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COVER NOTE

From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	22 October 2013
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of the European Maritime Safety Agency for the financial year 2012 together with the Agency's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the European Maritime Safety 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*.

Encl.: Report on the annual accounts of the European Maritime Safety Agency for the financial year 2012 together with the Agency's replies.¹

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

ЕВРОПЕЙСКА СМЕТНА ПАЛАТА
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 European Maritime Safety Agency
for the financial year 2012

together with the Agency's replies

INTRODUCTION

1. 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 Council¹. 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 effectiveness².

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 statements³ and the reports on the implementation of the budget⁴ for the financial year ended 31 December 2012, and

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.

- (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 2343/2002⁵, 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 officer⁶; 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.

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.

- (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 Council⁷ 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

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

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 internally-created intangible assets

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
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 <i>(Article 100 of the Treaty on the Functioning of the European Union)</i>	Common transport policy "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 <i>(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)</i>	Objectives 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: <ul style="list-style-type: none"> – 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 co-operation between, the Member States and disseminates best practices.
Governance	Administrative Board <i>Composition</i> One representative per Member State, four representatives of the Commission and four representatives without the right to vote from the professional sectors concerned. <i>Tasks</i> <ul style="list-style-type: none"> – To adopt the multi-annual 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,

	<ul style="list-style-type: none"> – to supervise the work undertaken by the Executive Director. <p>Executive Director</p> <p>Appointed by the Administrative Board. The Commission may propose one or more candidates.</p> <p>External audit</p> <p>European Court of Auditors.</p> <p>Internal audit</p> <ul style="list-style-type: none"> – European Commission's Internal Audit Service (IAS). – Internal Audit Capability of the Agency. <p>Discharge authority</p> <p>European Parliament, acting on a recommendation from the Council.</p>
Resources made available to the Agency in 2012 (2011)	<p>Final Budget</p> <p><i>Commitment Appropriations (C1)</i></p> <p>55,1 (56,4) million euro</p> <p><i>Payment Appropriations (C1)</i></p> <p>57,5 (56,4) million euro</p> <p>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.</p> <p>Staff as at 31 December 2012</p> <p><i>Statutory Staff</i></p> <p>213 (208) posts authorised in the establishment plan, of which occupied: 204 (197)</p> <p><i>Contract Agents</i></p> <p>29 (29) planned in the budget, of which occupied: 25 (25)</p> <p><i>Seconded National Experts</i></p> <p>15 (15) planned in the budget, of which occupied: 12 (15)</p>
Products and services 2012	<ul style="list-style-type: none"> – 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.