the Centre.

Publications

- Annual report on the state of the drug problem in Europe; 22 (22) language versions, publication and interactive website).
- Selected issues 2 (3), EN.
- Statistical bulletin and interactive website containing over 350 (350) tables and 100 (100) graphs.
- General report of activities annual, EN.
- Drugnet Europe newsletter 4 issues, EN (4).
- Drugs in focus (policy briefings) 1 (2) issues. Centre Scientific Monograph 0 (0), EN.
- Centre Insights 3 (0), EN.
- Manuals 2 (1), EN.
- Centre thematic papers 8 (1).

- Joint publications 2: EN (1st); BG, ES, CS, DA, DE, ET, EL, EN, FR, IT, LV, LT, HU, NL, PL, PT, RO, SK, SL, FI, SV, TR, NO, HR (2nd), (3).
- Outputs linked to the implementation of the Council Decision on new psychoactive substances (2005/387/JHA) 2 (2), EN.
- Drug profiles 0 new (1) and 0 updated (18), DE, EN, FR.
- Technical and scientific studies, including Articles and scientific summaries 13 (39).
- Ad-hoc publications 3, EN.
- Brochures 1, EN, RU.
- Scientific posters: 2 (2).
- Data collection, validation, storage and retrieval system (Fonte).

Other websites

Reorganisation/updating/content development of public Centre website including:

- Country overviews.
- Drug treatment overviews, prevention profiles.
- European legal database on drugs.
- Evaluation instruments bank.
- Best practice portal (exchange on drug demand reduction action, harm reduction and treatment modules).
- Topic pages.
- Publications database.

Promotional material

Conference materials 2 EN (1).

Media products: 13 (13) news releases (3 in 23 languages) and 10 (7) fact sheets, EN; 1 Power Point presentation, EN (1).

Participation in international conferences, technical and scientific meetings 266 (245).

Source: Information supplied by the Centre.

THE CENTRE'S REPLIES

11. EMCDDA has put in place and implemented several processes to ensure adequate *ex ante* and *ex post* verifications taking into account the risks at stake. In this context, grant beneficiaries are requested to send a full overview of their expenses (statement of expenses) as well as final financial and activity reports which allow EMCDDA to check the eligibility and accuracy of the costs claimed. On this basis, EMCDDA draws up bilateral feedback reports which identify possible problems relating to the administrative management of the Reitox grants and analyses them with the National Focal Points (NFPs).

In order to further improve the system in place, EMCDDA has taken the following measures, in line with the suggestions of the Court:

- increased the number of annual on-site checks in NFPs;
- made available an audit methodology and improved model for the external audit report, to facilitate, as much as possible, the application of a common and consistent methodology for external auditors' verification;
- organised in May 2013 a Reitox Academy on Grant Management for all NFPs.
- 12. Pursuant to the assessment of possible risks involved, EMCDDA has revised its decision concerning *ex post* verifications to link the latter to the result of risk assessment.
- 13. Further to the measures taken to ensure business continuity and disaster recovery for some critical ICT-based processes, the foundations for a comprehensive Business Continuity Plan (BCP) have already been laid down in a proposal, expected to be approved by the end of the first semester of 2013.
- 14. EMCDDA continues actively to look for an adequate solution to sell or lease the premises concerned. Meanwhile, EMCDDA has further rationalised and reduced the maintenance costs for the Mascarenhas building, namely by revising the security settings and some patterns for consumption of utilities.

REPORT

on the annual accounts of the European Maritime Safety Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/23)

INTRODUCTION

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 (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), 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:

- (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.

The auditor's responsibility

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.

⁽¹⁾ OJ L 208, 5.8.2002, p. 1.

⁽²⁾ Annex II summarises the Agency's competences and activities. It is

presented for information purposes.

(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⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002. p. 1).

- 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 2012 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 2012 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 LEGALITY AND REGULARITY OF TRANSACTIONS

11. A budget commitment amounting to 0,8 million euro was not related to an existing legal commitment and was thus irregular.

COMMENTS ON INTERNAL CONTROLS

12. Accounting procedures and information in respect of costs for internally generated intangible assets are not fully reliable

OTHER COMMENTS

13. The Court identified shortcomings in the transparency of two recruitment procedures carried out during the first half of 2012. Questions for written tests and interviews, as well as their weightings, were not prepared before the examination of the applications. In addition, threshold scores for being included on a list of suitable candidates were not prepared before the examination of the applications. However, following the Court's comments from last year, the Agency implemented corrective measures and no such weaknesses were found for the two audited recruitment procedures carried out in the second half of 2012.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The Agency's 2011 budget (¹) amounted to 56 million euro compared with 51 million euro the previous year. Budget commitments amounting to 0,9 million euro were not related to existing legal commitments and the Agency should have decommitted and paid back the amount to the Commission at the beginning of 2012. However, the Agency initiated the process too late. As a consequence, due to restrictions imposed by the IT system, the funds will be blocked for one year and will only be decommitted and paid back at the end of 2012.	Ongoing
2011	The Court identified the need to improve the Agency's asset management. There are unexplained differences between the recorded annual and cumulated depreciation. For internally created intangible assets, accounting procedures and information on costs are not reliable. Evidence of a physical inventory of administrative equipment within the required period is lacking.	Completed for physical inventory Outstanding for inter- nally-created intangible assets
2011	In December 2011, the Agency sold two sets of sweeping arms systems for at-sea oil recovery services. It aimed to obtain at least the equipment's net book value amounting to 319 050 euro. However, since the minimum price was wrongly set below net book value, the equipment was sold realising a loss of 93 950 euro.	N/A
2011	There is room to improve the transparency of recruitment procedures. The thresholds candidates had to meet in order to be invited to interview, the questions for written tests and interviews and the corresponding weightings for the evaluation of candidates were not set before the applications were examined.	Completed

⁽¹⁾ According to third budget amendment dated 3.12.2011, not yet published in the Official Journal; current year appropriations only.

ANNEX II

European Maritime Safety Agency (Lisbon) Competences and activities

Areas of Union competence deriving from the Treaty

Common transport policy

(Article 100 of the Treaty on the Functioning of the European Union)

'The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport'.

Competences of the Agency

Objectives

(Regulation (EC) No 1406/2002 of the European Parliament and of the Council as amended by Regulations (EC) No 1644/2003 and (EC) No 724/2004) The European Maritime Safety Agency has been established for the purpose of ensuring a high, uniform and effective level of maritime safety, maritime security and prevention and response of pollution by ships within the Union.

The Agency provides the Member States and the Commission with the technical and scientific assistance needed with a high level of expertise, in order to assist them:

- to verify that Union legislation is properly applied in the field of maritime safety, security and prevention of pollution by ships,
- to monitor its implementation,
- to evaluate the effectiveness of the measures in place.

Operational services have been developed and offered to the Member States and the Commission in order to address ship-sourced pollution within the Union and in the field of traffic monitoring and maritime surveillance. Systems have been developed to support the implementation of relevant legislation (THETIS in the field of Port State Control, EMCIP in the field of Accident Investigation, STCW-IS in the field of training and certification of seafarers, etc.).

Tasks

The Agency's tasks are broadly divided into four key areas in line with its founding regulation and relevant EU legislation. Firstly, the Agency assists the Commission in monitoring the implementation of EU legislation relating, among others, to ship survey and certification, certification of marine equipment, ship security, the training of seafarers and Port State Control.

Secondly, the Agency develops and operates maritime information capabilities at EU level. Significant examples are the SafeSeaNet (SSN) vessel tracking system, to enable the EU-wide tracking of vessels and their cargoes, and incidents on-board; and the EU LRIT Data Centre, to ensure the identification and tracking of EU flagged ships worldwide.

In parallel, a marine pollution preparedness, detection and response capability, which includes a European Network of Stand-by Oil Spill Response Vessels as well as a European satellite oil spill monitoring and vessel detection service (CleanSeaNet), contributes to an effective chain for protecting EU coasts and waters from pollution by ships.

Finally, the Agency provides **technical and scientific advice** to the Commission in the field of maritime safety and prevention of pollution by ships in the continuous process of evaluating the effectiveness of the measures in place, and in the updating and development of new legislation. It also provides support to, and facilitates cooperation between, the Member States and disseminates best practices.

Governance

Administrative Board

Composition

One representative per Member State, four representatives of the Commission and four representatives without the right to vote from the professional sectors concerned.

Tasks

- To adopt the multiannual staff policy plan, the annual budget, the work programme, the annual report and a detailed plan for the Agency's pollution preparedness and responses activities,
- to supervise the work undertaken by the Executive Director.

Executive Director

Appointed by the Administrative Board. The Commission may propose one or more candidates.

External audit

European Court of Auditors.

Internal audit

- European Commission's Internal Audit Service (IAS).
- Internal Audit Capability of the Agency.

Discharge authority

European Parliament, acting on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

Commitment Appropriations (C1)

55,1 (56,4) million euro

Payment Appropriations (C1)

57,5 (56,4) million euro

Amending budgets published in the Official Journal of the European Union cover a variety of fund sources, with C1 being almost the exclusive fund source. For the sake of clarity and transparency, only predominant and therefore relevant C1 budget appropriations are quoted.

Staff as at 31 December 2012

Statutory Staff

213 (208) posts authorised in the establishment plan, of which occupied: 204 (197)

Contract Agents

29 (29) planned in the budget, of which occupied: 25 (25)

Seconded National Experts

15 (15) planned in the budget, of which occupied: 12 (15)

Products and services 2012	— 53 Workshops and other events (with 1 300 participants in workshops);
	— 28 different training sessions which resulted in 734 national experts trained;
	— 109 inspections and visits;
	— SSN was 99,33 % available throughout the year;
	— 2 234 satellite images ordered and analysed through CleanSeaNet;
	— EU LRIT Data Centre 99,26 % available throughout the year;
	— 16 anti-pollution vessels contracted;
	 65 drills and 33 exercises with the anti-pollution vessels (16 operational exercises and 17 notification exercises);
	— EMSA Maritime Support Services operating on a 24/7 basis;

— THETIS 99,23 % available throughout the year.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

- 11. The Agency implemented year-end procedures for the analysis of outstanding budget commitments to avoid irregular carry-forwards. The amount of 0,8 million euro mentioned by the Court refers to one contract out of 327 carry-forwards. The contract, concerning continuous LRIT services was expected to be signed by all parties before year-end. Therefore the committed amount was not cancelled but carried forward. Whilst the contractor signed the contract on 26 December, EMSA received the signed contract on 31 December and could only countersign it beginning 2013.
- 12. Following the observations of the Court of Auditors, and given the fact that the Agency will develop more intangible assets, the Agency's Accounting Officer will develop and implement internal guidelines on the valuation of intangible fixed assets to be applied as from 2013.
- 13. The Agency confirms that corrective measures have been implemented.

REPORT

on the annual accounts of the European Network and Information Security Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/24)

INTRODUCTION

1. The European Network and Information Security Agency (hereinafter 'the Agency', aka 'ENISA'), which is located in Athens and Heraklion (¹), was created by Regulation (EC) No 460/2004 of the European Parliament and of the Council (²), amended by Regulation (EC) No 1007/2008 (³) and by Regulation (EC) No 580/2011 (4). 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 (⁵).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 (6) and the reports on the implementation of the budget (7) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.
- Whereas administrative staff remains in Heraklion, operational staff have been relocated to Athens in March 2013.
- (2) OJ L 77, 13.3.2004, p. 1.
- (3) OJ L 293, 31.10.2008, p. 1.
- (4) OJ L 165, 24.6.2011, p. 3.
- (5) Annex II summarises the Agency's competences and activities. It is presented for information purposes.
- (6) 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.
- (7) These comprise the budgetary outturn account and the annex to the budgetary outturn account.

The management's responsibility

- 4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (8), 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:
- (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 (9); 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.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (10) with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the

- (*) 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.
- (10) Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002
 (OJ L 248, 16.9.2002, p. 1).

⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.

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.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comment which follows does not call the Court's opinions into question.

COMMENT ON INTERNAL CONTROLS

11. Whereas the Financial Regulation and the corresponding Implementing Rules provide for a physical inventory of fixed assets at least every three years, the Agency has not carried out a comprehensive physical inventory since 2009.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The high level of carry-over is at odds with the budgetary principle of annuality.	Completed
2011	The Court identified the need to improve the documentation of fixed assets. Purchases of fixed assets are recorded at invoice and not at item level. When several new assets are covered by one single invoice, there is only one entry for all the purchased assets and the total amount.	Ongoing
2011	The Agency needs to improve the transparency of recruitment procedures. No adequate measures were taken to address the lack of transparency reported by the Court in 2010. The thresholds candidates had to meet in order to be invited to interview, the questions for written tests and interviews and their weightings were not prepared before the examination of the applications. Threshold scores for being put on a list of suitable candidates were not established before the examination of applications.	Completed

ANNEX II

European Network and Information Security Agency (Heraklion) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 114 of the Treaty on the Functioning of the European Union)

The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

The Internal Market responsibility is a shared competence between the Union and the Member States (Article 4(2)(a) TFEU).

Competences of the Agency

(Regulation (EC) No 460/2004 of the European Parliament and of the Council)

Objectives

- The Agency shall enhance the capability of the Union, the Member States and the business community to prevent, address and respond to network and information security problems.
- The Agency shall provide assistance and deliver advice to the Commission and the Member States on issues related to network and information security falling within its competencies.
- 3. The Agency shall develop a high level of expertise and use this expertise to stimulate broad cooperation between actors from the public and private sectors.
- 4. The Agency shall assist the Commission, where called upon, in the technical preparatory work for updating and developing Community legislation in the field of network and information security.

Tasks

- (a) To collect information on current and emerging risks that could produce an impact on electronic communications networks;
- (b) to provide the European Parliament, the Commission and European bodies or competent national bodies with advice and assistance;
- (c) to enhance cooperation between actors in its field;
- (d) to facilitate cooperation on common methodologies to address network and information security issues;
- (e) to contribute to awareness-raising on network and information security issues for all users by, inter alia, promoting exchanges of current best practices, including methods of alerting users and seeking synergy in public and private sector initiatives;
- (f) to assist the Commission and the Member States in their dialogue with industry;
- (g) to track the development of standards for products and services on network and information security;
- (h) to advise the Commission on research in the area of network and information security and the use of risk prevention technologies;
- (i) to promote risk assessment activities on prevention management solutions;
- (j) to contribute to cooperation with third countries and international organisations;
- (k) to express independently its own conclusions, orientations and to give advice on matters within its scope and objectives.

Governance

Management Board

One representative from each Member State, three representatives appointed by the Commission, as well as three representatives, proposed by the Commission and appointed by the Council, without the right to vote, each of whom represents one of the following groups:

- (a) information and communication technologies industry;
- (b) consumer groups;
- (c) academic experts in network and information security.

Permanent Stakeholders Group

- 30 high-level experts representing the relevant stakeholders, such as the information and communication technologies (ICT) industry, ICT user organisations and academic experts in network and information security.
- Following an open call, the Members are selected by the Executive Director, who after informing the Management Board of his decision, appoints the selected applicants ad personam for a term of office of 2,5 years.

Executive Director

Appointed by the Management Board, from a list of candidates proposed by the European Commission and following a hearing in the European Parliament, for a term of five years.

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

8,2 (8,1) million euro of which the Union subsidy is 100 % (100 %)

Staff at 31 December 2012

44 (44) posts in the establishment plan, of which occupied: 42 (41).

Other posts occupied: 12 (13) contract staff, 4 (4) Seconded National Experts.

Total staff: 58 (58), undertaking the following tasks:

- operational: 40 (40)
- administrative: 18 (18)

Products and services in 2012 (2011)

WS (1) 1: Identifying and Responding to the Evolving Threat Environment

The assessment of emerging threats is a necessary part of preparing for future challenges. The objective of this work stream was to derive a number of 'IT-Security readiness statements' for various areas and government initiatives, in particular with regard to Member States and the Commission (e.g. by identifying emerging opportunities and risks of policy initiatives). This was achieved by assessing emerging opportunities and risks for areas and initiatives pertinent to various stakeholder communities.

In particular, the Agency released a global report on the security threat landscape in Europe and more specific reports in the area of 'Consumerisation of IT', 'Cloud Computing' and 'Secure Procurement'. By analysing both opportunities and risks, ENISA was able to draw conclusions that reflect the trade-offs that institutions and businesses will need to make in real-time operational environments. This approach helps policy makers and business communities to take full advantage of innovative technologies and business models, whilst still maintaining a high degree of security. The approach made maximum use of existing cooperation agreements and support-relevant stakeholders in order to attain the objectives of the work stream.

Number of deliverables: seven.

WS2: Improving Pan-European CIIP (2) and Resilience

The work carried out in this work stream was closely aligned with the CIIP Action Plan described in the Commission's communications of March 2009 and of March 2011 and were a natural continuation of work carried out as part of the work programmes of 2010 and 2011. Activities directly supported objectives laid down in the Internal Security Strategy document as well as the Digital Agenda.

The core objective of work stream 2 was to assist Member States in implementing secure and resilient ICT systems and to increase the level of protection of critical information infrastructures and services in Europe. This involved a number of activities:

- assisting relevant stakeholders to increase their level of efficiency and effectiveness;
- supporting and promoting exercises on a pan-European level;
- identifying and addressing the information security challenges in critical information infrastructures;
- supporting and promoting the European Public Private Partnership for Resilience (EP3R);
- identifying and addressing information security issues in Industrial Control Systems and Interconnected Networks;
- supporting the EU-U.S. Working Group on Cyber-security and Cyber-crime established in the context of the EU-U.S. summit of 20 November 2010.

Of these activities, the pan-European cyber security exercise is of particular note. The second such exercise was carried out on 4 October 2012, in which 339 organisations from across the EU participated.

Number of deliverables: 13.

WS3: Supporting the CERT and other Operational Communities

The work packages described in this section are also closely aligned with the CIIP Action Plan described in the Commission's communication of March 2009, although the activities in this work stream are closely linked to the assistance and development of the CERT community.

In the area of CERTs, ENISA aims to support the EU Member States to ensure that their respective national / governmental CERTs act as key components of their national capability for preparedness, information sharing, sustainable coordination and response. This is done by defining, together with the relevant stakeholders, baseline capabilities for national / governmental CERTs, and by providing necessary means to achieve that baseline. More specifically, the objectives of this work stream are:

 to enhance the operational capabilities of Member States by helping the CERT community to increase its level of efficiency and effectiveness; — to support and enhance (co)operation between CERTs, and with other communities

As part of this work stream, ENISA examined legal and procedural obstacles faced by CERTs from Europe when cooperating and sharing information with CERTs and law enforcement from Third Countries and made recommendations on how to improve cooperation.

Number of deliverables: 10.

WS4: Securing the Digital Economy

In this work stream, ENISA aims to identify measures that will enable the EU to manage properly the introduction and deployment of new interoperable services, while respecting the fundamental rights of individuals and using secure and trustworthy solutions.

The work carried out in this area assisted public and private sector organisations in improving their security approach whilst developing sound procedures for managing personal data in line with the new proposed legislation on Data Protection.

Support for the European Month of Network & Information Security for All was also carried out in this work stream.

Number of deliverables: eight.

⁽¹⁾ WS: Work stream.

⁽²⁾ CIIP: Critical Information Infrastructure Protection. Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

11. ENISA launched the inventory count in late April 2013 in both offices, in Heraklion and Athens. This is the first count in the history of ENISA which occurs with the use of a dedicated electronic tool, ABAC Assets, and its functionalities (including labelling, scanning, uploading of scanned items, providing reports). The results of the count will be processed by the Accounting Officer and the final accounting entries for the differences between the accounting records and the physical inventory will occur by 31 July 2013 the latest.

The Agency will perform and document such counts on an annual basis in order to ensure fair representation of assets' value in the annual accounts.

REPORT

on the annual accounts of the Europol Pension Fund for the financial year 2012, together with the Fund's reply

(2013/C 365/25)

INTRODUCTION

1. The Europol Pension Fund (hereinafter 'the Fund', aka 'EPF'), which is located in The Hague, was established by Article 37, Appendix 6, of the former Staff Regulations of the European Police Office, The Hague (Europol). Rules on the implementation of the Fund were established by Council Act of 12 March 1999 (¹) and amended by Council Decision 2011/400/EU (²). The objective of the Fund is to finance and pay pensions for staff already employed by Europol before it became an European Agency on 1 January 2010.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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

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 Fund (3) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (4), the management is responsible for the preparation and fair

(¹) Document 5397/99 on the Council's public register: http://register.consilium.europa.eu/

(2) OJ L 179, 7.7.2011, p. 5.

