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COVER NOTE

From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	28 October 2015
To:	Mr Jean ASSELBORN, President of the Council of the European Union
Subject:	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 2014 together with the Agency's reply

Delegations will find attached the European Court of Auditors' 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 2014.

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 Agency for the Management of Operational Cooperation at the External Borders of the Member States for the financial year 2014 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 Agency for the Management of Operational Cooperation
at the External Borders of the Member States for the financial year 2014

together with the Agency's reply

INTRODUCTION

1. 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 2007/2004¹. 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

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 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 2014, and
- (b) the legality and regularity of the transactions underlying those accounts.

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 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.

⁴ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

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 transactions⁵:
- (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 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.
- (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

⁵ Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

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 107 of Regulation (EU) No 1271/2013.

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. 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 Regulation⁸.

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 2014 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 2014 are legal and regular in all material respects.

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

⁸ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

11. Considerable improvements were noted in both ex ante and ex post verifications of expenditure claimed by cooperating countries under grant agreements. However, documentation from cooperating countries supporting the expenditure claimed is not always sufficient. Moreover, no audit certificates were requested, although the rules of application of the EU's Financial Regulation recommend this for grants above specific thresholds⁹. Audit certificates would add further assurance on the legality and regularity of grant transactions.

COMMENTS ON BUDGETARY MANAGEMENT

12. The level of carry-overs for committed appropriations was high for title II (administrative expenditure) at 4,5 million euro, i.e. 36 % (2013: 2,4 million euro, i.e. 27 %) and title III (operational expenditure) at 28,4 million euro, i.e. 44 % (2013: 29,2 million euro, i.e. 47 %). For title II, the main reason is year-end purchases related to the move to the agency's new building in December 2014. For title III, high carry-overs mainly result from the multiannual nature of the agency's operations and the approval of an additional 4,2 million euro budget in October 2014.

OTHER COMMENTS

13. The high and constantly increasing number of grant agreements and the magnitude of related expenditure to be verified and reimbursed by FRONTEX raise the question whether more efficient and cost-effective alternative funding mechanisms could be used.

14. There is a need to refine the calculation of contributions from Schengen associated countries (Switzerland, Liechtenstein, Iceland and Norway) to better reflect the related legal provisions¹⁰. For example, the calculation should be based on the final instead of the budgeted annual subsidy received from the Commission.

⁹ Delegated Regulation (EU) No 1268/2012 of the Commission (OJ L 362, 31.12.2012, p. 1).

¹⁰ Arrangement between the European Community of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by

15. Contributions to the Agency's budget from the United Kingdom and Ireland (which are non-Schengen countries) have remained stable for many years despite the considerably extended range of activities in which they are involved. A review of their contributions is therefore overdue.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

16. An overview of the corrective actions taken in response to the Court's comments from the 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 September 2015.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 243, 16.9.2010, p. 4); Arrangement between the European Community and the Republic of Iceland and the Kingdom of Norway on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 188, 20.7.2007, p. 19).

Follow-up of previous years' 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.	N/A
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.	Completed
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.	Completed
2012	Weaknesses were still noted in the system for reconciling suppliers' statements with the corresponding records at the Agency.	Ongoing

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2012	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, multi-annual nature of the Agency's activities. By the end of February 2013, 1,1 million euro of these carry-overs had been cancelled.	N/A
2012	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.	Ongoing
2013	Suppliers' statements at year-end were reconciled with considerable difficulty. There is a need to monitor supplier balances more regularly and to analyse differences in a more timely manner.	Ongoing
2013	Some 32 million euro or 35 % of committed 2013 appropriations were carried over to 2014. Although the multiannual nature of the Agency's operations and the heightened risk of unforeseen events represent a particular challenge in respect of annual budget planning and implementation, there is still scope for improved budget monitoring to help reduce the level of carry-overs.	N/A
2013	The carry-overs include global commitments of 5,2 million euro, which are the left-over balance of an 8,2 million euro additional subsidy made available by the budgetary authorities towards the end of 2013 to deal with unforeseen and urgent operational needs. Although the global commitment was made to cover the related operations in 2014, the Agency's financial regulation does not provide a clear basis for such carry-overs.	Completed

