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COVER NOTE

From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	30 October 2014
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of the Executive Agency for Health and Consumers for the financial year 2013 together with the Agency's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the Executive Agency for Health and Consumers for the financial year 2013.

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 Executive Agency for Health and Consumers for the financial year 2013 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/>.

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ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ
EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
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Report on the annual accounts
of the Executive Agency for Health and Consumers
for the financial year 2013

together with the Agency's replies

INTRODUCTION

1. The Executive Agency for Health and Consumers (hereinafter “the Agency”, aka “EAHC”), located in Luxembourg, was set up by Commission Decision No 2004/858/EC¹ and amended by Decision No 2008/544/EC². 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 policy³. By Commission Decision No 2013/770/EU,⁴ the Agency was replaced by its legal successor Consumers, Health and Food Executive Agency (CHAFEA) established for a period beginning 1 January 2014 and ending 31 December 2024.

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:

¹ OJ L 369, 16.12.2004, 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 OJ L 341, 18.12.2013, p. 69.

- (a) the annual accounts of the Agency, which comprise the financial statements⁵ and the reports on the implementation of the budget⁶ for the financial year ended 31 December 2013, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. 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 transactions⁷:

- (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 officer⁸; 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

⁵ 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.

⁶ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁷ Articles 62 and 68 in conjunction with Articles 53 and 58 of Regulation (EU, Euratom) No 966/2012 (OJ L 298, 26.10.2012, p. 1).

⁸ 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.

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 Council⁹ 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

⁹ Article 162 of Regulation (EU, Euratom) No 966/2012.

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 2013 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 2013 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 2012, 0,23 million euro or 21 % were cancelled in 2013. Such a high level of cancellations indicates weaknesses in budget planning, particularly in forecasting costs for meetings with external participants.

12. The overall level of committed appropriations was relatively low at 94 %. The 2013 payment rates against committed appropriations were satisfactory for title I and II at 97 % and 87 % respectively. Although carry-overs for title III are high at 1,0 million euro or 43 % of committed title III appropriations, they reflect the multiannual nature of the Agency's activities and payments were planned and made according to operational needs.

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 Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 8 July 2014.

For the Court of Auditors

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)
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.	N/A
2012	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.	N/A
2012	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.	N/A

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

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Article 168 and 169 of the Treaty on the Functioning of the European Union)</i></p>	<p>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.</p> <p>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.</p>
<p>Competences of the Agency</p>	<p>Objectives</p> <ul style="list-style-type: none"> – 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. – By its implementing Decision of 17 December 2013 (Ref. 2013/770/EU) the European Commission established the Consumers, Health and Food Executive Agency – Chafea – which replaced and succeeded the Executive Agency for Health and Consumers from 1 January 2014 to 31 December 2024. – As a consequence, any reference in this annex to the Executive Agency for Health and Consumers (EAHC) shall also be deemed a reference, as of 1 January 2014, to the newly established Consumers, Health and Food Executive Agency (Chafea), which is the legal successor of EAHC. <p>Tasks</p> <p>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 2008¹:</p> <p>Public Health Programme 2003-2008 - Decision No 1786/2002/EC</p> <p>Public Health Programme 2008-2013 - Decision No 1350/2007/EC</p> <p>Consumers Programme 2007-2013 - Decision No 1926/2006/EC</p> <p>Food Safety Training Measures - Regulation (EC) No 882/2004 and Directive 2000/29/EC:</p> <ul style="list-style-type: none"> (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.

	<p>(d) Organising meetings, seminars, talks, and training measures.</p> <p>(e) Helping to evaluate the programme's impact, in particular the annual and/or mid-term evaluation of implementation of the programmes, and implementing the follow-up actions on evaluations decided by the Commission.</p> <p>(f) Disseminating the results of the information operations planned and implemented by the Commission.</p> <p>(g) Producing overall control and supervision data.</p> <p>(h) Participating in preparatory work on financing decisions.</p>
Governance	<p>Steering Committee</p> <p>Comprises five members appointed by the European Commission. The members of the Steering Committee are appointed for two years.</p> <p>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.</p> <p>Director</p> <p>Appointed by the European Commission for four years.</p> <p>External audit</p> <p>European Court of Auditors.</p> <p>Discharge authority</p> <p>European Parliament following a recommendation from the Council.</p>
Resources made available to the Agency in 2013 (2012)	<p>Final Budget</p> <p>The Agency's administrative budget for 2013 amounted to 7,23 (7,22) million euro.</p> <p>Staff at 31 December 2013</p> <p>On 31 December 2013, the Agency employed 50 (50) statutory staff members, including 11 (11) temporary staff and 38 (39) contract staff.</p>
Products and services 2013	<ol style="list-style-type: none"> Closing the 2005 – 2007 grants provided under the 2003 – 2008 Public Health Programme (PHP); monitoring the 2008 – 2012 grant provided under the second Health Programme – HP (2008 – 2013), successfully finalising negotiations for grants under the 2013 calls for proposals, including projects, conferences, operating grants and joint actions. Managed the 2013 call for proposals, 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. HP work programme <ul style="list-style-type: none"> The 2013 call for proposals was launched on 20 December 2012 and closed on 22 March 2013. It was published in the EU Official Journal² and on the EAHC³ and Europa websites. Project proposals: 9 of the 52 technically evaluated project proposals (17,3 %) were recommended for funding (excluding reserve list), for a total proposed EU co-funding of 12 243 354 euro. Conference proposals: 11 of the 46 technically evaluated conference proposals (24 %) were recommended for funding. This amounts to a proposed EU co-funding of 719 758 euro. Operating grant proposals: 20 of the 44 technically evaluated operating grant proposals (45,4 %) were recommended for funding. This amounts to a proposed EU co-funding of 5 293 430 euro. Joint actions: All 5 joint action proposals submitted were recommended for EU co-funding of 13 572 397 euro. Reserve lists have been established for projects, operating grants and conferences. For projects, 4 applications have been placed on the reserve list. In total these sum up to a