(4) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Fund and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Fund'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; applying the accounting rules for the Fund as adopted by the Council (5) and making accounting estimates that are reasonable in the circumstances. The Management Board of the Fund and the Director of the European Police Office approve the annual accounts after the Fund's accounting officer has prepared them on the basis of all available information. They also establish a note to accompany the accounts in which they declare, inter alia, that they have reasonable assurance that the accounts present a true and fair view of the financial position of the Fund 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.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (6) 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

⁽³⁾ The accounts comprise the balance sheet, the statement of income and expenses, the cash-flow statement and the explanatory notes.

⁽⁵⁾ In accordance with Council Act of 12 March 1999 adopting rules on the EPF and Council Decision of 28 June 2011 amending the latter, the accounts are prepared on the basis of The Netherlands accounting rules on Pension Funds, namely Directive 610 of the Dutch financial reporting rules, and on the international Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

 ⁽⁶⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Fund are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Fund's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 Council.

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 2012 are legal and regular in all material respects.

Emphasis of Matter

- 10. The Court draws attention to Notes 2.6 and 2.7 to the Fund's Annual Report 2012. The Fund's Management Board prepared the accounts on a going concern basis. However, it is expected that 2013 will lead to a settlement of most of the currently still unpaid pension rights via a transfer to another pension scheme and that by 31 December 2014 there will be no active participants. The Fund's Board and Europol's Management Board together with the Council are currently assessing options for the future of the Fund, one of which is liquidation shortly after 31 December 2014.
- 11. The comments which follow do not call the Court's opinions into question.

OTHER COMMENTS

12. The Europol Staff Regulations set the capitalisation of pension contributions paid by officials at an annual rate of 3,5 %. Since contributions are made monthly and can be different from one month to another, the use of an annual rate is incorrect and a monthly rate should be applied. However, there is no material effect on the annual accounts.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 7 October 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The Court noted shortfalls in the procedure offered by Europol to its staff to exit the fund. When the Office became a full European Agency in 2010, it asked its staff no longer contributing to the fund (¹) to exit from the Fund by either receiving a severance grant (SG) or by transferring the accumulated pension rights (TPR) to alternative pension schemes (e.g. PMO, national pension schemes, private companies). However no deadline was set for staff to take the decision.	Completed
2011	At year-end the Fund had net financial assets of 16 million euro, of which of 15,98 million euro was held in one bank.	Completed
2011	The Management Board has not yet prepared procedures for the annual verification of pensioners' entitlements, including proof that the pensioners are still alive. In 2011, the six people benefiting from pensions at that time were requested to provide a confirmation of their place of residence, only one replied.	Completed

⁽¹⁾ Now covered by the EU Staff Regulations.

THE FUND'S REPLY

12. Europol acknowledges the comment by the ECA. The immaterial impact results in 1 euro difference per 10 000 euro established pension rights (on the side of the Europol Pension Fund (EPF), not the beneficiaries). By 31 December 2014, the last active participant is expected to have left the EPF. Against this background, adjustments will not be implemented, as confirmed by the Management Board (MB) of the EPF.

REPORT

on the annual accounts of the European Railway Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/26)

INTRODUCTION

1. The European Railway Agency (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 (¹). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair

- (1) OJ L 220, 21.6.2004, p. 3.
- (2) Annex II summarises the Agency's competences and activities. It is presented for information purposes.
- (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) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (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.

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

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON INTERNAL CONTROLS

- 11. The Agency has suppressed the Internal Audit Capability and has replaced it with an Internal Control Coordinator (ICC). The internal auditor left the Agency and there are uncertainties on how the internal auditing function provided for in the Agency's financial regulation will be carried out under the new structure.
- 12. The Agency should reinforce the controls in place to ensure that family allowances are correctly calculated and paid on the basis of complete and up to date information.
- 13. The Agency does not comply with its Internal Control Standard regarding business continuity; there are no approved IT Business Continuity and Disaster Recovery plans.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

14. An overview of the corrective actions taken in response to the Court's previous year's comments is provided in Annex I.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The level of payments against budget appropriations improved for all titles, but remained low for title III (operational expenditure) at 47 % (39 % in 2010). This situation is at odds with the budgetary principle of annuality.	Ongoing
2011	The Agency's Founding Regulation sets maximum employment periods for temporary staff recruited by the Agency from the professionals of the railways sector. According to these provisions, the Agency will have to replace half of its operational staff in the period 2013-2015, which may cause major disruptions in the Agency's operational activities (1).	Ongoing
2011	There is room to improve the Agency's recruitment procedures in order to fully ensure transparency and equal treatment of candidates. As an example, vacancy notices did not provide information on the required minimum number of years of post-secondary or university studies which however was used as a selection criterion. The pass marks for interviews and reserve lists, the scoring of selection criteria, the questions for oral and written tests and the weightings between written and oral tests were not set before applications were examined.	Ongoing

⁽¹⁾ Regulation (EC) No 881/2004, Article 24.

ANNEX II

European Railway Agency (Lille/Valenciennes) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 91(1) of the Treaty on the Functioning of the European Union)

For the purpose of implementing Article 90, and taking into account the distinctive features of transport, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:

- (a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States,
- (b) the conditions under which non-resident carriers may operate transport services within a Member State,
- (c) measures to improve transport safety,
- (d) any other appropriate provisions.'

Competences of the Agency

(Regulation (EC) No 881/2004 of the European Parliament and of the Council)

Objectives

To contribute, on technical matters, to the implementation of the Union legislation aimed at:

- improving the competitive position of the railway systems,
- developing a common approach to safety on the European railway system,

in order to contribute to creating a European railway area without frontiers and guaranteeing a high level of safety.

Tasks

- 1. To address recommendations to the Commission on:
 - the common safety methods (CMS) and common safety targets (CSTs) provided in the Railway Safety Directive (2004/49/EC),
 - safety certificates and measures in the field of safety,
 - development of technical specifications for interoperability,
 - vocational competencies,
 - registration of rolling stock.
- 2. To issue opinions on:
 - national safety rules,
 - monitoring the quality of the work of notified bodies,
 - interoperability of the trans-European network.
- 3. To coordinate national bodies:

Coordination of national safety authorities and national investigation bodies (as described in Directive 2004/49/EC, Articles 17 and 21).

- 4. Publications and databases:
 - report on safety performance (every two years),
 - report on progress with interoperability (every two years),
 - public database of safety documents,
 - public register of documents on interoperability.

Governance	Administrative Board
	Comprises one representative from each Member State, four representatives from the Commission and six representatives, without the right to vote, from the professional sectors concerned.
	Director
	Appointed by the Administrative Board on a proposal from the Commission.
	External audit
	European Court of Auditors.
	Discharge authority
	European Parliament, following a recommendation from the Council.
Resources made available to	Budget
the Agency in 2012 (2011)	25,8 (26) million euro
	Staff at 31 December 2012
	Posts listed in the establishment plan: 144 (144)
	Posts occupied on 31.12.2012: 139 (140)
	Other staff: 14 (14)
	Total staff: 153 (154), of which assigned to:
	— operational tasks: 119 (107)
	— administrative tasks: 34 (47)
Products and services in 2012 (2011)	Recommendations on Safety Certification, including the migration to a single EU safety certificate.
	Follow-up activities regarding the certification of entities in charge of maintenance.
	Recommendations on safety regulation, including evaluating the way national safety rules are made available, and examination of the transposition of the Railway Safety Directive in the Member States.
	Recommendations on Safety Reporting, including Common Safety Indicators, coordination of safety authorities' and investigation bodies and reporting on safety performance in the Member States.
	Recommendations on safety assessment, including Common Safety Methods.
	Recommendations on Technical Specifications for Interoperability and their Revision; evaluation of extension of scope and error correction.
	Reports on common approaches with regard to vocational competencies and assessment of railway staff involved in operation and maintenance.
	Definition and compilation of the Reference Document of national rules for vehicle authorisation and classification of their equivalence for cross acceptance.
	Technical Opinions on national rules and monitoring of the work of Notified Bodies.
	Reports on railway Safety and Interoperability.
	Setting up and maintaining a series of registers for Safety and Interoperability.
	Acting as the System Authority and Change Control Manager for ERTMS (European Railway Traffic Management System); issuing the ETCS Baseline 3 specification; assisting the Commission in evaluating ERTMS projects.
	Accompanying all recommendations with an impact assessment.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

- 11. The Agency is planning to recruit an ICC before autumn 2013. This will be a separate function and as such the independence of the person exercising this role will be ensured. In addition, the independence of the internal audit function in the Agency is fully guaranteed. In line with the ERA financial regulation, article 71§2: '... the Commission's internal auditor shall exercise, the same powers with respect to the Agency as with respect to Commission departments'. The Commission Internal audit Service (IAS) continues to be the Internal auditor of the Agency today and also for the future. It performs regularly internal audits within the Agency.
- 12. The Court's observation is based upon one specific and very complex individual case for which the Agency will seek advice from the Commission's services to check how to deal with this. In addition the Agency will revise and reinforce, where necessary, his existing controls in place to ensure that family allowances are correctly calculated and paid on the basis of complete and up to date information.
- 13. The Agency has, as a priority, decided to implement adequate measures in order to assure the continuity of the IT services and systems that are horizontal to the Agency business. In this respect it is foreseen to have the related actions implemented in the course of 2013 and to have an approved Business Continuity Plan and Disaster Recovery Procedure by the end of 2013.

REPORT

on the annual accounts of the European Research Council Executive Agency for the financial year 2012, together with the Agency's reply

(2013/C 365/27)

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 (¹). 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 Seventh Framework Programme for Research (²).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair

- (1) OJ L 9, 12.1.2008, p. 15.
- (2) Annex II summarises the Agency's competences and activities. It is presented for information purposes.
- (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) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (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 Steering Committee 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.

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

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The Agency did not exercise sufficient control during the development of an internal IT asset called e-Stream, whose purpose was to automate the workflow approval processes of the Scientific Management department. The business case for this project was not adequately defined, risks were not adequately identified and addressed and management failed to monitor the project's progress. These weaknesses contributed to the failure of the IT project, resulting in an impairment charge of 258 967 euro.	Completed
2011	The Director ad interim of the Agency was appointed on 1 January 2011 by a Commission decision. In February 2012, at the time of the audit, the duration of this posting exceeded the one year maximum foreseen in the Staff Regulation by one month. Since the Director's original function as Head of Department was taken over temporarily by a Head of Unit, the same non-compliance with Staff Regulations also applies here. Another Head of Unit was acting Head of Department between June 2009 and February 2011 and the duration of the posting was irregular also in this case.	Completed

ANNEX II

European Research Council Executive Agency (Brussels) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 182 of the Treaty on the Functioning of the European Union)

- 1. A multiannual framework programme, setting out all the activities of the Union, shall be adopted by the European Parliament and the Council, after consulting the Economic and Social Committee. The framework programme shall:
 - establish the scientific and technological objectives to be achieved by the activities provided for in Article 180 and fix the relevant priorities,
 - indicate the broad lines of such activities,
 - fix the maximum overall amount and the detailed rules for Union financial participation in the framework programme and the respective shares in each of the activities provided for.
- 2. The framework programme shall be adapted or supplemented as the situation changes.
- 3. The framework programme shall be implemented through specific programmes developed within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, may not exceed the overall maximum amount fixed for the framework programme and each activity.
- 4. The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, shall adopt the specific programmes.

Competences of the Agency

(Commission Decision 2008/37/EC)

Objectives

The Agency was set up in December 2007 by Commission Decision 2008/37/EC, for the management of the specific Community Programme 'Ideas' in the field of frontier research in the application of Council Regulation (EC) No 58/2003. 'Ideas' is implemented by the European Research Council (ERC), comprising an independent Scientific Council which establishes the ERC's scientific strategy and monitors its implementation by the Agency that handles the operational management. The Agency became autonomous from the Directorate General for Research and Innovation on 15 July 2009.

Tasks

The tasks of the Agency are described in the Delegation Act (See Commission Decision C(2008) 5694), namely in Articles 5-7 thereof. Among these tasks, the Agency has been entrusted with tasks covering:

- all aspects of administrative implementation and programme execution and in particular, the evaluation procedures, peer review and selection process according to the principles established by the Scientific Council;
- the financial and scientific management of the grants.

Governance

(Commission decisions C(2008) 5132 and C(2011) 4877)

Steering Committee

The Steering Committee is the body that supervises the operations of the Agency and is appointed by the Commission (See Commission Decision C(2008) 5132). It adopts the Agency's annual work programme (after approval by the Commission), administrative budget and annual reports. It is composed of five members and one observer.

(Commission decisions 2007/134/ EC and 2011/12/EU)

(Council decision 2006/972/EC)

(Council Regulation (EC) No 58/2003)

Scientific Council of the ERC

The Scientific Council of the ERC is entrusted by virtue of Commission Decision 2007/134/EC with establishing a scientific strategy for the Ideas Specific Programme, deciding on the type of research to be funded in accordance with Article 5(3) of Council Decision 2006/972/EC and acting as a guarantor of the quality of the activity from a scientific perspective. Its tasks cover, in particular, the establishment of the annual work programme for the Ideas Specific Programme, and of the peer review process, as well as the monitoring and quality control of the implementation of the Specific Programme 'Ideas', without prejudice to the responsibility of the Commission. It is composed of 22 members appointed by the Commission.

Director of the Agency

Appointed by the European Commission for four years.

External audit

European Court of Auditors.

Discharge authority

European Parliament, following a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Budget

37,8 (35,6) million euro

Staff at 31 December 2012

The 2012 operating budget provides for an establishment plan of 100 (100) temporary Staff (TS) and a budget for 289 (260) contract Staff (CS) and seconded national experts (SNE), i.e. a total of 389 (360) staff. Of these posts, 380 (350) were occupied at year-end 2012:

- 96 (97) temporary staff, out of which 11 (13) TS seconded and 85 (84) TS external;
- 275 (245) contract staff;
- 9 (8) SNEs.

Allocated to:

- operational activities (Scientific and Grant Management departments): 71 % (68 %)
- administrative activities (other departments): 29 % (32 %)

Products and services in 2012 (2011)

- 1. Monitor the grant agreements awarded under the Ideas Work Programme, calls for Starting Grants, Advanced Grants, Synergy Grants and Proof-of-Concept Grants. The Ideas work programme is implemented via the publication of the annual calls for proposals, which is followed by an evaluation (by external experts), the preparation and signing of grant agreements and finally the monitoring of project implementation. Each call for proposals results in a series of Grant Agreements, with an expected project cycle of about five years.
- 2. Execution of the 2012 Calls for proposals for the Ideas work programme. (Starting Grants, Advanced Grants, Synergy Grants and Proof-of-Concept Grants): 7 899 proposal applications were submitted in 2012, out of which 4 741 were for Starting Grants, 2 304 for Advanced Grants, 710 for Synergy Grants and 144 for Proof-of-Concept Grants. Of these a total of 7 740 were eligible and thus evaluated by the review panels. A total of 960 proposals were selected for the granting process (883 on the main lists, 77 on the reserve lists).

- Generation and dissemination of information on the Ideas Specific Programme and the Agency's activities in 2012.
- 4. The Scientific Council held regular meetings in 2012 across Europe, usually at the invitation of national authorities. Meeting in different countries which are either EU Member States or associated countries is a way of making the ERC more visible. The meetings are also considered important events both by the national authorities as well as the local scientific and research community. Five Scientific Council plenary sessions were organised during the period between 1 January and 31 December 2012: in February, June and December in Brussels (Belgium), in April in Sofia (Bulgaria) and in October in Limassol (Cyprus). Following the recommendations of the panel on the review of the ERC's structures and mechanisms in 2009, the Scientific Council established two standing committees: the first providing guidance on conflicts of interest, scientific misconduct and ethical issues and the second dealing with the selection of evaluation panellists. The executive agency supported the operational activities of the two committees, which met once and twice respectively in 2012. The members of the Scientific Council also meet in WGs addressing specific issues. In 2012, various meetings of the ERC working groups on innovation and relations with industry, open access, internationalisation and gender balance were organised by the executive agency. The WGs carry out analyses and contribute to the ERC's scientific strategy through proposals to be adopted by the Scientific Council in plenary in the areas covered by their mandates: to examine the ERC's relationship with the industrial/business sector and the impact of ERC-funded research on innovation; to develop an ERC position on open access; to explore suitable mechanisms to boost the participation of non-European researchers, particularly Brazil, Russia, India and China (the BRIC countries), in the ERC schemes; and to ensure that the ERC is at the forefront of best practice with regard to the gender balance in research. A series of working documents containing analyses and key messages on the specific issues dealt with by the WGs and by the standing committees were prepared by the executive agency, in collaboration with members of the groups.

Source: Information supplied by the Agency.

THE AGENCY'S REPLY

1. The Agency has taken note of the Court's report.

REPORT

on the annual accounts of the European Securities and Markets Authority for the financial year 2012, together with the Authority's replies

(2013/C 365/28)

INTRODUCTION

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 (1). 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 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). ESMA was set up on 1 January 2011.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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 (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

- 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 Authority, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5),

- (1) OJ L 331, 15.12.2010, p. 84.
- (2) Annex II summarises the Authority's competences and activities. It is
- presented for information purposes.
 (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) OJ L 357, 31.12.2002, p. 72.

management is responsible for the preparation and fair presentation of the annual accounts of the Authority and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Authority'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 Authority 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 Authority 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.

The auditor's responsibility

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

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Authority are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Authority's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 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 THE ACCOUNTS

11. The Authority's accounting system has not yet been validated by the Accounting Officer.

COMMENTS ON INTERNAL CONTROLS

- 12. 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.
- 13. There is considerable room to improve the timeliness and documentation of procurement procedures.

COMMENTS ON BUDGETARY MANAGEMENT

- 14. The Authority's total appropriations for 2012 amounted to 20,3 million euro, out of which 2,8 million euro (14 %) were cancelled and 4,2 million euro (21 %) of committed appropriations were carried over to 2013.
- 15. The high level of cancellations results mainly from the fact that the budget was established on the basis of a fully implemented staff establishment plan at the beginning of 2012, whereas some recruitments were only made during the year. Delays in IT procurements also caused cancellations.
- 16. The level of committed appropriations carried over is high for title II (administrative expenditure) at 39 % and for title III (operational expenditure) at 52 %. For title II, this was mainly caused by the fact that a significant contract for works on the Authority's premises was awarded in December 2012 (0,6 million euro) and by the purchase of IT hardware (0,5 million euro), telephony equipment (0,1 million euro) and furniture (0,3 million euro) for which delivery was not completed at year-end. For title III, the high level of committed appropriations carried over results from the multiannual nature of significant IT development projects and delays in related procurements.
- 17. In 2012, the Authority made 22 budget transfers amounting to 3,2 million euro (16 % of total 2012 budget), which indicates weaknesses in budget planning.

OTHER COMMENTS

18. The Authority needs to further improve the transparency of its recruitment procedures. In particular, in one audited recruitment procedure, the number of years of experience for a given position was not applied and in three audited recruitment procedures there was no evidence that thresholds for the shortlists were established before the examination of the applications.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The Authority's commitments amounted to 12 841 997 euro or 76 % of the 2011 budget. The commitment rates were low especially for title III 'Operational expenditure' (47 %). This impacted on the Authority's IT objectives which were not entirely achieved. The low budget execution rates indicate difficulties in budget planning and implementation.	Ongoing
2011	The Authority's budget for the financial year 2011 amounted to 16,9 million euro. In accordance with Article 62(1) of its Founding Regulation, 60 % of the 2011 budget was financed from Member States' and EFTA countries' contributions and 40 % from the Union budget. At the end of 2011, ESMA recorded a positive budget outturn of 4,3 million euro. In compliance with its Financial Regulation (¹), the full amount was then recorded in the accounts as a liability towards the European Commission.	Ongoing
2011	Weaknesses were noted as regards six legal commitments made in advance of budget commitments (483 845 euro).	Ongoing
2011	The Court identified a number of cases with a total value of 207 442 euro in which payment appropriations carried over to 2012 did not correspond to legal commitments made. These carry-overs were therefore irregular and should be cancelled.	Outstanding
2011	The Authority had not yet adopted internal control standards.	Completed
2011	There is a need to improve the Authority's management of fixed assets. For intangible assets developed by the Authority, accounting procedures and information on costs were not reliable.	Ongoing
2011	The implementing rules to the Staff Regulation had not been adopted.	Completed
2011	ESMA had not yet reached an interinstitutional agreement with the European Anti-Fraud Office (OLAF) on fraud investigations. The Authority should ensure that its Financial Regulation is fully implemented in this respect.	Completed
2011	The Authority needs to improve the transparency of recruitment procedures. The number of years of experience required for a given position was not respected, applications received after the deadline were accepted, questions for oral and written tests were not set before the applications were examined by the selection board and there was no decision of the Appointing Authority to appoint the selection board.	Ongoing
(1) Articles 15(4)	and 16(1).	