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2013	In 2013, 29 budgetary transfers amounting to 12,2 million euro were made. This is partly due to the fact that funds needed for operations had been transferred from other budget lines until the additional subsidies were made available.	N/A
2013	Frontex became operational in 2005 and has, to date, worked on the basis of correspondence and exchanges with the host Member State. However a comprehensive headquarters agreement between the Agency and the Member State has not been signed. Such an agreement would further promote transparency in respect of the conditions under which the Agency and its staff operate.	Ongoing

European Agency for the Management of Operational Cooperation
at the External Borders of the Member States
(Warsaw)

Competences and activities

<p>Areas of Union competence deriving from the Treaty</p> <p><i>Articles 74 and 77(2)(b) and (d) of the Treaty on the Functioning of the European Union</i></p>	<p>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. (...)”</p> <p>Article 77(2): “(...) the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:</p> <p>(...) (b) the checks to which persons crossing external borders are subject; (...)</p> <p>(...) (d) any measure necessary for the gradual establishment of an integrated management system for external borders (...)”.</p>
<p>Competences of the Agency</p> <p><i>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</i></p> <p><i>The last amendment entered into force on 12.12.2011; the content of the table reflects the situation after this last amendment.</i></p>	<p>Objectives</p> <p>Frontex was established with a view to improving the integrated management of the external borders of the Member States of the EU.</p> <p>Main Tasks</p> <ul style="list-style-type: none"> (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 ICONet;

	(i) to provide necessary assistance to the development and operation of a European border surveillance system (EUROSUR).
Governance	<p>Management Board</p> <p><i>Composition</i></p> <p>One representative of each Member State (MS) + two representatives of the Commission + one representative per Schengen Associated Country (SAC).</p> <p><i>Tasks</i></p> <ul style="list-style-type: none"> (a) To appoint the Executive Director; (b) to adopt the general report of the Agency; (c) to adopt the Agency's Programme of Work; (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. <p>Executive Director</p> <p>Appointed by the Management Board on a proposal from the Commission.</p> <p>External audit</p> <p>European Court of Auditors.</p> <p>Discharge authority</p> <p>European Parliament acting on a recommendation of the Council.</p>
Resources made available to the Agency in 2014 (2013)	<p>Final Budget</p> <p>97,9 (93,95) million euro</p> <p>Union subsidy 86,6 (87,7) million euro</p> <p>Staff as at 31 December 2014</p> <p><i>Establishment plan</i></p> <p>Temporary staff planned: 152 (153) - Temporary staff posts occupied: 149 (142)</p> <p><i>Other posts</i></p> <p>Contract staff planned: 87* (87) - Contract staff posts occupied: 85* (82)</p> <p>Seconded National Experts planned: 78 (78) - Seconded National Experts posts occupied: 77 (76)**</p> <p>Total staff posts: 317 (318) - of which occupied: 311 (300)</p> <p>Assigned to the following tasks: operational 218 (227) – administrative 93 (91)</p> <p>*4 CAs from the Relex grant are <u>not included</u></p> <p>** N° of occupied posts (77) contain: 75 regular SNEs and 2 cost-free SNEs; 1</p>