proposed EU co-funding of 4 815 524 euro. For conferences a reserve list of 3 proposals was made (amounting to 275 934 euro) and for operating grants the reserve list comprises 4 submissions for a total of 425 280 euro co-funding.

- 13 open calls for tender, including 2 for framework contracts and 13 requests for services were published in 2013.
 - As most contracts were concluded at the end of 2013, 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 2013, the Agency, being entrusted with the implementation of parts of the (annual) Consumer Work Programme, launched 8 Calls for Proposals and 21 public procurement procedures.
 - The Agency awarded 56 grants for exchanges of officials between competent authorities of Member States (MS), giving the opportunity to enforcement officials to share experience and knowledge about the implementation of Directive 2001/95 EC on General Product Safety and of Regulation 2006/2004 on Consumer Protection Cooperation (CPC).
 - The grant awarded for the implementation of joint actions pertaining to the General Product Safety Directive (GPSD) aimed at exchanging and implementing best practices between the competent authorities of the participating MSs and improving cross-border cooperation.
 - Following the accession of Croatia to the EU, the Agency signed the first grant for the support of the activities to be undertaken by the European Consumer Centre (ECC) in Croatia.
 - The Agency concluded a service contract providing for a support mechanism for the ECC-Network in order to improve its visibility and the impact of the ECC's collective work. The development of quality standards is part of the service and will assist the ECC to measure its performance against the predefined indicators.
 - The Agency launched a number of procurement procedures to support the objective of consumer safety; the services requested resulted in the design and validation (in accordance with ISO rules) of graphical symbols conveying certain safety or warning messages to be used for child-care articles, products intended to facilitate sleep, relaxation, hygiene and the feeding of children.
 - The study on alcohol-powered flue-less fireplace combustion aimed at determining the effects of the emissions on indoor air quality via laboratory experiments.
 - Two sets of actions were agreed during 2013 in respect of consumer protection cooperation (CPC). The first focuses on enforcement of Community rules on unfair terms included in consumer contracts (Directive 93/13/EEC on unfair terms in consumer contracts - Unfair Terms Directive (UTD)). The action aims at creating a more uniform understanding of the UTD, and intends to enable enhanced information exchange between the competent authorities. The second intends to build and develop an Internet Researchers Network, promoting the creation of Internet Labs throughout the competent authorities in EU Member States.
 - In 2013 the Agency signed specific grants with the Bureau Européen des Unions de Consommateurs (BEUC) and has prepared the grant agreement with 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.
4. BTSF work programme
- The Agency launched 26 procurement procedures which led to the 29 service contracts signed in 2013. The service which will be provided with these contracts consists in the organisation of training courses designed to train staff of EU Member States and of the national authorities of candidate countries and ENP and EFTA countries which are involved in official control activities.

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| <ul style="list-style-type: none">- The purpose of the training is to keep the trainees up-to-date with all aspects of EU law in food-related areas and ensure that controls are carried out in a more uniform, objective and adequate manner in all Member States. These training courses will cover food-related legislation over a broad range, from Animal welfare to HACCP (Hazard Analysis and Critical Control point), from semen ova and embryos to risk assessment and from plant health to veterinary medicinal products.- With the additional third country-related BTSF programme financed via DG DEVCO's and DG TRADE's budgets, a specific training course will also be organised in third and developing countries with a view to familiarising the third country officials who are involved in food controls with EU standards and import requirements. It is planned that 2 100 third country officials will be trained.- With regard to the level of participants trained per year, the BTSF Initiative achieved a steady rate of around 6 000 participants, as planned from the outset, for trainees from Member States. Overall satisfaction reached the targeted 85 % while more than 90 % of the participants evaluated the knowledge gained as useful. |
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^{1.} Commission Decision of 9 September 2008 - delegating powers to the Agency.

^{2.} OJ C 378/6, 8.12.2012, http://ec.europa.eu/eahc/documents/health/calls/2013/HP_work_plan_for_2013.pdf.

^{3.} <http://ec.europa.eu/eahc/>

Source: Annex supplied by the Agency.