ANNEX II

European Securities and Markets Authority (Paris) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 114 of the Treaty on the Functioning of the European Union)

The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

Competences of the Authority

(Regulation (EU) No 1095/2010 of the European Parliament and of the Council and Regulation (EC) No 1060/2009 of the European Parliament and of the Council)

Tasks

- To develop draft regulatory technical standards.
- To develop draft implementing technical standards.
- To issue guidelines and recommendations.
- To issue recommendations where a national competent authority has not applied sectoral acts or has applied them in a way which appears to be a breach of Union law.
- To take individual decisions addressed to competent authorities in certain emergency situations and in settlement of disagreements between competent authorities in cross-border situations.
- In cases concerning directly applicable Union law, to take individual decisions addressed to financial market participants, where: (i) a national competent authority has not applied sectoral acts or has applied them in a way which appears to be a breach of Union law and where the competent authority has not complied with a formal opinion of the Commission; (ii) in certain emergency situations where a competent authority does not comply with the decision of the Authority adopted; or (iii) in settlement of disagreements between competent authorities in cross-border situations where a competent authority has not complied with the decision of the Authority.
- To issue opinions to the European Parliament, the Council or the Commission on all issues related to its areas of competence.
- To collect the necessary information concerning financial market participants to carry out the duties assigned to it.
- To develop common methodologies for assessing the effect of product characteristics and distribution processes on the financial position of financial market participants and on consumer protection.
- To provide a centrally accessible database of registered financial market participants in the area of its competence where specified in sectoral legislation.
- To issue warnings in the event that a financial activity poses a serious threat to its objectives.
- To temporarily prohibit or restrict certain financial activities that threaten the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union in the cases specified and under the conditions laid down in sectoral legislation or if so required in the case of an emergency situation.
- To participate in the activities of colleges of supervisors, including on-site examination, carried out jointly by two or more competent authorities.
- To address any risk of disruption in financial services that is caused by an impairment of all or parts of the financial system and has the potential to have serious negative consequences for the internal market and the real economy.

- To draw up additional guidelines and recommendations for key financial market participants, to take account of the systemic risk posed by them.
- To conduct an inquiry into a particular type of financial activity or type of product or type of conduct in order to assess potential threats to the integrity of financial markets or the stability of the financial system and make appropriate recommendations for action to the competent authorities concerned.
- To carry out tasks and responsibilities delegated by competent authorities.
- To provide opinions to competent authorities.
- To conduct peer reviews of the activities of competent authorities.
- To coordinate between competent authorities, in particular where adverse development could potentially jeopardise the orderly functioning and integrity of financial markets or the stability of the financial system in the Union.
- To initiate and coordinate Union-wide assessments of the resilience of financial market participants to adverse market developments.
- To take decisions on applications for certification and registration of credit rating agencies and on withdrawal of such certification and registration.
- To establish cooperation agreements with the relevant credit rating agency supervisory authorities of third countries.
- To conduct investigations of and on-site inspections at the premises of credit rating agencies, rated entities and related third parties.
- Where a credit rating agency has committed an infringement, to take decisions to withdraw its registration, temporarily prohibit it from issuing credit ratings, suspend the use for regulatory purposes of the credit ratings it issued, require the infringement to be brought to an end, and/or issue public notices.
- Where a credit rating agency has committed an infringement intentionally or negligently, to take decisions to impose a fine.

Governance

Board of Supervisors

Composition

Chairperson (non-voting); the head of the national public authority competent for the supervision of financial market participants in each Member State; one representative of the Commission (non-voting); one representative of the European Systemic Risk Board (non-voting); one representative of each of the other two European Supervisory Authorities (non-voting).

Tasks

Gives guidance to the work of the Authority and is in charge of taking decisions referred to in Chapter II of the founding Regulation.

Management Board

Composition

Chairperson and six other members of the Board of Supervisors, elected by and from the voting members of the Board of Supervisors. The Executive Director and a representative of the Commission participate in meetings without the right to vote (though the representative of the Commission can vote on budgetary matters).

Tasks

Ensures that the Authority carries out its mission and performs the tasks assigned to it in accordance with the founding Regulation.

Chairperson

Representative of the Authority responsible for preparing the work of the Board of Supervisors and chairing the meetings of the Board of Supervisors and the Management Board. Appointed by the Board of Supervisors after having been heard by the European Parliament.

Executive Director

Appointed by the Board of Supervisors after confirmation by the European Parliament. In charge of the management of the Authority and prepares the work of the Management Board.

Internal audit

European Commission's Internal Audit Service (IAS).

External audit

European Court of Auditors.

Discharge authority

European Parliament, acting on a recommendation from the Council.

Resources made available to the Authority in 2012

Final Budget

Total budget: 20,279 million euro, including:

Union subsidy: 7,12 million euro

Contributions from National Competent Authorities: 10,158 million euro

Fees from supervised entities: 3,001 million euro

Staff as at 31 December 2012

- Statutory staff: 75 temporary staff posts authorised in the establishment plan, of which recruited: 75
- Contract staff: 10 contract staff posts planned in the budget; contract staff posts actually filled at 31.12.2012: 12
- Seconded National Experts: 16 Seconded National Expert posts planned in the budget; Seconded National Experts posts actually filled at 31.12.2012: 10

Products and services in 2012

- 19 CRAs registered, one certified.
- Ongoing supervision, including thematic reviews such as bank ratings.
- Assessed the compliance of new proposals for MiFID pre-trade transparency waivers.
- Published final guidelines on automated high-frequency trading (HFT).
- Continued work on preparing for on MiFID/ MAD/ PD review.
- Delivery of technical standards (both regulatory and implementing) for the regulation on OTC derivatives, Central Clearing Counterparties (CCPs) and Trade Repositories (European Market Infrastructure Regulation EMIR).
- Preparatory work for EMIR entry-into force where ESMA will take up supervision of trade repositories.
- Issued technical standards on new short-selling regulation.
- First opinions issued on short-selling curbs in Greece and Spain.

- Produced detailed rules for alternative investment fund managers' remuneration.
- Contributed to development of International Financial Reporting Standards (IFRS).
- Issued clarifications to firms on how to correctly apply IFRS rules (treatment of forbearance and goodwill).
- Work on sharing experiences and discussing implications between national supervisors on market surveillance issues and matters relating to the Prospectus (PD) and Transparency Directives (TD), Takeover Bids, etc.
- Joint work with the other ESAs.
- Contributed actively to ESRB on financial stability, including through regular risk report; weekly internal briefings.
- Enhanced financial consumer protection through additional rules and requirements for intermediaries and fund managers, financial advice and suitability (MiFID), disclosure rules for ETFs
- Pan-European investor warning of pitfalls of online investing.
- An investor day was held at ESMA premises.
- Ran cross-EU database for transaction reports.
- Developed successful IT solution for the publication of CRA historical ratings.
- Coordinated national supervisors' responses to the financial crisis, including beefing up own risk analysis.
- Conducted two peer reviews on the implementation of the Market Abuse Regime and the Prospectus Directive.

Source: Information supplied by the Authority.

THE AUTHORITY'S REPLIES

- 11. The report for the validation of the accounting systems is in the process of being finalised. Prior to the preparation of the report, for validating the reliability of the output of the procedures in use the accountant applied the approach of 100 % controls of all financial transactions in place of a sampling and system testing approach.
- 12. ESMA set up an internal control function in 2012 and adopted a risk-based action plan on internal control that is being developed and monitored actively. At the end of 2012, ESMA had implemented 19 out of the 20 activities planned for the year. There are internal control work programmes developed for 2013 and 2014. Having due regard to the risks associated with the management environment, the internal management and control systems are suited to the performance of ESMA's duties, according to article 38.4 of the ESMA Financial Regulation.
- 13. ESMA in 2012 had to re-tender several contracts inherited from its predecessor, CESR. Almost the entire procurement plan was delivered, but with some delays due to a shortage of resources. In order to improve in this area, ESMA will in 2013 recruit additional staff in its procurement team, while enhancing the procedures with additional internal controls.
- 14. ESMA appreciates the correct explanations already mentioned in the Court's comments. Those explanations reflect the state of play in 2012.
- 15. The 2012 budget was prepared in January 2011, in the first month of operation of the agency. The budget was mostly prepared by the EU Commission and there was indeed no experience in the running of the agency.
- 16. On the management of budget represented by ESMA's IT work programme, it should be noted that the IT work programme in 2012 was based on requirements coming from legislations that were still under discussion by the EU institutions. The final negotiations of some of these legislative provisions have impacted the IT work programme as well as the procurement plan in the course of the year.
- 17. Since the Court's visit, ESMA has developed better processes and put controls in place that are addressing the identified matters and the budgeting and planning.
- 18. ESMA acknowledges the finding. Following the comment from the Court, ESMA has conducted an *ex post* review of all temporary staff recruitment procedures run in 2012, which confirmed that no other similar cases occurred. To limit the risk that similar oversights occur in the future, ESMA implemented new procedures setting up thresholds for shortlisted candidates and *ex ante* control steps on the validation of the eligibility of candidates with an electronic tool for calculation of number of years of experience.

REPORT

on the annual accounts of the European Training Foundation for the financial year 2012, together with the Foundation's reply

(2013/C 365/29)

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 (¹) (recast No 1339/2008). The Foundation's task is to support the reform of vocational training in the European Union's partner countries. As such, it assists the Commission in the implementation of various programmes (Phare, Tacis, CARDS and MEDA) (²).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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 (where relevant) and an analysis of management representations.

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 Foundation, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair

- (1) OJ L 131, 23.5.1990, p. 1.
- (2) Annex II summarises the Foundation's competences and activities. It is presented for information proposes.
- (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) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Foundation and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Foundation'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 Foundation 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 Foundation 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.

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

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Foundation are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Foundation's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY MANAGEMENT

11. In 2012 the overall level of committed appropriations was 99,9 %, indicating that commitments were made in a timely manner. The level of committed appropriations carried over to 2013 however was high for title II (administrative expenditure) at 0,6 million euro (36,8 %). The main reasons were the late receipt of invoices for building-related services delivered in 2012 (0,3 million euro) and a number of IT hardware and software purchases ordered as planned during the last months of 2012 (0,3 million euro) but not delivered until 2013.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The Foundation has not yet adopted and implemented a treasury policy to minimise and spread financial risk while aiming at adequate returns. The account is kept in a bank which no longer has the minimum rating as indicated by the Commission.	Completed
2011	The Court identified 64 contracts with a total value of 2 million euro which were not countersigned by the Foundation's contractor, creating legal uncertainty.	Completed
2011	Maintenance and essential services such as heating, water and electricity are not ensured for the Foundation's premises since the Consortium responsible for facility management went into liquidation in November 2011. The situation regarding the Foundation's premises is unsatisfactory and puts its activities at risk of disruption.	Completed
2011	The Foundation needs to further improve the transparency of its recruitment procedures. The threshold scores for admission to interviews and written tests were not set in advance and questions for oral and written tests were not set before the applications were examined by the selection boards.	Completed

ANNEX II

European Training Foundation (Turin) Competences and activities

Areas of Union competence deriving from the Treaty

The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.

(Article 166(3) of the Treaty on the Functioning of the European Union)

- Objective

Competences of the Foundation

(Council Regulation (EEC) No 1360/90)

- To contribute, in the context of EU external relations policies, to improving human capital development in the following countries: the countries eligible for support under Council Regulation (EC) No 1085/2006 and Regulation No 1638/2006 of the European Parliament and of the Council and subsequent related legal acts; other countries designated by decision of the Governing Board on the basis of a proposal supported by two-thirds of its members and a Commission opinion, and covered by a Union instrument or international agreement that includes an element of human capital development, and as far as available resources allow.
- For the purpose of this Regulation, 'human capital development' shall be defined as work which contributes to the lifelong development of individuals' skills and competences through the improvement of vocational education and training systems.

Tasks

For the purpose of achieving the objective, the Foundation, within the limits of the powers conferred on the Governing Board and following the general guidelines established at Union level, shall have the following functions:

- to provide information, policy analyses and advice on human capital development issues in the partner countries;
- to promote knowledge and analysis of skills needs in national and local labour markets;
- to support relevant stakeholders in partner countries in building capacity in human capital development;
- to facilitate the exchange of information and experience among donors engaged in human capital development reform in partner countries;
- to support the delivery of Union assistance to partner countries in the field of human capital development;
- to disseminate information and encourage networking and the exchange of experience and good practice between the EU and partner countries and amongst partner countries in human capital development issues;
- to contribute, at the Commission's request, to the analysis of the overall effectiveness of training assistance to the partner countries;
- to undertake such other tasks as may be agreed between the Governing Board and the Commission, within the general framework of this Regulation.

Governance

Governing Board

One representative of each Member State.

Three representatives of the Commission.

Three non-voting experts appointed by the European Parliament.

In addition, three representatives of the partner countries may attend meetings of the Governing Board as observers.

Director

Appointed by the Governing Board on a proposal from the Commission.

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources made available to the Foundation in 2012 (2011)

Budget

20,1 (20,3) million euro for commitments and 20,1 (19,8) million euro for payments, of which 19,3 million euro funded by a Commission subsidy.

Staff at 31 December 2012

96 (96) temporary posts in the establishment plan, of which 93 (90) posts occupied.

37 (35) other staff (local staff, contract staff, seconded national experts)

Total staff: 130 (125), assigned to the following duties:

- operational tasks: 73 (70)
- administrative tasks: 28 (28)
- corporate coordination and communication tasks: 29 (27)

Products and services supplied during the financial year 2012 (2011)

Activities

The Foundation contributes, in the context of the EU external relations policies, to improving human capital development (HCD) in 30 Partner Countries designated by its regulation and the Governing Board. The main activities are supporting EU policies and projects, providing policy analyses, disseminating and exchanging information and experience and supporting partner-country capacity building.

The Foundation's added value comes from its neutral, non-commercial and unique established knowledge base consisting of expertise in human capital development and its links to employment. This includes expertise in adapting the approaches to human capital development in the EU and its Member States to the context of the partner countries.

The Torino Process, implemented in 2012 in 27 ETF partner countries, is a participatory, evidence-based analysis of vocational education and training (VET) policies and systems. It was carried out for the first time in 2010. A crucial feature of the second edition of the Torino Process in 2012 has been the inclusion of the issue of governance in the analytical framework and the organisation of the regional policy-learning conferences that enabled stakeholders to share cross-countries experience on policy developments. Two Corporate conferences were organised in 2012 – one in May on the topic of Multi-level Governance in the field of Vocational Education and Training and another one in November on the topic of Entrepreneurship.

It also worked on its main functions, as defined in the Council Regulation, as follows:

	Outputs completed in	
	2012	2011
Supporting the EU policies and project cycle of external relations instruments for the partner countries	36	30
Capacity building of partner countries	66	72
Policy analysis	31	22
Dissemination and networking	28	24
Total	161	148

Outputs measure the accomplishment of the results of a project, and put the budget in relation to the Foundation's functions and results.

In addition to these functions carried out in the context of its work programme, the Foundation also responded to direct requests from the European Commission throughout the year.

	2012	2011
Ongoing Commission requests	107	100
Requests addressed to Western Balkan countries and Turkey	42 %	44 %
Requests addressed to Southern Eastern Mediterranean countries	32 %	45 %
Requests addressed to Eastern European countries	12 %	
Requests addressed to Central Asian countries	14 %	10 %

Source: Information supplied by the Foundation.

THE FOUNDATION'S REPLY

11. Of the 0,59 million euros in commitments carried forward under title II, some 0,3 million euros related to activities completed in 2012 but paid only in 2013 owing to invoicing and payment processing times. The amount of carry-forward relating to activities to be implemented and paid in 2013 was limited to 0,29 million euros or 18 % of the total committed under title II. ETF will continue to pay great attention to the principle of annuality of the budget while ensuring sound management of the financial resources entrusted to it.

REPORT

on the annual accounts of the Euratom Supply Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/30)

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 tasks are to provide the Union with expertise on the market in nuclear materials and services and to monitor it.
- 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, the Agency was granted its own budget by the Commission, which however only covers a minor part of its expenditure as further explained in an emphasis of matter (paragraphs 10 and 11).

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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

- 4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), 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:
- (a) The management's responsibilities in respect of the Agency's annual accounts include designing,
- (1) OJ 27, 6.12.1958, p. 534.
- (²) OJ L 41, 15.2.2008, p. 15.
- (*) 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) OJ L 357, 31.12.2002, p. 72.

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; 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.

The auditor's responsibility

- 5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (6) 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

 ⁽⁶⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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 2012 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 2012 are legal and regular in all material respects.

Emphasis of matter

- 10. 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.
- 11. 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.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	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.	Ongoing

ANNEX II

Euratom Supply Agency (Luxembourg) Competencies and activities

Areas of Union competence deriving from the Treaty

Common supply policy for nuclear materials (i.e. ores, source materials, special fissile materials), in accordance with the principles (in particular, equal access for all users) and the objectives (*security of supply*) set by the Euratom Treaty:

- The Euratom Supply Agency was established directly by Article 52 of the Euratom Treaty, signed in 1957. The entire Chapter 6 ('Supplies') of the same Treaty is dedicated to the Agency and its missions and powers.
- The Euratom Supply Agency is further governed by its Statutes, laid down by a Council decision on the legal basis of Article 54 of the Euratom Treaty.

Competences of the Agency

Objectives

[as defined in the Euratom Treaty, mainly Chapter 6 thereof, and Council Decision of 12 February 2008 establishing Statutes for the Euratom Supply Agency (2008/114/EC, Euratom)]

- Ensure the supply of nuclear materials (as defined above), by means of a common supply policy, on the principle of equal [and non-discriminatory] access to sources of supply (Article 52 of the Euratom Treaty).
- Ensure that all users in the Community receive a regular and equitable supply of ores and nuclear fuels (Article 2(d) of the Euratom Treaty).
- Identify and monitor market trends likely to affect security of supply for nuclear materials and services in the European Union (Article 1 of the Euratom Supply Agency's Statutes).
- 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 (Article 1 of the Euratom Supply Agency's Statutes).

Tasks

As per the Euratom Treaty, the Euratom Supply Agency is endowed with a <u>right of option</u> on ores, source materials and special fissile materials produced in the territories of Member States and with an <u>exclusive right to conclude</u> contracts relating to the supply of ores, source materials and special fissile materials coming from inside the Community or from outside.

In the light of the above, the Euratom Supply Agency's tasks include:

- 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 (such as per Article 59 and 60 of the Euratom Treaty);
- 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 (Article 1 of the Euratom Supply Agency's Statutes);
- 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:
- 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 (Article 1 of the Euratom Supply Agency's Statutes);
- to liaise with the Euratom Supply Agency's Advisory Committee and seek the opinion thereof, pursuant to Article 13 of the Euratom Supply Agency's Statutes;
- to participate, as appropriate, including by providing a secretariat, to the said Advisory Committee's meetings which are normally to be held twice every year (Article 14 of the Statutes).

Governance

- The Agency is endowed with legal personality and financial autonomy (Article 54 of the Euratom Treaty).
- It operates under the supervision of the Commission (Article 53 of the Euratom Treaty), on a non-profit-making basis (Article 2 of the Statutes).
- The Director-General and the staff of the Euratom Supply Agency 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 (Article 4 of the Statutes).
- The Euratom Treaty (Article 54) and the Euratom Supply Agency's Statutes (Article 9) determine the Agency's capital and the conditions upon which it is subscribed.

