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**COVER NOTE**

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From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	25 October 2013
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of the Euratom Supply Agency for the financial year 2012 together with the Agency's replies

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Delegations will find attached the European Court of Auditors' report on the annual accounts of the Euratom Supply Agency for the financial year 2012.

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

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Encl.: Report on the annual accounts of the Euratom Supply Agency for the financial year 2012 together with the Agency's replies.<sup>1</sup>

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

ΕΒΡΟΠΕΪΣΚΑ ΣΜΕΤΗΑ ΠΑΛΙΑΤΑ  
TRIBUNAL DE CUENTAS EUROPEO  
EVROPSKÝ ÚČETNÍ DVŮR  
DEN EUROPÆISKE REVISIONSRET  
EUROPÄISCHER RECHNUNGSHOF  
EUROOPA KONTROLLIKODA  
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ  
EUROPEAN COURT OF AUDITORS  
COUR DES COMPTES EUROPÉENNE  
CÚIRT INIÚCHÓIRÍ NA HEORPA



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EUROPEISKA REVISIONSRÄTTEN

Report on the annual accounts  
of the Euratom Supply Agency  
for the financial year 2012

together with the Agency's replies

## **INTRODUCTION**

1. The Euratom Supply Agency (hereinafter “the Agency”), located in Luxembourg, was created in 1958<sup>1</sup>. Council Decision 2008/114/EC, Euratom<sup>2</sup> replaced the preceding Statutes of the Agency. The Agency's main 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<sup>3</sup> and the reports on the implementation of the budget<sup>4</sup> for the financial year ended 31 December 2012, and

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<sup>1</sup> OJ L 27, 6.12.1958, p. 534.

<sup>2</sup> OJ L 41, 15.2.2008, p. 15.

<sup>3</sup> 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.

<sup>4</sup> These comprise the budgetary outturn account and the annex to the budgetary outturn account.

- (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<sup>5</sup>, 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; 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.

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<sup>5</sup> OJ L 357, 31.12.2002, p. 72.

*The auditor's responsibility*

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council<sup>6</sup> 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.

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

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	<p>Without calling into question the opinion expressed in paragraph 10, the Court wishes to draw again attention to the following matter. Article 54 of the Treaty Establishing the European Atomic Energy Community provides that the Agency shall have financial autonomy. Article 7 of the Agency's Statutes provides that "the expenditure of the Agency shall consist of administrative expenses of its staff and of the Committee, as well as expenses resulting from contracts entered into with third parties". In fact, the Agency has not, since 2008, received a budget. That being the case, the European Commission has directly discharged the Agency's expenses mentioned in Article 7 above. In the Court's view, this situation is at odds with the Statutes of the Agency and the Court considers that the Agency and the Commission should, together with all interested parties, consider measures to eliminate this situation.</p>	<p style="text-align: center;"><b>Ongoing</b></p>



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

<b>Areas of Union competence deriving from the Treaty</b>	<p><b>Common supply policy for nuclear materials</b> (i.e. ores, source materials, special fissile materials), in accordance with the principles (in particular, equal access for all users) and the objectives (<i>security of supply</i>) set by the Euratom Treaty:</p> <ul style="list-style-type: none"> <li>– 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.</li> <li>– 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.</li> </ul>
<p><b>Competences of the Agency</b></p> <p><i>[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)]</i></p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>– 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).</li> <li>– 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).</li> <li>– 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).</li> <li>– 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).</li> </ul> <p><b>Tasks</b></p> <p>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.</p> <p>In the light of the above, the Euratom Supply Agency’s tasks include:</p> <ul style="list-style-type: none"> <li>– 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;</li> <li>– 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;</li> <li>– 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;</li> <li>– 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);</li> <li>– to manage, as appropriate, the contracts which it concluded or of which it received notification;</li> <li>– 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);</li> <li>– 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;</li> <li>– 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);</li> <li>– 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;</li> <li>– 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).</li> </ul>

<p><b>Governance</b></p>	<ul style="list-style-type: none"> <li>– The Agency is endowed with legal personality and financial autonomy (Article 54 of the Euratom Treaty).</li> <li>– 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).</li> <li>– 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).</li> <li>– The Euratom Treaty (Article 54) and the the Euratom Supply Agency's Statutes (Article 9) determine the Agency's capital and the conditions upon which it is subscribed.</li> </ul> <p><b>Director-General</b></p> <p>Appointed by the Commission (Article 53 of the Euratom Treaty), for an indefinite period of time.</p> <p>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).</p> <p><b>The Euratom Supply Agency's Supervision by the Commission</b></p> <p>Pursuant to Article 53 of the Euratom Treaty and Article 5 of the Euratom Supply Agency's Statutes that:</p> <ul style="list-style-type: none"> <li>– the Commission may issue directives to the Euratom Supply Agency;</li> <li>– the Commission possesses a right of veto over the Agency's decisions.</li> </ul> <p><b>Advisory Committee</b></p> <ul style="list-style-type: none"> <li>– As per Article 11 of the Euratom Supply Agency's Statutes, it is composed from members of the Member States, which are appointed <i>intuitu personae</i> for a (renewable) three-year term.</li> <li>– 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).</li> <li>– 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.</li> </ul> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Internal audit</b></p> <p>European Commission's Internal Audit Service (IAS).</p> <p><b>Discharge authority</b></p> <p>European Parliament.</p>
<p><b>Resources made available to the Agency in 2012</b></p>	<p><b>Budget</b></p> <ul style="list-style-type: none"> <li>– 104 000 euro, including: <ul style="list-style-type: none"> <li>– subvention from the Commission: 98 000 euro</li> <li>– investment income and bank interest: 6 000 euro</li> </ul> </li> </ul> <p><b>Staff on 31 December 2012</b></p> <p>Number of posts earmarked for the Agency in the EU budget: 9 AD (including the Director-General) and 16 AST.</p> <p>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).</p> <p>Other staff: 1 END post, vacant (Contract staff and seconded national experts).</p> <p>Total staff number: 17 (including the Director-General).</p>
<p><b>Products and services provided in 2012</b></p>	<p><b>Security of supply ensured</b></p> <p><b>Transactions processed</b></p> <p>Some 270 transactions, including contracts, amendments and notifications of the front-end activities, were processed by the Agency in 2012</p> <p><b>Inter-service Consultations (ISC). Commission decisions prepared</b></p> <p>The Agency prepared the Commission decision on a procedure based on Article 65 in connection with Article 60 of the Euratom Treaty.</p> <p>The Agency provided input to the procedure in view of its budget for 2013.</p>

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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 authorization (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.

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*Source:* Information supplied by the Agency.

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