	<u>SNE post is still vacant</u>
Products and services in 2014 (2013)	<p>Risk Analysis Unit (RAU) produced 60 (79) strategic reports including 10 regular annual reports, 3 tailored reports, 14 quarterly reports with situational updates and analysis in MSs, and selected regions neighboring the EU, 39 strategic monitoring reports; 456 (510) analytical products supporting the planning, implementation and evaluation of Joint Operations; 25 (81) reports/contributions of other types, including briefings for the Agency's Management, the EU Commission and others; tested and launched a new monthly process of analytical reporting; published 7 (7) strategic reports for the general public via the Agency website. 4 (4) regular Frontex Risk Analysis Network meetings, 2 (5) meetings of the specialist network with MSs on EU Document Fraud, 2 (4) Tactical Risk Analysis meetings, 9 (10) regional expert meetings/conferences and 2 (1) regional technical workshops were organized. In line with the tasks of the Risk Analysis Unit within EUROSUR, in 2014 the following were undertaken, and communicated/consulted as appropriate with MSs within the framework of the Analysis Layer User Group which met 4 (5) times: Within the CPIP/ESP analysis layer: delivery of content (276 (317) products) and basic services, completion of the Catalogue of Analysis Layer Products and Services, update of the Eurosur Event Catalogue, finalization of the impact levels methodology and its implementation to land and sea border sections, pilot deliveries of analysis tools (led by ICT, with RAU inputs).</p> <p>Joint Operations Unit (JOU) organised 21 (19) joint operations, 11 (10) pilot projects and projects, 68 (8) conferences, workshops and annual meetings and 382 (64) operational meeting (preparatory/planning/evaluation meetings and workshops). Furthermore, during 45 (39) Frontex coordinated joint return operations 2 271 (2 152) third-country nationals were returned. The total number of operational days accumulated in all joint operations amounted to 4 499 (2 832); the number of operational man-days accumulated equals to 69 702 (89 548).</p> <p>Frontex Situation Center (FSC) provided 2 452 (2 226) <i>situational</i> reports, 97 (43) serious incident reports, 38 (44) flash news reports and 5 (10) <i>mission</i> awareness reports, while uploading over 20 000 (20 084) artifacts to the Eurosur system. 242 (237) Daily Newsletters were delivered to approx. 500 (500) subscribers and 1 063 (795) media contributions were made to daily situational reports and operational briefings. The FSC, as a single point of contact, managed over 24 000 (25 000) correspondence items; in the frame of Frontex-One-Stop-Shop (FOSS), the information exchange platform between Frontex and external partners, 7 171 (6 238) documents were uploaded and shared among over 5 000 (4 500) users at the end of 2014. FSC received and validated around 35 000 (29 000) incidents through the Joint Operations Reporting Application (JORA) and provided JORA training to over 200 (200) officers from Frontex and MSs/SACs. In the frame of the Eurosur Fusion Services implementation, 29 service requests were received from Member States, covering vessel monitoring, tracking and detection, environmental information and optical imagery information and 4 service trials took place for testing newly developed services.</p> <p>Pooled Resources Unit (PRU) organized 6 (9) events with the participation of 236 (252) attendees from the MSs. 284 (1 250) man-days were invested by stakeholders in the unit's activities. The focus of attention for PRU in 2014 was</p>

the development of the European Border Guards Teams (EBGT) and Technical Equipment (TE) pools, developing the reporting capacity and creating a suitable software application to manage them and, in addition, further developing the Seconded Guest Officers mechanism. Attention was also given to the acquisition of aerial surveillance services for border control. In particular, PRU organised and managed the Annual Bilateral Talks between Frontex and the MSs, as well as the talks with third countries, in order to agree the national contributions to the pools and joint operational activities of Frontex in 2015. PRU implemented 5 (7) projects designed to improve the overall effectiveness of Frontex operations.

In the framework of 4 (3) activity areas comprising 5 projects and 12 other activities (17), **Training Unit (TRU)** organized 189 (205) training activities (courses, development meetings, etc.) with the participation of 2 600 (3 253) attendees. A total of 11 936 (12 460) man-days were invested by the stakeholders in training activities.