Director-General

Appointed by the Commission (Article 53 of the Euratom Treaty), for an indefinite period of time.

The Director-General's duties and powers are determined, in particular, in the Euratom Supply Agency's Statutes (Article 3, but also 13 and 14).

The Euratom Supply Agency's Supervision by the Commission

Pursuant to Article 53 of the Euratom Treaty and Article 5 of the Euratom Supply Agency's Statutes that:

- the Commission may issue directives to the Euratom Supply Agency;
- the Commission possesses a right of veto over the Agency's decisions.

Advisory Committee

- As per Article 11 of the Euratom Supply Agency's Statutes, it is composed from members of the Member States, which are appointed intuitu personae for a (renewable) three-year term.
- The Committee assists the Agency in carrying out its tasks. It acts as a link between the Euratom Supply Agency and both producers and users in the nuclear industry (Article 13 of the Statutes).
- 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.

External	andi	۴

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament.

Resources made available to the Agency in 2012

Budget

- 104 000 euro, including:
 - subvention from the Commission: 98 000 euro
 - investment income and bank interest: 6 000 euro

Staff on 31 December 2012

Number of posts earmarked for the Agency in the EU budget: 9 AD (including the Director-General) and 16 AST.

Number of posts really allocated to the Agency: 7 AD (one occupied by a temporary agent) and 10 AST (one occupied by a temporary agent).

Other staff: 1 END post, vacant (Contract staff and seconded national experts).

Total staff number: 17 (including the Director-General).

Products and services provided in 2012

Security of supply ensured

Transactions processed

Some 270 transactions, including contracts, amendments and notifications of the front-end activities, were processed by the Agency in 2012

Inter-service Consultations (ISC). Commission decisions prepared

The Agency prepared the Commission decision on a procedure based on Article 65 in connection with Article 60 of the Euratom Treaty.

The Agency provided input to the procedure in view of its budget for 2013.

ISCs dealt with by the Agency: 46; of which 11 were launched by the Commission Directorate-General for Energy.

Reports

In 2012, the Agency issued:

- the Agency's Annual Report for 2011;
- three Quarterly Uranium Market Reports;
- six bimonthly Nuclear News Digests;
- 45 Weekly Nuclear News Briefs, for readers inside the European Commission.

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

The Agency's Advisory Committee held two meetings, with the Agency's support and participation, as appropriate: one on 10 May 2012 and one on 8 November 2012.

The Agency facilitated the activities of two Working Groups of its Advisory Committee.

IT Support to operations

Further development / maintenance of the PLUTO database for the management of contracts.

Implementation of the CIRCABC web-based communication tool to support the Advisory Committee's Working Groups.

Update of the Agency's Website.

Relations with other EU Institutions and International Cooperation

The Euratom Supply Agency operates under the supervision of the Commission, which issues directives to the Agency, has a right of veto on its decisions and appoints its Director-General (Article 53 of the Euratom Treaty). Moreover, certain decisions of the Euratom Supply Agency are subject to prior Commission authorisation (as per Article 60 of the same Treaty).

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.

International Cooperation with the IAEA (International Atomic Energy Agency) and the OECD NEA (Nuclear Energy Agency). In that context, the participation of the Euratom Supply Agency to:

- the joint NEA/IAEA Uranium Group;
- the NEA High-Level Group on the Security of Supply of Medical Radioisotopes.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

11. The Agency agrees with the Court of Auditors that the amount of the subsidy allows it to pay only a minor part of its administrative expenditure, while the main part still needs to be directly financed by the Commission.

The Agency does not see a contradiction between the provisions of Article 4(1) and Article 6(1) of its Statutes

REPORT

on the annual accounts of the European Foundation for the Improvement of Living and Working Conditions for the financial year 2012, together with the Foundation's reply

(2013/C 365/31)

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 (¹). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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 (where relevant) and an analysis of management representations.

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 Foundation, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair

- (¹) OJ L 139, 30.5.1975, p. 1.
- (2) Annex II summarises the Foundation's competences and activities. It is presented for information purposes.
- (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 budgetary outturn account and the annex to the budgetary outturn account.
- (5) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Foundation and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Foundation'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 Foundation 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 Foundation 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.

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

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Foundation are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Foundation's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

11. Budget implementation rates for titles I and II were high at 98 % and 82 %, respectively. While the carry-over of committed appropriations for title III is high at 50 % (3 688 996 euro), this corresponds to payment schedules and reflects the multiannual nature of the Foundation's operations. A large part of the carry-overs for title III (71 %) concern two projects (8) for which the activities were implemented as planned and as set out in the Annual Work Programme.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors Vítor Manuel da SILVA CALDEIRA President

⁽⁸⁾ Network of European Observatories (NEO) project and the European Company Survey project.

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The Foundation carried over 47 % of title III appropriations (operational expenditure). This situation is at odds with the budgetary principle of annuality.	Completed
2011	The Court identified a need to improve the transparency of recruitment procedures: selection board meetings were not always sufficiently documented and there is no evidence that questions for interviews or written tests were set before the examinations.	Completed

ANNEX II

European Foundation for the Improvement of Living and Working Conditions (Dublin) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 151 of the Treaty on the Functioning of the European Union)

The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. [...]

Competences of the Foundation

(Council Regulation (EEC) No 1365/75, as amended by Regulation (EC) No 1111/2005)

Objectives

The aim of the Foundation shall be to contribute to the establishment of better living and working conditions by increasing and disseminating knowledge which is relevant to this subject. In particular, it is required to consider the following areas:

- man at work,
- organisation of work and particularly job design,
- problems peculiar to certain categories of workers,
- long-term aspects of the improvement of the environment,
- the distribution of human activities in space and in time.

Tasks

- To foster the exchange of information and experience in these fields,
- to facilitate contact between universities, study and research institutes, economic and social administrations and organisations,
- to carry out studies or to conclude study contracts and to provide assistance for pilot projects,
- to cooperate as closely as possible with existing specialised institutes in the Member States and at international level.

Governance

The Governing Board (GB)

- from each Member State: one government representative, one representative from employers' organisations and one workers' representative,
- three representatives from the Commission,
- one regular meeting per year.

The Bureau of the GB

- consists of 11 members; three members from each of the social partners and the governments, two from the Commission,
- it monitors the implementation of decisions of the GB and takes measures to ensure proper management between GB meetings,
- six regular meetings per year.

The Director and Deputy Director are appointed by the Commission from a list of candidates submitted by the GB. The Director implements the decisions of the GB and its Bureau and manages the Foundation.

Internal audit

European Commission's Internal Audit Service (IAS).

External audit

European Court of Auditors.

Discharge authority

European Parliament acting on recommendation of the Council.

Resources available to the Foundation in 2012 (2011)

Budget

21,4 (20,6) million euro

Staff at 31 December 2012

Officials and temporary staff:

101 posts provided for in the establishment plan, of which 98 (97) were occupied at 31 December 2012

Other staff:

Seconded National Experts: 0 (0)

Contract staff: 12 (9)

Total staff employed: 110 (106)

Allocated to:

Operating activities: 77 (72)

Administrative tasks: 28 (29)

Mixed: 5 (5)

Activities and provided in 2012

services

Monitoring and surveys

Network of European Observatories (NEO):

- European Industrial Relations Observatory (EIRO): 279 information updates added; six representativeness studies; two annual updates on pay and working time; Industrial relations and working conditions developments in Europe 2011; four comparative analytical reports; two survey reports.
- European Working Conditions Observatory (EWCO): 90 information updates added; four comparative analytical reports; Industrial relations and working conditions developments in Europe 2011; seven survey reports.
- European Restructuring Monitor (ERM) 1 566 restructuring fact sheets added; two comparative analytical reports.

Surveys:

- 5th European Working Conditions Survey: Overview report published; two secondary analysis reports published: Trends in job quality in Europe; Sustainable work and the ageing workforce.
- 3rd European Quality of Life Survey: fieldwork in 34 countries completed, Overview report published.
- 2nd European Company Survey: three reports: Policy relevance and implications for future surveys; Workplace social dialogue in Europe; HRM practices and establishment performance; preparation of third edition of the European Company Survey (2013).

Employment and competitiveness

- European Restructuring Monitor: ERM report 2012 After restructuring: labour markets, working conditions and life satisfaction.
- Reports on NEETs Young people not in employment, education or training: Characteristics, costs and policy responses in Europe and on Effectiveness of policy measures to increase the employment participation of young people.
- Report on 'Employment trends and policies for older workers in the recession' and case studies.
- Report: the second phase of flexicurity: an analysis of practices and policies in the Member States.
- Restructuring legislation data base.

Industrial relations and workplace development

- industrial relations and working conditions developments in Europe 2011.
- Work organisation and innovation.
- Organisation of working time: Implications for productivity and working conditions – Overview Report.
- Working conditions in the retail sector.
- Social dialogue in times of global economic crisis.
- Flexicurity: Actions at Company Level.

Social cohesion and quality of life

- Active inclusion of young people with disabilities or health problems.
- Income from work after retirement in the EU.
- Parenting support in Europe.
- Labour mobility within the EU: The impact of return migration.
- Household debt advisory services in the European Union.

Communication and sharing ideas and experience

- 94 238 downloads of reports from Eurofound website. 2 118 666 user visits.
- 86 163 print publications disseminated; 932 new web and print publications.
- 21 media activities reached over 92 million European citizens and resulted in 269 enquiries from journalists and more than 1 460 quotations in European media.
- 1 178 contacts and briefing meetings with European level policy makers.
- 204 EU policy documents quoting references to Eurofound findings and expertise.
- 39 exhibitions and 32 visits to Eurofound, which consisted of 99 visitors.

Source: Information supplied by the Foundation.

THE FOUNDATION'S REPLY

11. The Court's comment is welcomed as it confirms the multiannual nature of most of Eurofound's research projects. Eurofound will continue to scrutinise the carry-over of committed appropriations by annually establishing an amount of appropriations to be carried over on the basis of its Annual work programme ('planned carry-overs') and comparing it to the unplanned amount due to delays or changes in the work programme implementation ('unplanned carry-overs').

REPORT

on the annual accounts of Eurojust for the financial year 2012, together with Eurojust's replies

(2013/C 365/32)

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 (¹) with a view to stepping up 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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 (where relevant) and an analysis of management representations.

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 Eurojust, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair

(a) The management a responsibilities in respect of Figure

presentation of the annual accounts of Eurojust and the

legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of Eurojust'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 Eurojust 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 Eurojust 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.

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

⁽¹⁾ OJ L 63, 6.3.2002, p. 1.

⁽²⁾ Annex II summarises Eurojust's competences and activities. It is presented for information purposes.

⁽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⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of Eurojust are free from material misstatement and the transactions underlying them are legal and regular.

- 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, Eurojust's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENT ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

11. A framework contract for security services was signed in 2008 and amended in 2009. The amended formula to calculate prices increased them progressively up to 22 %, whereas the original framework contract had provided for a maximum increase of 4 %. The total price increase above the 4 % ceiling amounted to some 440 000 euro for the 2008 to 2012 period, of which some 68 000 euro were paid in 2012. Such a significant increase may undermine the transparency and fairness of the initial procurement procedure and distort competition.

OTHER COMMENTS

12. There is room to improve the transparency of recruitment procedures. There was no evidence that questions for tests and interviews were set before the examination of the applications by the Selection Board and there is no evidence that the weighting between written tests and interviews was set before candidates' screening.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors Vítor Manuel da SILVA CALDEIRA President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The high level of carry-overs is again excessive and at odds with the principle of annuality.	Completed
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 (I). No corrective measures were taken in 2011.	Ongoing
2011	Eurojust has not yet adopted all Implementing Rules of the Staff Regulations (2).	Ongoing
2011	The Court again identified shortcomings in recruitment procedures. The composition of the selection boards was in several cases not fully in line with the requirements of the Staff Regulations: not all the members of the selection board had the required minimum staff grade. In one selection procedure, the Chairman of the Board was a direct superior of the only candidate invited for the interview and selected for the post.	Completed

⁽¹) Articles 28, 29, 30 and 36 of Decision 2002/187/JHA, as amended by Decisions 2003/659/JHA (OJ L 245, 29.9.2003, p. 44) and 2009/426/JHA (OJ L 138, 4.6.2009, p. 14).
(²) Implementing rules are missing for the areas: 'Reclassification', 'Administrative inquiries and disciplinary procedure', 'Part-time work', 'Job-Sharing', 'Middle management', 'Temporary occupation of management posts', 'Appraisal senior management', 'Early retirement without reduction of pension rights', 'Leave', 'Staff Committee' and 'Mission guide.'

ANNEX II

Eurojust (The Hague)

Competences and activities

Areas of Union competence deriving from the Treaty

Eurojust's mission is to support and strengthen coordination and cooperation between national authorities in the fight against serious cross-border crime affecting the European Union.

(Article 85 of the Treaty on the Functioning of the European Union)

Objectives

Competences of Eurojust

Article 3 Eurojust Council Decision

(as defined in Articles 3, 5, 6 and 7 of Council Decision 2002/187/JHA, as amended by Decision 2003/659/JHA and Decision 2009/426/JHA)

In the context of investigations and prosecutions, concerning two or more Member States, of criminal behaviour referred to in Article 4 in relation to serious crime, particularly when it is organised, the objectives of Eurojust shall be:

- (a) to stimulate and improve the coordination, between the competent authorities of the Member States, of investigations and prosecutions in the Member States, taking into account any request emanating from a competent authority of a Member State and any information provided by any competent body by virtue of provisions adopted within the framework of the Treaties;
- (b) to improve cooperation between the competent authorities of the Member States, in particular by facilitating the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effects to the principle of mutual recognition;
- (c) to support otherwise the competent authorities of the Member States in order to render their investigations and prosecutions more effective.

Tasks

Article 5 Eurojust Council Decision

- 1. In order to accomplish its objectives, Eurojust shall fulfil its tasks:
- (a) through one or more of the national members concerned in accordance with Article 6, or
- (b) as a College in accordance with Article 7:
 - (i) when so requested by one or more of the national members concerned by a case dealt with by Eurojust, or
 - (ii) when the case involves investigations or prosecutions which have repercussions at Union level or which might affect Member States other than those directly concerned, or
 - (iii) when a general question relating to the achievement of its objectives is involved or
 - (iv) when otherwise provided for in this Decision.
- 2. When it fulfils its tasks, Eurojust shall indicate whether it is acting through one or more of the national members within the meaning of Article 6 or as a College within the meaning of Article 7.

Article 6 Eurojust Council Decision

- 1. When Eurojust acts through its national members concerned, it:
- (a) may ask the competent authorities of the Member States concerned, giving its reasons, to:
 - (i) undertake an investigation or prosecution of specific acts,
 - (ii) accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts,
 - (iii) coordinate between the competent authorities of the Member States concerned.
 - (iv) set up a joint investigation team in keeping with the relevant cooperation instruments,
 - (v) provide it with any information that is necessary for it to carry out its tasks,
 - (vi) take special investigative measures,
 - (vii) take any other measure justified for the investigation or prosecution;
- (b) shall ensure that the competent authorities of the Member States concerned inform each other on investigations and prosecutions of which it has been informed:
- (c) shall assist the competent authorities of the Member States, at their request, in ensuring the best possible coordination of investigations and prosecutions;
- (d) shall give assistance in order to improve cooperation between the competent national authorities;
- (e) shall cooperate and consult with the European Judicial Network, including making use of and contributing to the improvement of its documentary database;
- (f) shall, in the cases referred to in Article 3(2) and (3) and with the agreement of the College, assist investigations and prosecutions concerning the competent authorities of only one Member State.
- 2. The Member States shall ensure that competent national authorities respond without undue delay to requests made under this Article.

Article 7 Eurojust Council Decision

- 1. When Eurojust acts as a College, it:
- (a) may in relation to the types of crime and the offences referred to in Article 4(1) ask the competent authorities of the Member States concerned, giving its reasons:
 - (i) to undertake an investigation or prosecution of specific acts,
 - (ii) to accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts,
 - (iii) to coordinate between the competent authorities of the Member States concerned,
 - (iv) to set up a joint investigation team in keeping with the relevant cooperation instruments,

- (v) to provide it with any information that is necessary for it to carry out its tasks;
- (b) shall ensure that the competent authorities of the Member States inform each other of investigations and prosecutions of which it has been informed and which have repercussions at Union level or which might affect Member States other than those directly concerned;
- (c) shall assist the competent authorities of the Member States, at their request, in ensuring the best possible coordination of investigations and prosecutions;
- (d) shall give assistance in order to improve cooperation between the competent authorities of the Member States, in particular on the basis of Europol's analysis;
- (e) shall cooperate and consult with the European Judicial Network, including making use of and contributing to the improvement of its documentary database;
- (f) may assist Europol, in particular by providing it with opinions based on analyses carried out by Europol;
- (g) may supply logistical support in the cases referred to in points (a), (c) and (d). Such logistical support may include assistance for translation, interpretation and the organisation of coordination meetings.
- 2. Where two or more national members cannot agree on how to resolve a case of conflict of jurisdiction as regards the undertaking of investigations or prosecution pursuant to Article 6 and in particular Article 6(1)(c), the College shall be asked to issue a written non-binding opinion on the case, provided the matter could not be resolved through mutual agreement between the competent national authorities concerned. The opinion of the College shall be promptly forwarded to the Member States concerned. This paragraph is without prejudice to paragraph 1(a)(ii).
- 3. Notwithstanding the provisions contained in any instruments adopted by the European Union regarding judicial cooperation, a competent authority may report to Eurojust recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, and request the College to issue a written non-binding opinion on the matter, provided it could not be resolved through mutual agreement between the competent national authorities or through the involvement of the national members concerned. The opinion of the College shall be promptly forwarded to the Member States concerned.

Governance

(Articles 2, 9, 23, 28, 29 and 36 of Eurojust Decision 2002/187/JHA; Article 3 of the Rules of Procedure of Eurojust)

College

The College is responsible for the organisation and operation of Eurojust. The College is composed of National Members who are seconded by each Member State in accordance with its legal system and who are prosecutors, judges or police officers of equivalent competence. The College elects its President from among the National Members.

Director

The Administrative Director is appointed by the College by 2/3 majority.

The Joint Supervisory Body

Supervises the processing of personal data.

External audit

European Court of Auditors.

Discharge authority

European Parliament acting on a Recommendation from the Council acting by qualified majority.

Resources made available to Eurojust in 2012 (2011)

Final Budget

33,3 (31,4) million euro including assigned revenue

Staff as at 31 December 2012

National Members: 27 (of which two based in Member States) (27, of which one based in Member State)

Deputy National Members: 17 (of which 10 based in Member States) (16, of which six based in Member States)

Assistants to National Members: 22 (of which 11 based in Member States) (20, of which eight based in Member States)

Temporary staff: 188 (167)

Contract staff: 29 (43)

Seconded National Experts: 18 (17)

Products and services in 2012 (2011)

Number of coordination meetings: 194 (204)

Total number of cases: 1 533 (1 441)

Fraud: 382 (575); 12,2 % (39 %) (1)

Drug trafficking: 263 (242); 8,4 % (16 %) (1)

Terrorism: 32 (27); 1,03 % (1 %) (1)

Murder: 89 (88); 2,8 % (6 %) (1)

Trafficking in human beings: 60 (79); 1,9 % (5 %) (1)

⁽¹) The crime list used for the classification of the cases was modified and refined in 2012 and the categories used now are more detailed, which explains the reductions in some areas even when the total number of cases increased by 6,4 %. The percentages are not related to the number of cases (one case could be related to several types of crime) but relate to the crime types used.

*Source: Information supplied by Eurojust.

EUROJUST'S REPLIES

- 11. Eurojust accepts the fact that retroactive price increases above what is agreed in the contract could undermine the transparency and fairness of the initial procurement procedure and distort competition. The increase in the case at hand was based on changes in the Dutch Collective Labour Agreement and thus would have affected all other competitors offering their services on the territory of the Netherlands equally.
- 12. Eurojust accepts the comment and has already implemented the guidance of the Court.

