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COVER NOTE

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| From: | Mr Klaus-Heiner LEHNE, President of the European Court of Auditors |
| date of receipt: | 4 November 2016 |
| To: | Mr Peter KAZIMIR, President of the Council of the European Union |
| Subject: | Report on the annual accounts of the European Environment Agency for the financial year 2015 together with the Agency's reply |

Delegations will find attached the European Court of Auditors' report on the annual accounts of the European Environment Agency for the financial year 2015.

This report is accompanied by the Agency's reply and will shortly be published in the *Official Journal of the European Union*.

Encl.: Report on the annual accounts of the European Environment Agency for the financial year 2015 together with the Agency's reply.¹

¹ In English only. The other languages of this report are available on the European Court of Auditors' website: <http://eca.europa.eu/>.



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts
of the European Environment Agency
for the financial year 2015

together with the Agency's reply

INTRODUCTION

1. The European Environment Agency (hereinafter “the Agency”, aka “EEA”), which is located in Copenhagen, was established by Council Regulation (EEC) No 1210/90¹. 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. **Table 1** presents key figures for the Agency².

TABLE 1: KEY FIGURES FOR THE AGENCY

| | 2014 | 2015 |
|--|-------------|-------------|
| Budget (million euro) | 52,6 | 49,2 |
| Total staff as at 31 December ³ | 204 | 198 |

Source: data provided by the Agency

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

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

¹ OJ L 120, 11.5.1990, p. 1.

² More information on the Agency's competences and activities is available on its website: www.eea.europa.eu.

³ Staff includes officials, temporary and contract staff and seconded national experts.

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 Agency, which comprise the financial statements⁴ and the reports on the implementation of the budget⁵ for the financial year ended 31 December 2015, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

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 transactions⁶:

- (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 officer⁷; making accounting estimates that are reasonable in the circumstances. The Executive 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.

⁴ These include the balance sheet and the statement of financial performance, 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 Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

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.

- (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 Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council⁸ 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 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. In preparing this report and Statement of Assurance, the Court considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation⁹.

⁸ Article 107 of Regulation (EU) No 1271/2013.

⁹ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

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 Agency's annual accounts present fairly, in all material respects, its financial position as at 31 December 2015 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 2015 are legal and regular in all material respects.

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

OTHER COMMENTS

12. The audited procurement procedures showed that the Agency signed framework contracts with a single contractor which are used for various services under fixed-price specific contracts. As a consequence of requesting a fixed-price offer from a single contractor under these contracts, competition on price is neutralised and dependence upon the contractor is increased. The Agency should conclude agreements with multiple suppliers with reopening of competition or direct service contracts, whenever possible.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

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

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA,
Member of the Court of Auditors, in Luxembourg at its meeting of 13 September 2016.

For the Court of Auditors

(s) Vítor Manuel da SILVA CALDEIRA

President

Follow-up of previous years' comments

| Year | Court's comment | Status of corrective action (Completed / Ongoing / Outstanding / N/A) |
|-------------|--|--|
| 2012 | <p>In 2012 the Agency awarded grants under three major grant programmes¹ 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 costs².</p> | Completed |

¹ European Topic Centres (ETC), European Neighbourhood Partnership Instrument (ENPI) and Global Monitoring for Environment and Security Initial Operations (GIO).

² For other types of costs (i.e. sub-contracting, acquisition of equipment), supporting documents are requested and analysed.

| Year | Court's comment | Status of corrective action (Completed / Ongoing / Outstanding / N/A) |
|----------------------|---|--|
| 2013 | <p>In 2013 the Agency awarded grants under five grant programmes³ to consortia consisting of environmental institutions and bodies in Europe, UN organisations and national environment organisations. Total grant expenditure in 2013 was 13,9 million euro, representing 31 % of total operating expenditure. The Agency's ex ante verifications consist of a desk analysis of cost claims. Following the Court's comment of last year, the EEA intensified its checks on the eligibility and accuracy of staff costs claimed under the grant programmes, as these represent the major part of costs. In particular, for a sample of beneficiaries, time sheets were obtained to check the salary costs claimed, but payslips have not been obtained. For the transactions audited by the Court supporting documentation was obtained which provided reasonable assurance as to their legality and regularity.</p> | Completed |
| 2012 and 2013 | <p>(Ex ante) On-the-spot verifications of costs [claimed under the grant programmes] at beneficiary level are rare⁴. Existing controls therefore provide only limited assurance on the eligibility and accuracy of the costs claimed by beneficiaries.</p> | Ongoing⁵ |

³ European Topic Centres (ETCs), European Neighbourhood Partnership Instrument (ENPI) Global Monitoring for Environment and Security Initial Operations (GIO and GIO2), GMES in-situ coordination (GISC) and Instrument for Pre-Accession Assistance (IPA2).