Under the first activity area the Consortium Agreement of the European Joint Master's Programme in Strategic Border Management (EJMSBM) was signed by the Partners and the development of the Master's Programme continued in order to launch the first iteration of the programme in September 2015. The Common Core Curriculum *Interoperability Assessment Programme* (CCC-IAP) was carried out with the participation of Member States and their border guard students.

EBGT profile trainings were organised under the second activity area. In addition to the already existing trainings, the development plans for two new profile trainings were drafted: Maritime Border Surveillance Officer and Land Border Surveillance Officer.

Within common standards and tools for specialised training of border guards and direct further trainings, for which the third activity area is dedicated, Frontex among other activities finalised the development and implementation of the European Course for Canine Instructors. The curriculum for the training for Schengen evaluators was revised and aligned with the requirements set by the new Schengen Evaluation Mechanism (SEM) and a first course following this curriculum was carried out.

Within the fourth activity area, dedicated to networking and IT related issues, a survey was carried out in order to identify the outlines of a new IT platform for Frontex training activities. The development and implementation of the new IT platform will start during the first quarter in 2015.

In the framework of 3 (8) projects the **Research and Development Unit (RDU)** organized 26 (40) meetings with the participation of 659 (950) attendees (participants from MSs, SACs, EU institutions, intergovernmental and international organizations, academies, research institutes and industry representatives). In total, 1 239 (2 000) man-days were invested by the stakeholders in these activities. RDU continued its work for identifying and developing best practice guidelines in the area of Automated Border Control, Border Checks at land and sea border crossing points, the roll-out and implementation of the Visa Information System (VIS) by MS and land border surveillance. Throughout the year, efforts were also devoted to the development of a framework for building a passenger analysis capacity in MSs,

as well as supporting DG HOME on the elaboration of the Smart Borders Study and eu-LISA on the definition of the Smart Borders Pilot.

In the area of border surveillance, RDU undertook activities to boost the MSs' awareness concerning new developments in the field of sensors, platforms and advanced system solutions while also facilitating the deployment (try-out) of new technologies for border surveillance in MSs and in the context of Joint Operations coordinated by Frontex.

Also, RDU brought to the attention of its relevant stakeholders the ongoing and new border security research projects ensuring that the needs of the border management community are the subject of research and the projects' results will best serve the requirements of border security. RDU contributed to the capacity building process in the field of border security, bringing to the attention of the Border Guard Authorities new and innovative approaches (e.g. Pre-Commercial Procurement instrument) that can be used by them to acquire research and development services, with the purpose of steering the development of new innovations towards their needs.

Partnership and cooperation with third countries: While no new working arrangements (WA) were concluded in 2014 (19) the cooperation with the partner third countries was intensified and tangible results have been achieved in the thematic and operational context. A cooperation plan between Frontex and the competent authorities in Turkey was signed, setting out concrete actions for implementation in the coming years. With regard to technical assistance, as defined under Article 14(5) of the amended Frontex Regulation, the Agency has taken forward several capacity building initiatives in the Eastern Partnership Region, in Northern Africa (Tunisia and Morocco) as well as in the Western Balkans and Turkey, covering areas of migration, border and security related matters.

Frontex successfully organized the 22nd International Border Police Conference (IBPC) with participation of chiefs and top executive-level border guards from 62 countries worldwide.

Cooperation with EU Bodies and international organization team: delivered to the Commission a strategic contribution for the future of the JHA Area and renewal of the EU Internal Security Strategy. Also closely cooperated with the Commission in the implementation of the EU Internal Security Fund (ISF) supporting the preparation of the policy dialogues with the MSs, as well by delivering opinions on the draft (Multi-annual) National Programmes.

Efforts were made for consolidating and deepening cooperation with partners in the field of border and migration management and fight against organised crime. A new Working Arrangement (WA) was concluded with the EEAS (11). Additionally, an agreement at working level was reached on a new and more robust WA with Europol allowing the processing and transmission of personal data however it will enter into force after the EDPS approval.

Source: Annex supplied by the Agency.