REPORT

on the annual accounts of the European Police Office for the financial year 2012, together with the Office's replies

(2013/C 365/33)

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) (¹). 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 a Union policy (²).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 Office, which comprise the financial statements (3) and the reports on the implementation of the budget (4) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair

presentation of the annual accounts of the Office and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Office'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 Office 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 Office 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.

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

⁽¹⁾ OJ L 121, 15.5.2009, p. 37.

⁽²⁾ Annex II summarises the Office's competences and activities. It is presented for information purposes.

⁽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 budgetary outturn account and the annex to the budgetary outturn account.

⁽⁵⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

 ⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Office are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 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 LEGALITY AND REGULARITY OF TRANSACTIONS

11. The Office carried over 1,2 million euro for changes to the Office's building in connection with setting up the European cyber-crime centre. Whilst it agreed these changes with the host state in July 2012, the contract for the works required was only signed in April 2013. In addition, Europol carried over 0,1 million euro related to the introduction of a new HR system. The contract expired at the end of the year and was not extended. Both carry-overs did not correspond to legal commitments made at year-end and were thus irregular.

COMMENTS ON INTERNAL CONTROLS

12. The Office does not regularly require from staff up-todate information on the amount of child allowance received from other sources. In consequence, a number of cases were found where the child allowance was not reduced accordingly and any amounts paid unduly should be recovered.

COMMENTS ON BUDGETARY MANAGEMENT

- 13. Commitments amounting to 2,6 million euro (out of 15 million euro) carried over from 2011 had to be cancelled in 2012, as these were in excess of the actual needs.
- 14. The Office carried over 16,3 million euro of committed appropriations (19,64 % of total committed appropriations) to 2013. These carry-overs mainly concern title II other administrative expenditure (4,2 million euro) and title III operational activities (11,2 million euro) and are mostly related to the new task assigned to Europol in June 2012 of running the European cyber-crime centre. The implementation of this task resulted in significant budgetary commitments made close to year end and affected the amount carried over to 2013.
- 15. The Office made 19 budgetary transfers amounting to 4,5 million euro affecting 82 of the 115 budget lines. They were mainly performed to purchase IT equipment for the European cyber-crime centre.

OTHER COMMENTS

16. The recruitment procedures examined showed the following shortcomings: questions for written tests and interviews were set after the applications had been examined by the selection board; there was no evidence that the weighting of the selection criteria used for short listing was set before the examination of the applications; selection boards did not appropriately document all their meetings and decisions.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 September 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	The high carry-over and cancellation rates and also the high number of budget transfers made in 2011 indicate difficulties in the planning and/or implementation of the Office's activities.	Ongoing
2011	The level of payments against commitments was low, with 34 % for title II and 45 % for title III and is at odds with the budgetary principle of annuality.	Ongoing
2011	Procedures concerning the establishment, approval and recording of exceptions and deviations from policies and procedures have not been adopted. Exceptions and deviations were recorded for 7 % of 2011 payments.	Ongoing
2011	The accounting system has not been fully validated by the Accounting Officer. Key processes such as year-end closing and the establishment of staff's financial rights are not yet covered.	Ongoing
2011	Weaknesses were found as regards the physical verification and recording of assets before and after the move to the new headquarters. In addition, insurance contracts do not reflect the value of the Office's assets. Whereas, before the move, net assets were over-insured by about 17 million euro, they are now under-insured by about 21 million euro.	Physical inventory: Ongoing Insurance coverage: Completed
2011	There is considerable room for improving the preparation, execution and documentation of procurement procedures.	Completed
2011	The Office's Financial Regulation refers to detailed rules and procedures laid down in its Implementing Rules. However, they have not yet been adopted.	Ongoing
2011	The general conditions of the contract between the Office and the host country on the use of the new headquarters do not include any provision for dilapidation costs (¹). However, Annex IV of the lease stipulates that the Office will have to remove a significant number of items when the contract comes to an end. There is no estimate of the related cost and no provision for this has been recorded in the accounts.	Completed
2011	There is considerable room for improving the transparency of recruitment procedures: 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; selection boards did not document all their meetings and decisions.	Ongoing
2011	According to the EU Staff Regulations, a maximum of 12 days of untaken annual leave can be carried forward to the next year. More days can only be carried forward in exceptional circumstances. However, the Office accepted carry-overs in excess of the 12 days for about 25 % of its staff of approximately 500.	Completed

 $^(^{1})$ The cost of returning the building to its initial condition when the lease comes to an end.

ANNEX II

European Police Office (The Hague) Competences and activities

Areas of Union competence deriving from the Treaty

(Article 88 of the Treaty on the Functioning of the European Union)

Europol's mission shall be 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 a Union policy'.

Competences of the Office

(Council Decision 2009/371/JHA establishing the European Police Office (Europol) (ECD))

Competence

Europol's competence shall cover organised crime, terrorism and other forms of serious crime affecting two or more Member States in such a way as to require a common approach by the Member States owing to the scale, significance and consequences of the offences.

Europol's competence shall also cover related criminal offences as defined in article 4(3) ECD.

Principal tasks

- To collect, store, process, analyse and exchange information and intelligence;
- to notify the competent authorities of the Member States without delay via the national unit referred to in Article 8 of information concerning them and of any connections identified between criminal offences;
- to aid investigations in the Member States, in particular by forwarding all relevant information to the national units;
- to ask the competent authorities of the Member States concerned to initiate, conduct or coordinate investigations and to suggest the setting up of joint investigation teams in specific cases;
- to provide intelligence and analytical support to Member States in connection with major international events;
- to prepare threat assessments, strategic analyses and general situation reports relating to its objective, including organised crime threat assessments;
- to provide support to Member States in their tasks of gathering and analysing information from the Internet in order to assist in the identification of criminal activities facilitated by or committed using the Internet.

Additional tasks

- To develop specialist knowledge of the investigative procedures of the competent authorities of the Member States and to provide advice on investigations;
- to provide strategic intelligence to assist and promote the efficient and effective use of the resources available at national and Union level for operational activities and the support of such activities.

Additionally, to assist Member States through support, advice and research in the following areas

- The training of members of their competent authorities, where appropriate in cooperation with the European Police College;
- the organisation and equipment of those authorities by facilitating the provision of technical support between the Member States;

- crime prevention methods;
- technical and forensic methods and analysis, and investigative procedures.

And Europol shall also act as the Central Office for combating euro counterfeiting in accordance with Council Decision 2005/511/JHA of 12 July 2005 on protecting the euro against counterfeiting, by designating Europol as the Central Office for combating euro counterfeiting.

Europol shall process and transfer financial messaging data in accordance with the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the 'Terrorist Finance Tracking Program' (TFTP).

And Europol shall continue efforts to establish the **Prüm Helpdesk** in order to support the daily application of the 'Prüm Decisions' in accordance with the Council conclusions of 13 December 2011 on intensifying the implementation of the 'Prüm Decisions'.

And Europol shall host the **European Cybercrime Centre** and act as the focal point in Europe's fight against cybercrime in accordance with the Communication from the Commission to the Council and European Parliament COM(2012) 140 final of 28 March 2012 'Tackling crime in our Digital Age: Establishing a European Cybercrime Centre'.

Governance

Management Board

The Management Board shall be composed of one representative of each Member State and one representative of the Commission.

Director

- Is appointed by the Council, acting by qualified majority, from a list of at least three candidates presented by the Management Board, for a four-year period (may be extended once for not more than four years).
- Is assisted by three Deputy Directors appointed for a four-year period extendable once.
- Leads Europol and is accountable to the Management Board in respect of the performance of his duties.
- Is Europol's legal representative.

External audit

European Court of Auditors.

Internal audit

- European Commission's Internal Audit Service (IAS);
- Internal Audit Function (IAF).

Data protection and safeguarding of personal rights

- Joint Supervisory Body (JSB);
- Data Protection Officer (DPO) functionally independent, associated with the line organisation (established based on the Europol Council Decision).

Discharge authority

European Parliament, taking into account a recommendation from the Council acting by qualified majority.

Resources made available to the Office in 2012 (2011)

Final budget 2012

84,2 (84,8) million euro

Staff in 2012

- Temporary staff: 457 (457) in establishment plan. Actual number on 31.12.2012 = 434
- Seconded National Experts: 37 (32) (actual year end number)
- Contract staff: 94 (86) (actual year-end number)

Products and services in 2012 (2011)

Europol as the principal EU support centre for law enforcement operations

Operational support to operations and Joint Investigation Teams (JITs) include: data processing, cross match reports, hit notification, technical/forensic support and expertise, mobile office deployments, analysis reports, operational coordination at Europol HQ, operational meetings, financial assistance etc. There was a substantial increase in the amount of operational support provided to Member States confirming the trend evident in previous years towards increased requests for all Europol services:

- 15 949 cross-border cases supported, an increase of 16 % over 2011 (13 697);
- 645 investigations in the Member States initiated or actively supported by Europol focusing on prioritised crime areas;
- 1 429 cross match reports produced compared to 984 in 2011 (45 % increase);
- 712 operational analysis reports delivered compared to 340 in 2011 (109 % increase);
- lead investigator(s) of operations in the Member States and Member States' experts expressed a high level of satisfaction with the analysis and operational support provided by Europol;
- Europol financially supported 208 operational meetings and 30 EMPACT meetings;
- 30 euro counterfeiting investigations were financially supported by Europol;
- 30 (17) Joint Investigation Teams supported by Europol as a full member;
- implementation of TFTP agreement Articles 4, 9, 10 by processing all related US requests and information leads.

Strategic analysis capability

Strategic products: Threat Assessments, Situation Reports and Intelligence Notifications:

— 14 strategic reports on organised crime and 6 strategic reports on terrorism were produced e.g. threat assessment on the Western Balkans, situation report on itinerant organised crime groups, TE-SAT, report on criminal financing of terrorism and various organised crime scan threat notices.

Europol as the EU criminal information hub

Information management capabilities, Secure Information Exchange Network Application (SIENA), Europol Information System (EIS), Liaison Bureaux network.

 In total, 414 334 operational messages were exchanged via SIENA between Europol, Member States and Third Parties, a 25 % increase compared to 2011 (330 633).

- At the end of 2012, 65 % (53 %) of all SIENA messages was shared with Europol.
- The EIS contained 186 896 (183 240) objects at the end of 2012 with an increased proportion of person objects (most important and valuable objects from a law enforcement point of view).
- By the end of 2012, 19 Member States' national Asset Recovery Offices were linked to SIENA.
- A unique network of almost 150 liaison officers ensure a live link between Europol headquarters in The Hague and 27 Europol National Units in the national capitals of the Member States. They facilitate the exchange of information and provide support and coordination for ongoing investigations. Europol also hosts liaison officers from 10 non-EU countries and organisations who work together with Europol on the basis of cooperation agreements. In addition, Europol has seconded two liaison officers to Washington (USA) and one to Interpol's headquarters in Lyon (France).

Europol as the EU centre for law enforcement expertise

Europol Platforms for Experts (EPE), Data exchange platforms and storage solutions, Knowledge products and services, Training, Conferences and awareness sessions:

- 28 expert areas covered by Europol Platform for Experts including 2 663 active accounts (12 platforms and 500 users at the end of 2011);
- cybercrime capability further strengthened and prepared to host the European Cybercrime Centre (EC3) at Europol as of January 2013;
- Prüm Helpdesk established in January 2012 and fully operational since 1 April 2012:
- Europol supported the delivery of 55 training courses (organised by Europol, CEPOL or MS);
- annual large scale European Police Conference was organised at Europol NHQ.

External relations

Europol cooperates with a number of EU partners, third countries and international organisations. The exchange of information with these partners takes place on the basis of cooperation agreements. Strategic agreements make it possible for the two parties involved to exchange all information with the exception of personal data, while operational agreements also allow the exchange of personal data.

- 20 strategic agreements and 11 operational agreements in place at the end of 2012 (18 non-EU countries, 10 EU bodies and agencies and three other international organisations, including Interpol).
- Information exchange with external partners (8 547) increased by 29 % compared to 2011 (6 608).
- In total 13 operational cooperation partners have direct access to SIENA (nine more than in 2011).

Source: Information supplied by the Office.

THE OFFICE'S REPLIES

11. When considering the two budget commitments in question, Europol acted in good faith, in the understanding that in both cases a legal commitment had been established.

Additional measures will be taken to prepare and assess the fulfilment of technical requirements for 'automatic' carry-forwards, in time before the end of the concerned budget year. If necessary, 'non-automatic' carry forwards will be proposed to the Europol Management Board for approval.

- 12. Following Europol's validation of the human resources related information and processes for the financial year 2012, corrective actions were taken. As of the beginning of 2013, Europol reminds all staff members on a monthly basis, when issuing the salary statements, about their obligation to notify Europol about any changes to the personal situation. The cases referred to by the ECA did not have a material impact.
- 13. The cancellations are to a large extent related to commitments for the new headquarters (1,1 Million Euro). By the end of 2011, Europol did not have much experience regarding user related costs in the new headquarters. Further to this, commitments related to ICT were higher than anticipated, various legal damages did not have to be paid and the budget for some activity related administrative and operational expenditure lapsed.
- 14. Europol was entrusted with the responsibility for the European Cyber Crime Centre (EC3) during the budget year of 2012 (by decision of the Justice and Home Affairs Council in June 2012). No appropriations were included for this new task in the original budget planning for the financial year 2012 and by the end of 2012, it became clear that it would not be accompanied by additional resources in the budget 2013. Consequently, commitments for this new task had to be taken on the budget 2012 at the end of the year which affected the amount carried forward to 2013.
- 15. The transfers were necessary to ensure business continuity throughout the budget year and in particular to ensure availability of budget for the EC3.
- 16. Recruitment related comments:

Test questions for tests and interviews:

Europol considers the confidentiality of selection tests to be of key importance and points out that there is no legal requirement (or case law) which determines that the point of time for establishing the test questions has to be prior to the short-listing of suitable candidates.

Weighting of the selection criteria:

The weighting of the selection criteria has always been agreed before the shortlisting took place and since July 2012, Europol records this process in specific decision by the selection committee chairperson.

Documentation of the selection committee's decisions:

Europol holds the view that all key findings of selection committees which are of relevance to appointments are properly documented. In view of ensuring efficient administration it considers that not all individual thoughts of the selection committee members have to be recorded in 'minutes'. This requirement, from Europol's analysis, can also not be derived from relevant case law.

REPORT

on the annual accounts of the European Union Fundamental Rights Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/34)

INTRODUCTION

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 (1). 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).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), 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:

- (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.

The auditor's responsibility

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

⁽¹⁾ OJ L 53, 22.2.2007, p. 1.

⁽²⁾ Annex summarises the Agency's competences and activities. It is

presented for information purposes.
(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⁾ OJ L 357, 31.12.2002, p. 72.

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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.

- 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 2012 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 2012 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 LEGALITY AND REGULARITY OF TRANSACTIONS

11. In 2012, the Agency procured cleaning services via cascading framework contracts to two suppliers. Due to a clerical error during the evaluation of offers, the ranking of the contractors was incorrect. One specific contract for 56 784 euro awarded in 2012 and the related payments are irregular. Following the Court's audit, the Agency has amended the ranking of the contractors accordingly.

COMMENTS ON INTERNAL CONTROLS

12. The Agency did not have a formal *ex post* verification procedure in place during 2012. A formal procedure was however implemented at the beginning of 2013, following a comprehensive risk analysis conducted by the Agency.

COMMENTS ON BUDGETARY MANAGEMENT

13. While budget implementation for title III (operational expenditure) was low at 49 % of committed appropriations, this did not arise from delays in the implementation of the Agency's Annual Work Programme and reflects the multiannual nature of activities. The Agency has adopted a budgetary planning module that is linked directly to its Annual Work Programme and payments were planned and executed according to operational needs.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 15 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX

European Union Agency for Fundamental Rights (Vienna) Competences and activities

Areas of Union competence	Collection of information	
deriving from the Treaty	— The Commission may, within the limits and under conditions laid down by the Council acting by a simple majority in accordance with the provisions of the Treaties, collect any information and carry out any checks required for the performance of the tasks entrusted to it. (Article 337)	
Competences of the Agency	Objectives	
(Council Regulation (EC) No 168/2007)	— To provide the relevant institutions, bodies, offices and agencies of the Union and its Member States when implementing Union law with assistance and expertise relating to fundamental rights in order to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights.	
	Tasks	
	 To collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data; 	
	— to develop methods and standards to improve the comparability, objectivity and reliability of data at European level;	
	 to carry out, cooperate with or encourage scientific research and surveys preparatory studies and feasibility studies; 	
	— to formulate and publish conclusions and opinions on specific thematic topics for the Union institutions and the Member States when implementing Union law	
	— to publish an annual report on fundamental-rights issues covered by the areas of the Agency's activity;	
	— to publish thematic reports based on its analysis, research and surveys;	
	— to publish an annual report on its activities;	
	 to develop a communication strategy and promote dialogue with civil society, ir order to raise public awareness of fundamental rights and actively disseminate information about its work. 	
Governance	Management Board	
	Composition	
	One independent person appointed by each Member State, one independent person appointed by the Council of Europe and two representatives of the Commission	
	Duties	
	To adopt the budget, work programme and annual reports. To adopt the final budge and the establishment plan. To give an opinion on the final accounts.	
	Executive Board	
	Composition	
	— Chairperson of the Management Board.	
	— Vice-Chairperson of the Management Board.	
	1	

- One representative of the Commission.
- Two other elected members from the Management Board.
- The person appointed by the Council of Europe in the Management Board may participate in the meetings of the Executive Board.

Scientific Committee

Composition

- Eleven independent persons, highly qualified in the field of fundamental rights.
- Appointed by the Management Board following a transparent call for applications and selection procedure.

Director

Appointed by the Management Board on a proposal from the Commission and after opinions of the European Parliament and the Council of the European Union (who will state their preference).

External audit

European Court of Auditors.

Internal audit

European Commission's Internal Audit Service (IAS).

Discharge authority

European Parliament on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

20,376 (20,180) million euro of which the Union subsidy is 99 % (99 %)

Staff as at 31 December 2012

72 (72) posts foreseen in the establishment plan, of which occupied: 70 (70) +

22 (22) other staff (contract staff, seconded national experts)

Total staff: 94 (94), undertaking the following tasks:

- operational: 58 (59)
- administrative: 29 (29)
- mixed: 7 (6)

Products and services 2012 (2011) (1)

FRANET

Number of contributions by the 28 national focal points (national lots): 185 (29)

Number of contributions by the partner in charge of the EU International analysis: 1 (0)

Number of contributions by the partner in charge of the Comparative analysis: 1 (0)

Number of meetings: 3 (2) (1 with 4 participants, 1 with 10 participants and 1 with 20 participants)

Research Reports

Number of reports: 13 (26) plus 23 (113) language versions

Number of meetings: 2 (11)

Annual reports: 2 (2) plus 3 (2) language versions Annual report Summary: 1 (1)

plus 2 (4) language versions

FRA opinions: 3

Factsheets: 11 (10) plus 118 (149) language versions

Non-Research Materials

Various FRA publications: 5 (5) plus 31 (27) language versions

Posters: 20 (1)

Key Conferences and Events

Fundamental Rights Conference: 1 (1)

Diversity Day Event: 1 (1)

FRA Symposium: 1 (1)

Meeting of Fundamental Rights Platform: 1 (0)

Joint Seminar with (Danish) EU Presidency 1 (0)

Cooperation with institutions and bodies at EU and Member State level

Member States: 7 (13)

Council of the EU: 9 (9)

European Commission: 12 (18)

European Parliament: 20 (10)

European Court of Justice: 1 (1)

Committee of the Regions: 1 (3)

European Economic and Social Committee: 1 (1)

European Ombudsman: 1 (0)

Fundamental Rights Platform: 3 (3)

Council of Europe: 24 (10)

OSCE: 2 (3)

United Nations: 2 (2)

Specialised Bodies (NHRIs and Equality Bodies): 3 (4)

Other Meetings and Round Tables: 12 (20)

⁽¹⁾ Please note that from year 2011, we have separated reports from factsheets, and we also explicitly state the total amount of language **versions** for each category.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

- 11. The Agency corrected the clerical error in the evaluation of the offers and amended the framework contract accordingly, with the agreement of all parties involved. Moreover, the Agency is in the process of enhancing its tender and contract manager (TCM) software, which will eliminate such clerical errors in the future. This software is used to produce tenders and will now include an eEvaluation module. Upon a request from the Commission, the Agency has agreed to provide this software to the Commission services through a service level agreement.
- 12. The Agency considers that the internal control system is adequate and provides reasonable assurance including good practices. Moreover, in 2013 the Agency also introduced a formal procedure for *ex post* verification further to an internal risk assessment, and in line with the Court's request.
- 13. The Court's comment is welcomed as it confirms the multiannual nature of most of the Agency's operational projects. The Agency's budget execution for the year 2012 indicated satisfactory payment implementation rates for Titles I and II of 98 % and 89 %, respectively. For Title III, the rate of payment implementation of 49 % is well justified, as this is in line with the implementation of the Agency's Annual Work Programme. In order to further improve its efficiency, the Agency has adopted a budgetary planning module (Budget Module) that is linked directly to the Annual Work Programme. The carry overs represent payment appropriations needed to cover existing legal commitments.