⁴ 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.

⁵ The Agency carried out five on-the-spot ex-ante verifications related to payments to ETCs for the financial years 2015, 2014 and 2013.

| Year | Court's comment | Status of corrective action (Completed / Ongoing / Outstanding / N/A) |
|-------------|--|--|
| 2014 | In 2014 the Agency launched a call to procure services to provide IT and Geographic Information Systems (GIS) consultancy services for the implementation of Reference Data Access (RDA) component and for supporting EEA in other Copernicus related activities to the value of 1,7 million euro. An important aspect of the tender referred to as "known shortcomings" was not defined anywhere in the technical specifications. Clearer tender specifications would have contributed to a more effective and competitive procurement procedure. | N/A |
| 2014 | Although the EEA has started to implement a new ex-ante and ex-post control policy for grants, the verification procedures have not yet been documented. However, guidelines have been issued to beneficiaries (European Topic Centres or ETC) on the preparation of cost statements | Completed |
| 2014 | Weaknesses were nevertheless noted for the grant transactions audited. For one of the ETCs, the verifying officer had identified the inclusion of ineligible expenditure within the cost claim but the authorising officer approved the full amount claimed. In a second case, the full cost claim was paid even though most of the partners selected for ex ante verification had not provided the EEA with the requested documents. | N/A |
| 2014 | Furthermore, the internal auditor was involved in both ex ante and ex post verifications: these are incompatible tasks. It should be noted that the system of ex ante controls has been the subject of discussion between the Court and the Agency since 2012. | Ongoing |

| Year | Court's comment | Status of corrective action (Completed / Ongoing / Outstanding / N/A) |
|------|---|--|
| 2014 | <p>The Agency has contracted backup services, including email services, with a cloud services provider using an interinstitutional contract procured by DIGIT. The conditions of the contract do not adequately define the location of the Agency's data. The contractor has reserved the right to transfer the Agency's data outside the geographic area of the European Union without notice, e.g. to address latency issues, routing data may need to be copied to different data centres in different regions. Consequently the Agency has not ensured that the privileges and immunities of the European Communities, to which it is subject, are guaranteed and that the service provider fully respects the privacy guarantees granted by Article 7 of the EU Charter of Fundamental Rights.</p> | Outstanding ⁶ |

⁶ The Agency considers this issue to be closed following the amendments of the contract. The Court's assessment is subject to the outcome of the pending legal case Microsoft vs. United States (No. 14-2985-cv).

THE AGENCY'S REPLY

11. The Agency wishes to emphasise that the level of competition of the particular market of satellite imagery production and analysis is relatively limited due to the few number of service providers operating in the related sectors and the stability and consistency of the prices applied. Furthermore the technical nature and complexity of the services to be provided require the combination of different expertise that the service providers operating in this market can only provide when joining forces into a consortium. The choice of awarding a framework contract with a single economic operator is therefore a conscious one resulting from an assessment of tangible factors rather than hypotheses.

Annex I, comment 2012 and 2013:

Following the Court's comment on grants related to financial years 2012 and 2013, five on-the-spot ex ante verifications related to payments to European Topic Centres (ETCs) for the financial years 2013, 2014 and 2015 were performed. Further to these on-the-spot verifications, which covered 20 % of the total staff costs claimed by all beneficiaries, 0,12 % of the controlled costs were declared non-eligible.

The EEA verification policy on ETC from May 2014 ensured that the controls performed by means of request of supporting documentation give assurance on the eligibility and accuracy of the costs claimed by beneficiaries. This policy has been revised in October 2015 and since then the Internal Audit Capability carries out exclusively ex-post on-the-spot verifications, the first of which having taken place in spring 2016. In addition, further to an external assessment performed in 2015, the Agency's Internal Audit Capability was certified as compliant with the IIA standards which examine in particular the independence of the function.