REPORT

on the annual accounts of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States for the financial year 2012, together with the Agency's replies

(2013/C 365/35)

INTRODUCTION

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States (hereinafter 'the Agency', aka 'Frontex'), which is located in Warsaw, was created by Council Regulation (EC) No 2007/2004 (1). The Agency's task is to coordinate the Member States' activities in the field of the management of external borders (support for operational cooperation, technical and operational assistance, and risk analysis) (2).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair presentation of the

- (1) OJ L 349, 25.11.2004, p. 1.
- (2) Annex II summarises the Agency's competences and activities. It is
- presented for information purposes.

 (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) OJ L 357, 31.12.2002, p. 72.

annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (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.

The auditor's responsibility

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

⁽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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

- 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 2012 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.

Basis for a disclaimer of opinion on the legality and regularity of the transactions underlying the accounts

- 9. In 2012, expenditure related to grants amounted to 56 million euro, representing 63 % of total operating expenditure. In order to verify the expenditure claimed by beneficiaries the Agency performs reasonableness checks prior to payment but does not usually request supporting documentation.
- 10. The *ex* post audit strategy of the Agency was adopted in 2012 and is a key control for assessing the legality and regularity of the Agency's transactions. Three audits were carried out in 2012 to verify expenditure reimbursed in 2011. However, no 2012 expenditure has yet been verified.

11. In the absence of effective *ex ante* and *ex post* verifications, there is no assurance on the legality and regularity of the 2012 transactions related to grants. The Court could not obtain sufficient appropriate audit evidence on the legality and regularity of the audited 2012 grant transactions.

Disclaimer of opinion on the legality and the regularity of the transactions underlying the accounts

- 12. Because of the materiality and pervasiveness of the matter described in the basis for a disclaimer of opinion (paragraphs 9 to 11), the Court has not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion and, accordingly, the Court does not express an opinion on the legality and regularity of the transactions underlying the accounts.
- 13. The comments which follow do not call into question the Court's opinion on the reliability of the accounts or its disclaimer of opinion concerning the legality and regularity of the underlying transactions.

COMMENTS ON INTERNAL CONTROLS

- 14. The physical inventory was incomplete and did not cover all assets owned by the Agency. Assets under construction and assets purchased near year-end were not taken into account.
- 15. There is no procedure for the disposal of fixed assets. Fixed assets no longer in use are written off from the fixed assets register without being physically disposed of. No register of these assets is kept.
- 16. Weaknesses were still noted in the system for reconciling suppliers' statements with the corresponding records at the Agency.

COMMENTS ON BUDGETARY MANAGEMENT

17. The Agency's 2012 budget amounted to 89,6 million euro of which 21,8 million euro (25 % of committed appropriations) were carried over to 2013. Carry-overs related to title III (operational expenditure) amounted to 19,6 million euro. Such a high level of carry-overs is excessive and at odds with the budgetary principle of annuality, although it is partly related to the operational, multiannual nature of the Agency's activities. By the end of February 2013, 1,1 million euro of these carry-overs had been cancelled.

18. The Agency made 39 budgetary transfers amounting to 11,5 million euro in 2012, affecting 70 of the 79 budget lines. This is partly due to the fact that the second budgetary amendment for 2012 was only approved in October 2012 and the funds needed for operations had meanwhile been transferred from other budget lines.

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.

OTHER COMMENTS

19. The recruitment procedures examined showed significant shortcomings affecting transparency and the equal treatment of

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	As in the previous year, the level of carry-overs is excessive and at odds with the budgetary principle of annuality.	Outstanding
2011	Within the total amount carried over, the Agency carried over global commitments of 5,1 million euro. The Agency's Financial Regulation however does not provide a clear basis for such a carry-over (1).	N/A
2011	In 2011, the Agency financed grants for joint operations amounting to 74 million euro. In order to verify the expenditure claimed by the beneficiaries (Member States and Schengen Associated Countries), the Agency, although it performs reasonableness checks, does not usually request supporting documentation that would address the risk of ineligible expenditure.	Ongoing
2011	As in the previous year, the Agency's accounting system has still to be validated by the Accounting Officer.	Completed
2011	Internal control weaknesses were identified as regards the management of fixed assets. There is no procedure related to the disposal of fixed assets and the physical inventory is incomplete.	Ongoing

⁽¹⁾ The Agency Financial Regulation states in its article 62(2) that 'Global budget commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of year N+1'. Both the EU Financial Regulation and the Agency Financial Regulation are however unclear concerning the use of global commitments for non-differentiated appropriations. The Agency used global commitments to justify an automatic carry-over of non-differentiated appropriations.

ANNEX II

European Agency for the Management of Operational Cooperation at the External Borders (Warsaw) Competences and activities

Areas of Union competence deriving from the Treaty

Articles 74 and 77(2)(b) and (d) of the Treaty on the Functioning of the European Union Article 74: 'The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this title, as well as between those departments and the Commission. (...)'

Article 77(2): '(...) the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:

- (...) (b) the checks to which persons crossing external borders are subject; (...)
- (...) (d) any measure necessary for the gradual establishment of an integrated management system for external borders (...)'.

Competences of the Agency

Council Regulation (EC) No 2007/2004, amended by Regulation (EC) No 863/2007 and Regulation (EU) No 1168/2011 of the European Parliament and of the Council

The last amendment entered into force on 12.12.2011; the content of the table reflects the situation after this last amendment.

Objectives

Frontex was established with a view to improving the integrated management of the external borders of the Member States of the EU.

Main Tasks

- (a) To coordinate operational cooperation between Member States in the field of management of external borders;
- (b) to assist Member States on training of national border guards and establish common training standards;
- (c) to carry out risk analyses, including the assessment of the capacity of Member States to face threats and pressures at the external borders;
- (d) to participate in the development of research relevant for the control and surveillance of external borders;
- (e) to assist Member States in circumstances requiring increased technical and operational assistance, especially those Member States facing specific and disproportionate pressures;
- (f) to provide Member States with the necessary support including, upon request, coordination or organisation of joint return operations;
- (g) to set up European Border Guard Teams (EBGT) to be deployed during joint operations, pilot projects and rapid interventions;
- (h) to develop and operate information systems for information exchange, including
- (i) to provide necessary assistance to the development and operation of a European border surveillance system (EUROSUR).

Governance

Management Board

Composition

One representative of each Member State + two representatives of the Commission + one representative per Schengen Associated Country.

Tasks

- (a) To appoint the Executive Director;
- (b) to adopt the general report of the Agency;

(c)	to	adopt	the	Agency's	Programme	of	Work;
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- (d) to establish procedures for taking decisions related to the operational tasks of the Agency;
- (e) to carry out its functions relating to the Agency's budget;
- (f) to exercise disciplinary authority over the (Deputy) Executive Director;
- (g) to establish its Rules of Procedure;
- (h) to establish the organisational structure of the Agency and adopt the Agency's staff policy;
- (i) to adopt the Agency's multiannual plan.

Executive Director

Appointed by the Management Board on a proposal from the Commission.

External audit

European Court of Auditors.

Discharge authority

European Parliament acting on a recommendation of the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

89,6 (118,2) million euro

Union subsidy 84 (111) million euro

Staff as at 31 December 2012

Establishment plan

Temporary staff planned: 143 (143) - Temporary staff posts occupied: 137 (141)

Other posts

Contract staff planned: 87 (88) - Contract staff posts occupied: 84 (85)

Seconded National Experts planned 83: (83) - Seconded National Experts posts occupied: 82 (78)

Total staff posts: 313 (314) - of which occupied: 303 (304)

Assigned to the following tasks: operational 216 (214) - administrative 87 (90)

Products and services in 2012 (2011)

Risk Analysis Unit (RAU) produced 80 (20) strategic reports including three regular annual reports, two annual reports of new type, six tailored reports, nine quarterly reports with situational updates and analysis in MS, and selected regions neighbouring the EU, 60 strategic monitoring reports;

482 (469) analytical products supporting the planning, implementation and evaluation of Joint Operations; 54 (112) reports of other types, including briefings for the Agency's Management, the EU Commission and others; published seven (six) strategic reports for the general public via the Agency website.

The rollout of the updated Common Integrated Risk Analysis Model (CIRAM v 2.0) was initiated with translation into selected EU languages. Four (four) regular Frontex Risk Analysis Network meetings, five meetings of the new specialist network with Member States on EU Document Fraud, two (two) Tactical Risk Analysis meetings, six (five) regional expert meetings/conferences, and three regional technical workshops were organised.

In line with the tasks of Risk Analysis Unit within EUROSUR, in 2012 the following were undertaken, and communicated/consulted as appropriate with MSs within the framework of the Analysis Layer User Group: Within the CPIP/ESP analysis layer: delivery of the content (281 products in 2012), preparatory work for basic services and analysis tools; development of the concept for the attribution of impact levels methodology.

Joint Operations Unit (JOU) organised 17 (19) joint operations, 12 (14) pilot projects and 10 (15) conferences and 25 meetings. Furthermore, during 39 (42) Frontex coordinated joint return operations 2 110 (2 059) people were returned. The total number of operational days accumulated in all joint operations amounted to 3 503 days (7 754); the number of operational man-days accumulated equals to 117 114 (105 038).

Frontex Situation Centre (FSC) provided 2 169 (1 900) situational reports, 31 serious incident reports, 27 flash news reports and 13 (11) mission awareness reports, while uploading 145 document alerts in the FOSS portal and 2 130 artefacts to EUROSUR. Daily Newsletters were delivered to 241 (400) accounts; 308 media contributions were made to daily situational reports and operational briefings. The FSC as a single point of contact managed over 24 000 (24 000) correspondence items; it consolidated the Frontex-One-Stop-Shop (FOSS) as the main information exchange platform between Frontex and external partners, with 6 000 documents uploaded. FSC received around 30 000 incidents through the Joint Operations Reporting Application (JORA) and provided JORA training to 500 officers from Frontex and MS/SAC.

Training Unit (TRU) organised 207 (223) training activities with the participation of 2 980 (3 490) attendees (training experts, trainees, etc.) in the framework of 3 programmes comprising 19 (20) projects; a total of 13 300 (12 947) man-days were invested by the stakeholders in training activities. Within career path education for border guard officers, Frontex finalised the development of a Sectoral Qualifications Framework (SQF) for Border Guarding. This is an overarching framework for border guard education and training, with special emphasis on integration of the principles of fundamental rights. The SQF follows the educational standards set on EU level in the Copenhagen and Bologna processes.

Pooled Resources Unit (PRU) - response capacity was considerably strengthened by setting up and managing newly established pools of European Border Guard Teams (EBGT) and Technical Equipment that are to be deployed during joint operations, pilot projects and rapid interventions. PRU implemented seven (six) projects designed to improve the overall effectiveness of Frontex operations. Within the framework of its projects, PRU organised 11 events with the participation of 295 attendees from the MS. A total of approximately 551 man-days were invested by stakeholders in the unit's activities

Research & Development Unit (RDU) organised 39 (34) meetings for 1 020 participants from MS, SAC, EU institutions, intergovernmental and international organisations, academies, research institutes and industry. Staff participated in approximately 100 (130) internal and external events. RDU produced various documents, reports and studies: two good practices, three guidelines, one study, one cost-benefit analysis, one technical report, and delivered them to the stakeholders.

Partnership and cooperation with third countries: During 2012, two (two) Working Arrangements (WA) were concluded with the Immigration Service of Nigeria and with the National Security Council of Armenia, increasing the overall number of WAs to 18 (16). A Memorandum of Understanding was signed with the Ministry of Foreign Affairs of the Republic of Turkey. Within the framework of the respective WAs, operational cooperation on border security/management related matters between the Agency and the third country authorities was further enhanced, with a view to progressively developing mutually beneficial and sustainable partnerships. Tangible results have been achieved particularly in the field of information sharing, training and joint operational activities.

Cooperation with EU bodies and international organisation: In 2012, two Working Arrangements (WA) were signed with the United Nations Office on Drugs and Crime (UNODC) and the European Asylum Support Office (EASO) increasing the overall number to 12 (10). Regarding Inter-Agency cooperation, during 2012 Frontex chaired the EU JHA Agencies Contact Group, aiming at fostering cooperation and creating synergies among the different JHA Agencies. In this framework, Frontex organised several cluster meetings, an experts' conference on Data Protection and the annual meeting of the Heads of JHA meeting. Different activities implementing the Agencies' Joint Statement on Trafficking in Human Beings were also put into practice.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

The agency takes note of the disclaimer of the Court on the legality and regularity of the underlying transactions.

Bearing in mind that the Beneficiaries of Frontex are the national Border Guard authorities of the Member States and Schengen Associated Countries, they have to sign, when claiming for reimbursement, that all information provided is full, reliable and true; the Beneficiaries also need to certify that their request for payment is substantiated by adequate supporting documents. The agency does therefore not consider that effective *ex ante* controls are absent, but they are based on declarations made by public authorities and plausibility checks. However, the agency undertook measures to strengthen the *ex ante* control framework and since June 2013, a risk based *ex ante* control system has been put in place.

14. The physical inventory was incomplete and did not cover all assets owned by the Agency. Assets under construction and assets purchased near year-end were not taken into account.

The deficiencies mentioned with regard to the inventory report will be improved for the 2013 annual inventory. A revised inventory policy document is to be adopted in summer 2013.

15. There is no procedure for the disposal of fixed assets. Fixed assets no longer in use are written off from the fixed assets register without being physically disposed of. No register of these assets is kept.

The existing ICT assets disposal policy will be updated and to be developed to include all Frontex assets. The timeline foreseen is August 2013. Once the ICT assets disposal policy will be adopted, written-off assets will be physically disposed in the second half of 2013.

16. Weaknesses were still noted in the system for reconciling suppliers' statements with the corresponding records at the Agency.

As already indicated in previous years, most of the public authorities the agency cooperates with, do not have a centralised accounting system that would enable them to reconcile the balances. Therefore reconciliation is very time consuming as different records in different authorities need to be consulted.

17. The Agency's 2012 budget amounted to 89,6 million euro of which 21,8 million euro (25 % of committed appropriations) were carried over to 2013. Carry-overs related to title III (operational expenditure) amounted to 19,6 million euro. Such high level of carry-overs is excessive and at odds with the budgetary principle of annuality, although it is partly related to the operational, multiannual nature of the Agency's activities. By the end of February 2013, 1,1 million euro of these carry-overs had been cancelled.

The agency appreciates the acknowledgement of the Court with regard to the multiannual nature of its operations as well as of the fact that funds stemming from the budgetary amendment were transferred only very late in 2012.

Commitments for activities financed out of the 2012 budget were therefore made very late in the year and will partly be implemented in 2013 only.

18. The Agency made 39 budgetary transfers amounting to 11,5 million euro in 2012, affecting 70 of the 79 budget lines. This is partly due to the fact that the second budgetary amendment for 2012 was only approved in October 2012 and the funds needed for operations had meanwhile been transferred from other budget lines.

The funds stemming from the budgetary amendment were transferred only very late in 2012. The agency needed to make transfers from numerous budget lines where funds were not immediately needed or where the launching of activities/tenders could still be postponed in order to satisfy the immediate needs to cofinance joint operations.

19. 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.

In 2013 HR will be stricter in monitoring the process and will implement measures in order to raise awareness in this particular area amongst the selection board members. Similarly, a stricter approach will be applied by HR to document all levels of the selection processes.

REPORT

on the annual accounts of the European GNSS Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/36)

INTRODUCTION

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 (1), was set up by Regulation (EU) No 912/2010 of the European Parliament and the Council (2), repealing Council Regulation (EC) No 1321/2004 (3) and amending Regulation (EC) 683/2008 (4), to manage the public interests relating to the European GNSS programmes and to act as the regulatory agency for the programme during the deployment and operational phases of the Galileo Programme. Regulation (EC) No 683/2008 of the European Parliament and the Council reduced the responsibilities of the Agency to the control of the security of Galileo systems and to the preparation of their commercialisation (5).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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.

STATEMENT OF ASSURANCE

- 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 (6) and the reports on the implementation of the budget (7) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.
- (1) 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).
- (2) OJ L 276, 20.10.2010, p. 11. (3) OJ L 246, 20.7.2004, p. 1. (4) OJ L 196, 24.7.2008, p. 1.

- (5) Annex II summarises the Agency's competences and activities. It is presented for information purposes.
- (6) 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.
- These comprise the budgetary outturn account and the annex to the budgetary outturn account.

The management's responsibility

- In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (8), 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:
- (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 (9); 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.

The auditor's responsibility

The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (10) with a statement of assurance as to the reliability of the

⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.

⁽⁹⁾ 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.

⁽¹⁰⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENT ON BUDGETARY MANAGEMENT

11. The overall level of committed appropriations was close to 100 % for all titles. However, carry-overs of committed appropriations were relatively high for title II (administrative expenditure) at 1,7 million euro (38 %). This was partly due to events beyond the Agency's control, such as the relocation of its seat to Prague in September 2012 (0,4 million euro) and the setting-up of the Galileo Security Monitoring Centre (0,4 million euro), which necessitated the provision of certain goods and services in the last quarter of the year. In addition, an amount of 0,7 million euro was transferred from title I (staff expenditure) to title II in November 2012 and several contracts relating to IT and legal services included in the 2013 work programme were signed in December 2012.

OTHER COMMENT

12. The Court identified the following weaknesses in the recruitment procedures audited which affected transparency and equal treatment: no threshold scores were determined for admission to written tests and interviews or for inclusion in the list of suitable candidates; the vacancy notice made no provision for appeals by rejected candidates.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 24 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	Ex post audits carried out for the Agency by an external audit firm in respect of grant payments made in previous years under the Sixth Framework Programme for Research and Development (FP6) (¹) frequently called into question the declarations of cost made by the beneficiaries. At the end of 2011, the amounts in dispute were estimated at 1,7 million euro or 5 % of the audited grants.	Completed
2011	In 2011, the Agency made grant payments under the Seventh Framework Programme for Research and Development (FP7) amounting to 5,8 million euro. In order to verify the expenditure claimed by the beneficiaries (private and public entities performing research), the Agency, although it performs reasonableness checks, does not usually request supporting documentation that would address the risk of ineligible expenditure.	Ongoing
2011	In 2011, payments amounting to 4,8 million euro (22 % of the amounts paid during the year) were made after the deadlines stipulated in the Financial Regulation (2).	Completed

⁽¹) The audited grants account for 50 % of all FP6 grants under the Second and Third Calls (65,3 million euro). (²) Approximately nine days' delay on average.

ANNEX II

European GNSS Agency (Prague) Competences and activities

Areas of Union competence deriving from the Treaty	Competitiveness for growth and employment.
The Agency's powers	Objectives
(Regulation (EU) No 912/2010 of the European Parliament and of the Council)	To contribute to the achievement of fully operational European satellite navigation systems established under the EGNOS and Galileo programmes.
- Co 	Tasks
	— To ensure the security accreditation of the programmes,
	— to ensure the operation of the Galileo security centres,
	— to guarantee the operations of the Galileo Security Monitoring Centres (GSMC),
	— to contribute to the preparation of the commercialisation of the systems, including the necessary market analysis,
	— to accomplish other tasks that may be entrusted to it by the Commission, such as promoting application and services in the satellite navigation market, ensuring that the components of the system are certified by the appropriate, duly auth- orised certification bodies.
Governance	Administrative Board
	Composition
	— one representative per Member State,
	— five representatives from the European Commission,
	— a non-voting representative of the European Parliament,
	 one representative of the High Representative for Foreign Affairs and Security (HR) and one representative of the European Space Agency (ESA) to be invited as observers.
	Tasks
	— appoints the Executive Director (ED),
	— adopts the annual work programme,
	— produces a statement of estimates of revenue and expenditure,
	— adopts the budget,
	— delivers an opinion on the final accounts of the Agency,
	— oversees the operation of the Galileo Security Monitoring Centre,
	— exercises disciplinary power over the ED,
	 adopts the special provisions necessary for implementing right of access to documents,
	— adopts the annual report on the activities and prospects of the Agency.
	Executive Director
	Appointed by the Administrative Board.

Security Accreditation Board

Composition

- one representative per Member State,
- one representative from the Commission,
- one representative from the HR,
- one representative of ESA to be invited as observer.

Tasks

To act as the security accreditation authority in relation to the European GNSS systems.

External audit

European Court of Auditors.

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources made available to the Agency in 2012 (2011)

Final Budget

20,8 (38,7) million euro consisting of the EU subsidy of 12,9 (8,2) million euro, which is the operating subsidy from the Commission, and 7,9 (30,5) million euro in operational funds from the Commission.

Staff as at 31 December 2012

Authorised posts: 44 (29)

Posts occupied: 39 (28)

Other posts: 29 (14)

Total staff: 68 (42), assigned to the following duties:

Allocated to:

- operational tasks: 34 (20)
- administrative and support tasks: 23 (14)
- mixed tasks: 11 (8)

Products and services 2012

Programmes

Support for the European Commission in the implementation of the EGNOS and Galileo programmes.

Systems Security

Systems Security (Security Accreditation of the systems and sites, Galileo Systemspecific Security requirements, Flight Key Cell activities).

Support for Public Regulated Service - PRS (Preparation of the PRS User Segment).

Preparation of Galileo Security Monitoring Centre - GSMC.

EGNOS/Galileo Exploitation

Preparatory activities for EGNOS and Galileo exploitation.

Market development

Market analysis and publication of GNSS Market Reports.

Market readiness for the launch of Galileo early services.

Market development actions focused on receiver manufacturers to foster Galileo penetration in consumer and professional markets.

Implementation of adoption roadmaps for EGNOS in all priority markets with special focus on aviation, maritime and rail.

Preparation of European GNSS Service Centre helpdesk.

Information and outreach – EGNOS information portal, GSA website, events (European Space Solutions conference in London).

Research and development

Management of projects under the Seventh Framework Programme (first, second and third calls) for research.

Maximisation of the projects' results and achievement of strategic objectives.

Dissemination of the results of R&D.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

11. The Agency shares the European Court of Auditors analysis of the carry forwards in title II. The major part of the carry-overs in title II is related to the set up of the Galileo Security Monitoring Centres in France and UK with the start of the operations foreseen for the summer 2013. As this is a complex project in terms of security, IT, logistics and legal support, the GSA has decided to advance as much as possible the project preparations in 2012. In that respect, the Administrative Board, in its meeting in November 2012, approved a significant transfer of credits to title II in order to ensure that the necessary framework contracts are in place on time. Another significant part of the carry-overs is related to the relocation of the Agency's headquarters from Brussels to Prague in September 2012. In some cases, deliveries by contractors occurred only in the beginning of 2013 or invoices for items/services delivered in 2012 arrived in 2013.

In fact, if the extraordinary circumstances of 2012 had not occurred, the percentage of carry forwards in title II would have been approximately 14 % of the appropriations.

12. The GSA has revised the selection procedures. Since early 2012, the pre-selection panel determines the threshold scores at the stage of designing the Vacancy Notice. The thresholds are now published in the Vacancy Notice. GSA also includes a paragraph in each Vacancy Notice on the candidate's right to appeal.

REPORT

on the annual accounts of the Office for Harmonization in the Internal Market for the financial year 2012, together with the Office's replies

(2013/C 365/37)

INTRODUCTION

1. The Office for Harmonization in the Internal Market (hereinafter 'the Office', aka 'OHIM'), which is located in Alicante, was established by Council Regulation (EC) No 40/94 (¹), which was repealed and replaced by Regulation (EC) No 207/2009 (²) The Office's task is to implement the Union legislation on trade marks and designs, which gives undertakings uniform protection throughout the entire area of the European Union (³).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 Office, which comprise the financial statements (4) and the reports on the implementation of the budget (5) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (6), the management is responsible for the preparation and fair

- (1) OJ L 11, 14.1.1994, p. 1.
- (2) OJ L 78, 24.3.2009, p. 1.
- (3) Annex II summarises the Office's competences and activities. It is presented for information purposes.
- (4) 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.
- (5) These comprise the budgetary outturn account and the annex to the budgetary outturn account.
- (6) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Office and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Office'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 (7); making accounting estimates that are reasonable in the circumstances. The President approves the annual accounts of the Office 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 Office 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.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (8) 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

⁽⁷⁾ 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.

⁽⁸⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Office are free from material misstatement and the transactions underlying them are legal and regular.

- 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 Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY MANAGEMENT

- 11. Out of the 31,9 million euro of committed appropriations carried over from 2011 to 2012, 4,16 million euro (13%) were cancelled in 2012. Of this amount, 1,93 million euro was related to cooperation agreements with Member States which did not absorb the full amounts allocated to them.
- In 2012 the overall level of committed appropriations was 93 %, indicating that commitments were made in a timely manner. The level of committed appropriations carried over to 2013 however was high at 36,7 million euro (19 % of total committed appropriations), out of which 21,7 million euro related to title II (administrative expenditure) and 14,1 million euro related to title III (operating expenditure). The main reason for the high level of carry-overs was the late receipt of invoices for goods and services delivered in 2012. More specifically, for title II, the high level of carry-overs also arose from a number of multiannual contracts relating to the construction of the Office's new building (6,09 million euro) and the procurement of IT developments (7,67 million euro). For title III, carry-overs are largely related to cooperation agreements signed with Member States for which cost claims were only due to be submitted in 2013 (8,13 million euro). In addition, translation services were ordered in the last months of 2012 (5,43 million euro) which were only due for payment in 2013.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The Court identified several shortcomings as regards the 2011 service level agreement between the Office and the Translation Centre for the Bodies of the EU (CDT). The agreement was signed by the Office on 20 June 2011 and according to Article 10, applied from 1 January 2011. The execution of the contract started before the contract signature. On request of CDT, the Office made a payment of 1,8 million euro in compensation (¹). Furthermore, this payment was authorised without a budget commitment and without available appropriations (²).	N/A
2011	The Court identified five cases amounting to 2,9 million euro where budgetary commitments were approved after legal commitments.	Completed
2011	There is a need to improve the Office's management of fixed assets. For intangible assets developed by the Office, accounting procedures and information on costs were not reliable.	Ongoing
2011	Cash held by the Office as at 31 December 2011 totalled 520 million euro (495 million euro in 2010). Following the treasury policy approved by the Budget committee in 2010 the cash was held in 9 banks in 5 Member States.	Completed. However the Court notes the still high level of cash.
2011	The Office needs to improve the transparency of recruitment procedures. The threshold scores for admission to interviews and written tests were not set in advance and questions for oral and written tests were not set before the applications were examined by the selection boards. Moreover, there was no decision by the Appointing Authority to appoint the selection board and in one case the segregation of duties between the Appointing Authority and the selection board was not ensured.	Completed

 $^(^{1})$ The minimum value was set in the agreement to be 16,3 million euro. The services provided in 2011 totalled 14,5 million euro. $(^{2})$ This payment was made from the 2012 budget.

ANNEX II

Office for Harmonization in the Internal Market (Alicante) Competences and activities

Areas of Union competence deriving from the Treaty

Free movement of goods

(Articles 36 and 56 of the Treaty on the Functioning of the European Union) [...] prohibitions or restrictions [...] justified on grounds of [...] the protection of industrial and commercial property [shall not] constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

[...] restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended. [...]

Competences of the Office

Objectives

(Council Regulation (EC) No 207/2009)

Council)

(Regulation EU No 386/2012 of the European Parliament and of the To implement the Union legislation on trademarks and designs, which gives undertakings the right to uniform protection throughout the entire area of the European Union.

To promote discussion, research, training, communication, the creation of advanced IT support tools and the spread of best practice on IP matters.

Tasks

- To receive and enter applications for registration,
- to examine the conditions for entry in the Register and compatibility with Union legislation,
- to search at the industrial property offices of the Member States for any preexisting national trade marks,
- to publish applications,
- to examine any opposition by third parties,
- to register or reject applications,
- to examine applications for revocation or invalidity,
- to handle appeals against decisions,
- to improve understanding of the value of intellectual property,
- to improve understanding of the scope and impact of infringements of intellectual property rights,
- to enhance knowledge of best public and private sector practices to protect intellectual property rights,
- to assist in raising citizens' awareness of the impact of infringements of intellectual property rights,
- to enhance the expertise of persons involved in the enforcement of intellectual property rights,
- to enhance knowledge of technical tools to prevent and tackle infringements of intellectual property rights, including tracking and tracing systems which help to distinguish genuine products from counterfeit ones,

— to provide mechanisms which help to improve the online exchange, between
Member States' authorities working in the field of intellectual property rights,
of information relating to the enforcement of such rights, and fostering
cooperation with and between those authorities,

to work in consultation with Member States, to foster international cooperation
with intellectual property offices in third countries so as to build strategies and
develop techniques, skills and tools for the enforcement of intellectual property
rights.

Governance

Administrative Board

Composition

 One representative from each Member State and one representative from the Commission, and their alternates.

Task

- To advise the President on matters for which the Office is responsible.
- To prepare lists of candidates (Article 125) for President, Vice-Presidents and chairmen and members of the Boards of Appeal.

President of the Office

 Appointed by the Council from a list of at most three candidates which has been prepared by the Administrative Board.

Budget Committee

Composition

 One representative of each Member State and one representative of the Commission and their alternates.

Task

— To adopt the budget and the financial regulation, grant discharge to the President and determine the cost of search reports.

Decisions related to the applications

Decisions are taken by:

- (a) the Examiners;
- (b) the Opposition Divisions;
- (c) the Administration of Trade Marks and Legal Division;
- (d) the Cancellation Divisions;
- (e) the Boards of Appeal.

External audit

European Court of Auditors.

Discharge authority

The Office's Budget Committee.



Resources made available to the Office in 2012 (2011)	Budget		
	429 (387) million euro.		
	Staff at 31 December 2012		
	775 (732) posts in the establishment plan; posts occupied: 680 (629) + 138 (121) other staff (auxiliary contracts, seconded national experts, local and employment agency staff, special advisers)		
	Total staff: 818 (750)		
Products and services supplied 2012 (2011)	Trade marks		
	Number of applications: 107 924 (105 859)		
	Number of registrations: 95 645 (93 849)		
	Cases of opposition: 16 634 (17 026)		
	Appeals to the Boards of Appeal: 2 339 (2 622)		
	Appeals pending: 2 352 (2 573)		
	Designs		
	Designs received: 92 175 (87 473)		
	Designs registered: 78 658 (77 665)		

Source: Information supplied by the Office.

THE OFFICE'S REPLIES

- 11. The Office and the Member States are aware of this issue. As a matter of fact for 2013, the Office has put in place a pilot project of a mid-year review report in order to follow up on the situation of the Member States when it comes to the execution of the projects they share with the Office. In fact, on 23 May during the Budget Committee meeting, the Office presented the amount carried over related to the Member States
- 12. As mentioned by the Court of Auditors, for title II, the high level of carry-overs arose from multiannual contracts related mainly to the construction of the new building and IT developments.

For title III, the high level of carry-overs was largely related to cooperation agreements signed with Member States for which cost claims were received as of December 31 2012 and the usual order of translation services in the last months of 2012.

The Office is putting in place measures in order to better control the amounts carried over every year.

REPORT

on the annual accounts of the European Agency for Safety and Health at Work for the financial year 2012, together with the Agency's replies

(2013/C 365/38)

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 (¹). 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 provide information on preventive measures (²).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), the management is responsible for the preparation and fair

(¹) OJ L 216, 20.8.1994, p. 1. The Regulation was last amended by

Council Regulation (EC) No 1112/2005 (OJ L 184, 15.7.2005, p. 5). (2) *Annex II* summarises the Agency's competences and activities. It is presented for information purposes.

presented for information purposes.

(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) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (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.

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

 (7) Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

⁽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.

assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY MANAGEMENT

- 11. The Agency's 2012 budget amounted to 15,3 million euro, out of which 3,2 million euro (22%) were carried over to 2013. The level of committed appropriations carried over is high for title II (infrastructure) at 36% and for title III (operational expenditure) at 33%. For title II, this was mainly caused by the renewal of annual IT contracts concluded as planned in the fourth quarter of 2012. For title III, the high level resulted from both the multiannual nature of major projects and from delays in the award of specific contracts. The delays mainly result from a decentralised organisation of procurement procedures which prevents effective monitoring of the implementation of the procurement plan.
- 12. The cancellation rate for title I appropriations for the year 2012 was high at 9,5 % (0,5 million euro) which mainly resulted from frozen recruitment procedures and an anticipated salary increase which had not yet been paid out.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	The high cancellation rate for appropriations indicates difficulties in the implementation of the actions foreseen in the annual work programme and in complying with the budgetary principle of annuality.	Ongoing
2011	Between 16 September and 31 December 2011, all the financial operations (budget and legal commitments, payments) effected by delegated authorising officers were made on the basis of obsolete delegations which had not been renewed after the arrival of the new Director.	Completed
2011	Whereas the Agency's Financial Regulation and the corresponding Implementing Rules provide for a physical inventory at least every three years, the latest physical inventory was carried out in 2006.	Completed
2011	In contrast to the other two European Agencies based in Spain (OHIM in Alicante and CFCA in Vigo), a seat agreement had not been concluded.	Ongoing

ANNEX II

European Agency for Safety and Health at Work (Bilbao) Competences and activities

Areas of Union competence deriving from the Treaty

(Articles 151 and 153 of the Treaty on the Functioning of the European Union) The Union and the Member States [...], shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields:

- (a) improvement in particular of the working environment to protect workers' health and safety;
- (b) working conditions;
- (e) the information and consultation of workers;
- (h) the integration of persons excluded from the labour market, without prejudice to Article 166;
- equality between men and women with regard to labour market opportunities and treatment at work;
- (j) the combating of social exclusion.

Competences of the Agency

(Council Regulation No 2062/94)

Objectives

In order to improve the working environment, as regards the protection of the safety and health of workers as provided for in the Treaty and successive strategies and action programmes concerning health and safety at the workplace, the aim of the Agency shall be to provide the Union and the Member States, the social partners and those involved in the field with technical, scientific and economic information of use in the field of safety and health at work (Article 2).

Tasks

- To collect, analyse and disseminate information on national and Union priorities
- to promote cooperation and the exchange of information, including information on training programmes,
- to supply the Union bodies and the Member States with the information they
 require for formulating and implementing policies, in particular as regards the
 impact on small and medium-sized enterprises,
- to make available information on preventive activities,
- to contribute to the development of strategies and Union action programmes,
- to set up a network comprising national focal points and topic centres.

Governance

Governing Board (GB)

- One representative of the Government of each Member State.
- One representative of the employers' organisations of each Member State.
- One representative of the employees' organisations of each Member State.
- Three representatives of the Commission.
- Members and alternate members from the first three categories shall be appointed from the members and alternate members of the Advisory Committee on Safety and Health at Work.

Bureau of the GB

- Chair and three vice-chairs of the Board.
- Coordinators from each of the three interest groups.
- One additional member from each of the groups and the Commission.

Director is appointed by the Governing Board on the basis of a short-list from the Commission.

Committees

Obligatory consultation of the European Commission and the Advisory Committee on Safety and Health at Work in respect of the work programme and budget.

External audit

European Court of Auditors.

Discharge authority

European Parliament, acting on a recommendation from the Council.

Resources available to the Agency in 2012 (2011)

Budget

16,4 (16,4) million euro of which:

- Union subsidy, DG Employment: 89,0 % (91,0 %)
- Other Union subsidy, DG Employment: 5,9 % (- %)
- Other Union subsidy, DG Enlargement: 3,9 % (8,0 %)
- Other: 1,2 % (1,0 %)

Staff at 31 December 2012

44 (44) posts provided for in the establishment plan, of which, 42* (41) posts were occupied.

Other staff:

- Seconded National Experts: 0 (0)
- contract staff: 25 (26) (one of which financed from earmarked funds)
- local staff: 1 (1)

Total staff employed: 68 (68)

Allocated to:

- operational activities: 48 (50)
- administrative tasks: 10 (10)
- mixed tasks: 9 (8)

Products and services in 2012

EUROPEAN RISK OBSERVATORY: ANTICIPATING CHANGE

(Collecting and analysing information)

Specific objective 1: To provide a basis for priority setting for OSH research and actions via identifying and monitoring trends and anticipating new and emerging risks related to OSH by carrying out a large-scale foresight study

The Foresight project anticipating the longer-term risks associated with the fast-growing area of 'green' jobs has been completed. The project ended with a policy workshop aimed at testing and consolidating the various scenarios that had been developed, and to see how they could lead to various policy options for addressing the issues that the project had raised.

A report highlighting the gaps that exist in our awareness of the potential risks involved in handling nanomaterials was published together with a database of examples of good practice in the management of manufactured nanomaterials, as well as highlighting such initiatives as do exist to communicate the risks of manufactured nanomaterials.

Specific objective 2: To provide input for more focused research and prevention efforts via the review and analysis of research on risk factors and health outcomes

The collaborative website OSHwiki has been further developed with the addition of 'seed articles' in preparation for preliminary launch in 2013 and full launch in 2014. The OSHwiki will enable authorised users to add to and modify the information it will make available, and it will cover important topics which are dealt with by many OSH organisations throughout the world.

Specific objective 3: To support priority setting for OSH research and actions via the provision of an overview of safety and health at work in Europe based on historical and current data

The Agency's Economic Incentives project was finalised, having examined the measures that countries in Europe have taken to encourage good OSH performance, for example lower accident insurance premiums or tax rates, better banking terms such as lower interest rates, and state subsidies. A guide was published providing advice to the institutions that can offer such incentives.

Specific objective 4: To stimulate debate about, and ensure the relevance of, the observatory's findings through discussion and consolidation with target groups and beneficiaries

A workshop on carcinogens and occupational cancer organised by EU-OSHA summarised our current knowledge on relevant exposures and causes and circumstances of work-related cancer.

Together with the European Transport Safety Council, the Agency organised an awareness-raising event on the subject of OSH in the road transport sector, with a particular focus on worker participation in OSH initiatives.

As part of its ongoing project on 'mainstreaming' OSH into education, the Agency published a factsheet and series of case studies on good practice in training teachers in OSH, and in delivering risk education. The Agency has also participated in a number of meetings and workshops, including one organised by the World Health Organization and another by the European Network of Education and Training in Occupational Safety and Health.

The Agency uses its Twitter account to promote its actions through social media and currently has some 6 000 followers.

Specific objective 5: To help policy-makers and providers of OSH information in giving better support to enterprises through the implementation of surveys to collect real-time information on OSH management and key emerging OSH risks

Four secondary analysis reports based on the Agency's 2009 European Survey of New and Emerging Risks (ESENER) were published in 2012: 'Management of occupational health and safety and health at work', 'Worker representation and consultation on health and safety,' 'Factors associated with effective management of psychosocial risks at work,' and 'Drivers and barriers for Management of psychosocial risk management in European enterprises: an exploration of drivers, barriers and needs.'. In addition, a report synopsis was published that summarises the main findings of these four studies: 'Understanding workplace management of safety and health, psychosocial risks and worker participation through ESENER'.

An *ex post* evaluation of ESENER was published in December 2012, which generally validated the approach taken and identified some points that could be improved in a future edition. The report was presented to the Prevention and Research Advisory Group (PRAG).

Specific objective 6: To seek a current consensus on research priorities in OSH, and to encourage national OSH research institutes to set joint priorities, exchange results as well as encourage the inclusion of OSH requirements in research programmes

A final draft report on OSH research priorities in the EU for the years 2013-20 was submitted by the Agency's Topic Centre at the end of September 2012.

WORKING ENVIRONMENT INFORMATION: SHARING KNOWLEDGE ON GOOD PRACTICE AT WORKPLACE LEVEL

Specific objective 1: To develop useful, practical and high-quality information products to support the Healthy Workplaces Campaigns

Around 20 products have been developed for the start of the 2012-13 campaign 'Working together for risk prevention', amongst them the Campaign Guide, cobranded products with the European social partners, case studies and the website.

Specific objective 2: To strengthen prevention measures via the provision of useful and practical good practice information on priority sectors and topics

Literature reviews on employers' and workers' motivation to deal with workplace health promotion (WHP) were produced, together with three e-facts on tobacco (for employers, smokers and non-smokers), which have been promoted through a mini campaign on World No Tobacco Day. Further e-Facts on work-life balance, on health promotion of young workers and on mental health promotion have been published.

EU-OSHA took part in a joint meeting on mainstreaming OSH into education with the ILO and NIOSH in Turin where the NAPO teaching materials were presented.

Specific objective 3: To support prevention measures via ensuring the continued relevance of existing information products

Information on REACH and CLP multilingual section on the Agency's website was updated to draw attention to the changes in EU Chemicals legislation, with a specific focus on workplace issues. This was done in the context of a mini-campaign including sectoral organisations, social partners, related Commission services, national policy makers, and the national REACH helpdesks. EU-OSHA's work on dangerous substances, including information aimed at SMEs, was presented at the SLIC Chemex group meeting and at the ACSH WP Chemicals meeting.

Specific objective 4: To improve the implementation and quality of risk assessments in micro and small enterprises (1-49 employees) via increased awareness on the need to do risk assessment and how to do it

The Agency further developed the Online interactive Risk Assessment (OiRA) tool project at both EU level and at Member State level. Basic development of the software approached completion in 2012 and saw a limited number of new functionalities being developed to better meet the needs identified by OiRA partners. Following a usability test, new developments were initiated to improve the user-friendliness of the tool. The Agency was very active in the promotion and the development of the OiRA community, with tools being taken up widely at national level and through the sectoral social dialogue committees at EU level.

Networking and Coordination

Further development of focal point network, the Governance of the Agency and liaison with European and International organisations.

Institutional capacity building in Candidate and Potential Candidate Countries (earmarked funds).

Programming and evaluation coordination.

THE AGENCY'S REPLIES

- 11. The Agency will take measures to improve the timeliness of procurement procedures in the future by:
- Integrating a procurement schedule in the Annual Management Plan from AMP 2014;
- Developing new procurement and contract management procedures and providing appropriate guidance and training for staff (by end 2013);
- Introducing a new management information system to facilitate the monitoring of the implementation of the procurement plan by the Director (in 2014).
- 12. Cancellations were mainly related to ongoing recruitment procedures and posts being frozen as a precautionary measure until Management will be in a position to assess the impact of budget uncertainties and constraints over the upcoming period (5 % cut in posts in establishment plan etc.) and upcoming Multiannual Financial Framework. As regards the non-paid out salary increases, the appropriations which could only be carried over for one year had to be cancelled in the absence of a decision by the Court of Justice.

REPORT

on the annual accounts of the Research Executive Agency for the financial year 2012, together with the Agency's replies

(2013/C 365/39)

INTRODUCTION

The Research Executive Agency (hereinafter 'the Agency', aka 'REA'), which is located in Brussels, was set up by Commission Decision 2008/46/EC (1). 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 (2). On 15 June 2009 the Agency was officially granted its administrative and operational autonomy by the European Commission.

INFORMATION IN SUPPORT OF THE STATEMENT OF **ASSURANCE**

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.

STATEMENT OF ASSURANCE

- 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 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (5), management is responsible for the preparation and fair

- (1) OJ L 11, 15.1.2008, p. 9.
- (2) Annex II summarises the Agency's competences and activities. It is
- presented for information purposes.

 (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) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (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.

The auditor's responsibility

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

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.

⁽⁷⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comment which follows does not call the Court's opinions into question.

COMMENT ON INTERNAL CONTROLS

11. In 2012 a REA officer signed payment orders amounting to 8,86 million euro (19 % of the 2012 REA budget) as authorising officer when deputising for his head of unit. The officer did not receive a formal subdelegation nor was he officially nominated by the authorising officer as his deputy. This is not in compliance with the subdelegation system laid down in the Financial Regulation.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 17 September 2013.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	Carry-overs amounting to 1,2 million euro (representing 35 % of all appropriations carried over to 2011) were cancelled in 2011. This concerned in particular title I (Staff expenditure) where 0,3 million euro (52 % of appropriations) and title II (Infrastructure and operating expenditure), where 0,7 million euro (41 % of appropriations) were cancelled. This situation is at odds with the budgetary principle of annuality.	Completed
2011	Many budget transfers were made towards the year end. Appropriations concerning IT and operational expenditure increased significantly (1). This situation indicates weaknesses in budget planning and programming and is at odds with the principle of specification.	Completed
2011	There is room for improving the transparency of recruitment procedures. Questions for written tests and interviews were set after the applications had been examined by the selection board; threshold scores for being included in the reserve list were not set in advance; the selection board did not fully document all its meetings and decisions.	Ongoing

 $^{^{(1)}}$ Appropriations concerning IT expenses (budget line 2 1 0 3) increased by 80 % from 1,9 million euro to 3,4 million euro. Appropriations for the common FP7 evaluation platform (budget line 3 3 0 3) increased by 194 % from 0,7 million euro to 2,1 million euro.

ANNEX II

Research Executive Agency (Brussels) Competences and activities

Areas of Union competence deriving from the Treaty

Collection of information

(Articles 179 and 180 of the TFEU)

The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encouraging it to become more competitive, including in its industry.

For this purpose the Union shall encourage undertakings, including SMEs, research centres and universities in their research and technological development activities of high quality; it shall support their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential to the full, in particular through [...] the definition of common standards and the removal of legal and fiscal obstacles to that cooperation. [...]

In pursuing these objectives, the Union shall carry out the following activities, complementing the activities carried out in the Member States:

- (a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities,
- (b) promotion of cooperation in the field of Union research, technological development and demonstration with third countries and international organisations,
- (c) dissemination and optimisation of the results of activities in Union research, technological development and demonstration,
- (d) stimulation of the training and mobility of researchers in the Union.

Competences of the Agency

Objectives

(Commission Decision 2008/46/EC)

The objective of the Agency is to manage the Programmes entrusted to it under the Seventh Framework Programme of the Union for Research, Technological Development and Demonstration Activities (2007-2013) (hereafter FP7) (the People Programme, the SME actions of the Capacities Programme, and the Space and Security themes of the Cooperation Programme) efficiently and effectively, to deliver efficient and effective services to the research community and to provide centralised FP7 support services to the respective Commission services for all areas of the Cooperation, Capacities and People Specific Programmes.

With regard to efficient and effective Programme implementation, the Agency – as promoter of the European Research Area – aims at improving project management, establishing close contact with final beneficiaries and providing high visibility for the European Union.

Tasks

With regard to the management of projects, the Agency concludes and manages grant agreements, involving the following operations:

- preparation and publication of calls for proposals,
- evaluation of proposals,
- preparation and signature of grant agreements,
- monitoring the implementation of projects including acceptance of reports and other deliverables,

- payments, recoveries, and application of sanctions within the meaning of Article 114(4) of the general Financial Regulation, notably when errors in declared costs have been identified following ex post audits at the level of the final beneficiaries.
- ex post publicity and dissemination of results.

With regard to FP7 Support Services, the Agency performs the following tasks:

- administrative support for call publication,
- management of the electronic reception of proposals,
- support for remote and on-site evaluations,
- support for the preparation of appointment letters and payments for experts,
- management of the Central FP7 participants database (Unique Registration Facility
 URF), including support for financial capacity checks on selected beneficiaries,
- management of the Research Enquiry Service.

Governance

Steering Committee

Comprises five members appointed by the European Commission. It adopts the Agency's organisation chart and its Annual Work Programme after approval by the Commission. In addition, it adopts the administrative budget of the Agency and its Annual Activity Report.

Director

Appointed by the Commission, manages the Agency together with the Steering Committee, implements the administrative budget, sets up management and internal control systems adapted to the tasks entrusted to the Agency and prepares the reports to be presented to the Commission.

External audit

European Court of Auditors.

Discharge authority

European Parliament acting on a recommendation from the European Council. With respect to the Agency's implementation of its administrative budget, the discharge decision is addressed to the Director. For the implementation of the operational budget delegated by the Commission to the Agency, the Commission remains accountable.

Resources made available to the Agency in 2012 (2011)

Operational Budget 2012 (2011)

1 479,9 (1 340,6) million euro of commitment appropriations and 1 459,6 (1 059) million euro of payment appropriations. The Agency implements the Commission's operational budget under a delegation decision of the Commission.

Administrative Budget 2012 (2011)

46,4 (39,2) million euro. The Agency implements the administrative budget autonomously.

Staff at 31 December 2012 (2011)

Temporary staff posts: 128 (117) listed in the establishment plan of which 122 (103) occupied

Contract staff: 385 (349) staff planned of which 374 (351) were in place as of 31 December 2012

	Total staff in place: 496 (454) undertaking the following tasks:
	— programme implementation: 330 (287)
	— FP7 support services: 90 (88)
	— management and administrative functions: 76 (79)
Products and services 2012 (2011)	For the People Programme, 10 (9) calls were closed in 2012 and 10 (9) evaluations completed. 1 899 (1 615) new grant agreements were signed and 3 599 (2 676) payments made (excluding payments for expert evaluators). The Agency now manages a total of 5 492 (5 159) projects under this programme.
	For the SME actions of the Capacities Programme, 1 (1) call was closed and 1 (1) evaluation completed. 201 (162) new grant agreements were signed and 508 (385) payments made (excluding payments for expert evaluators). The Agency now manages a total of 625 (522) projects under this scheme.
	For the Space and Security themes of the Cooperation Programme, 2 (2) calls were closed in 2012 and 2 (2) evaluations completed. 80 (118) new grant agreements were signed and 258 (183) payments made (excluding payments to expert evaluators). The Agency now manages a total of 317 (271) projects under these themes.
	As regards the FP7 support services, the results obtained for 2012 are as follows:
	— 89 (64) call publications supported;
	— 32 286 (26 838) proposals received through the electronic proposal submission tool;
	— 6 462 (3 897) expert evaluators contracted and 4 217 (3 620) expert payments made (for programmes managed by the Agency only);
	— 6 616 (6 252) validations of participants completed;
	— 5 871 (7 123) replies sent following questions to the Research Enquiry Service.

Source: Information supplied by the Agency.

THE AGENCY'S REPLIES

11. The deputising arrangements for authorising payments during the absence of the delegated authorising officer are provided in the decision of the Director on rules for deputising (last updated on 23.1.2013).

Nevertheless, following the Court's comment, the REA has meanwhile explored the possibility to delegate powers for the authorisation of payments to an additional staff member within the Finance Unit and has recently appointed a second AOD for payments and low value contracts charged to its administrative budget.

REPORT

on the annual accounts of the Trans-European Transport Network Executive Agency for the financial year 2012, together with the Agency's reply

(2013/C 365/40)

INTRODUCTION

1. The Executive Agency for the Trans-European Transport Network ('the Agency', aka 'TEN-TEA'), located in Brussels, was set up by Commission Decision 2007/60/EC (¹), amended by Decision 2008/593/EC (²). The Agency was established for a period beginning on 1 November 2006 and ending on 31 December 2015 for the management of EU actions in the field of the trans-European transport network (³).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. 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.

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 (4) and the reports on the implementation of the budget (5) for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 (6), the management is responsible for the preparation and fair

- (1) OJ L 32, 6.2.2007, p. 88.
- (2) OJ L 190, 18.7.2008, p. 35.
- (3) Annex II summarises the Agency's competences and activities. It is presented for information purposes.
- (4) 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.
- (5) These comprise the budgetary outturn account and the annex to the budgetary outturn account.
- (6) OJ L 357, 31.12.2002, p. 72.

presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (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 (7); 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.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council (8) 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

⁽⁷⁾ 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.

⁽⁸⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

- 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 2012 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 2012 are legal and regular in all material respects.
- 10. The comment which follows does not call the Court's opinions into question.

COMMENT ON BUDGETARY MANAGEMENT

11. Budget implementation was satisfactory for title I while the rate of committed appropriations carried over was high for titles II and III at 38 % (805 755 euro) and 50 % (363 613 euro) respectively. Out of the total amount carried over (1,37 million euro), 74 % is linked to services delivered in 2012 or early 2013. The remaining 26 % relates to goods and services ordered at the end of 2012 that were originally planned on the 2013 budget, but which were advanced to 2012.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 9 July 2013.

For the Court of Auditors Vítor Manuel da SILVA CALDEIRA President

ANNEX I

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed Ongoing Outstanding N/A)
2011	For title III - Technical and administrative support expenditure, only 41 % of the initial budget of 0,6 million euro was used during the year, mainly due to lower than expected evaluation costs as a result of the postponement to 2012 of the call for proposals for the 2011 work programme of the Agency. The unused appropriations were transferred to title II - Infrastructure and operating expenditure, so that the total final budget of 9,9 million euro remained unchanged. Nonetheless, the underconsumption in title III represents a divergence from the approved annual work programme of the Agency.	Completed

ANNEX II

Trans-European Transport Network Executive Agency (Brussels) Competences and activities

Areas of Union competence deriving from the Treaty

(Articles 26, 170, 171, 172, 174 of the Treaty on the Functioning of the European Union)

The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market. The internal market shall comprise an area in which the free movement of goods, persons, services and capital is ensured.

In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion.

To help achieve these objectives, and to enable citizens in the Union, economic operators and regional and local communities to derive full benefit from the setting up of an area without internal frontiers, the Union shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures. Action by the Union shall aim at promoting the interconnection and interoperability of national networks as well as access to them.

In order to achieve these objectives, the Union shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks (TENs).

Competences of the Agency

(Decision No 661/2010/EU of the European Parliament and of the Council)

(Regulation (EC) No 67/2010 of the European Parliament and of the Council)

(Regulation (EC) No 680/2007 of the European Parliament and of the Council)

(Council Regulation (EC) No 58/2003)

(Commission Decision 2007/60/EC, last amended by 2008/593/EC)

Objectives

The Decision on Union Guidelines for the development of the Trans-European Transport Network (TEN-T) establishes the guidelines covering the objectives, priorities and broad lines envisaged in the area of TEN-T. General rules were laid down for the Union financing of TENs, in order to permit the implementation of these guidelines.

Council Regulation (EC) No 58/2003 empowers the Commission to establish executive agencies to carry out tasks related to Union programmes. TEN-TEA was therefore set up to manage Union action in the field of the TENs on the basis of the TEN-T Guidelines and Financial Regulation and add value in the management of the TEN-T Programme. It remains under the supervision of its parent DG MOVE, which retains responsibility for policy issues.

TEN-TEA is responsible for managing the technical and financial implementation of the TEN-T Programme by following the entire project lifecycle. In its day to day work it aims to improve the effectiveness and flexibility of TEN-T implementation at a lower cost whilst at the same time mobilising a high level of expertise by recruiting more specialised staff. It also strengthens the links between the TEN-T and key stakeholders, ensures a better coordination of funds with other EU instruments, raises the profile and benefits of EU funding and provides support/feedback to the Commission.

Governance

Steering Committee

The Agency's activities are supervised by a Steering Committee which is composed of five members from the EU Directorates-General Mobility and Transport, Regional and Urban Policy, Environment and Human Resources and an observer from the European Investment Bank. The Committee meets four times a year and approves the Agency's Administrative Budget, Work Programme, Annual Activity Report, Accounts of all revenue and expenditure and the external evaluation report, and adopts other specific implementing rules.

Director

Appointed by the European Commission.

Internal audit

European Commission's Internal Audit Service (IAS) and the Agency's Internal Audit Capability.

External audit

European Court of Auditors.

Discharge authority

European Parliament acting on a recommendation from the Council.

Resources available to the Agency in 2012

Budget

- A. 7,9 billion euro (100 % general budget of the European Union) for the TEN-T budget linked to the 2007-2013 Financial Perspective.
- B. 9,8 million euro (administrative budget) in the form of a 100 % EU subsidy, which the Agency manages autonomously.

Staff at 31 December 2012

Temporary Agent posts: 33 posts listed in establishment plan, of which $100\,\%$ occupied.

Contract staff: 67 posts planned, of which 66 (99%) were occupied.

Total staff: 100 (99 occupied).

Allocated to:

- (a) Operational activities: 65 (64 occupied).
- (b) Administrative activities: 35 (35 occupied).

Products and services 2012

Selections

- 2011 Annual Work Programme (AP) call for proposals with five priority areas for a total of 200 million euro. 138 proposals requesting 426,3 million euro were evaluated by 34 external experts and 74 proposals for 198,7 million euro were recommended for funding.
- Preparation of the 2012 multiannual and annual calls for 1 057 million euro and 250 million euro respectively, published in 2012.

Project Management

- Preparation of 96 new financing Decisions (2011 calls) 325 open at the end of 2012.
- Treatment of 102 requests for amendments from the beneficiaries 63 new in 2012.
- Analysis of 171 Action Status Reports (ASRs the main tool for monitoring project progress) and 21 Strategic Action Plans (SAPs).
- 207 project meetings held either on-site or at the Agency's premises.
- Full use of the available payment appropriations, with an average net time to pay of only 12 days.

Simplification measures

- Improving internal procedures and communication with beneficiaries, e.g. regarding reporting, procurement assessment, modifications of decisions, etc.
- Development of an electronic submission tool for ASRs.
- Revamping of the Good Practice Working Group (Agency and beneficiaries) created to discuss proposals to improve efficiency in the administrative implementation of the programme.
- Development of inventories regarding interpretations of Commission Decision provisions and of procurement cases.
- Improving and streamlining internal procedures through the administrative and the operational expenditure template working groups.

Communication

- Website added new Twitter feed (@tentea_eu) and enlarged project successes section – 166 000 visits in 2012. Motorways of the Sea Helpdesk website had 2 500 visitors.
- Campaign '10 (MORE) out of TEN' on additional TEN-T project achievements with website updates, tweets, brochure and posters.
- Changeover and implementation of the Commission's visual identity for all dissemination materials, website, Intranet, templates and signage.
- Publication of 11 e-Newsletters/updates for beneficiaries, 37 press releases in 20 languages on calls, achievements and new projects selected, 53 press releases prepared for distribution, and an updated corporate flyer/folder resulting from visual identity changes (see above), new ERTMS brochure, brochures for the FAC on selected Annual and Multiannual Call projects.
- Events included the joint TEN-T Day/Info Day and Exhibition with DG MOVE, Annual Call Info Day; participation in DG MOVE/Danish Presidency ERTMS conference, Institutional Open Day, and other TEN-T related events organised by DG REGIO/CoR.

Cooperation with parent DG

- Development of specialised data analysis for reporting on the Annual Work Programme and for financial planning and follow-up to ensure effective and efficient overall Programme implementation.
- Assistance in underpinning the positions DG MOVE had developed during the Co-Decision process on the Connecting Europe Facility (CEF) and the new TEN-T Guidelines.
- Production of statistics, reporting and maps related to the Programme, e.g. 'the Report on TEN-T Programme Implementation'.
- Joint Management meeting once per month with participation of Directors, Heads of Units, Head of Communication and Agency/DG Liaison Officers.

Audits

- Adoption of a multiannual audit strategy for the period 2013-2015.
- 14 audits were carried out, representing 21 % of the interim/final payments (monetary value) of 2011.

THE AGENCY'S REPLY

11. The Agency agrees that the amount of the carry-over on titles II and III is relatively important, but wishes to inform the Court that the decision to advance certain expenditures, initially foreseen on the 2013 budget, to the 2012 budget, was taken in full agreement with the Agency's Steering Committee. In fact, this was necessary to reduce the burden of the very tight 2013 budget, and to use the 2012 budget in the most efficient way, in compliance with the principle of sound financial management.

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