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COVER NOTE

From:	Mr Klaus-Heiner LEHNE, President of the European Court of Auditors
date of receipt:	28 November 2017
To:	Mr Märt KIVINE, President of the Council of the European Union
Subject:	Report on the annual accounts of the European Maritime Safety Agency for the financial year 2016 together with the Agency's reply

Delegations will find attached the European Court of Auditors' report on the annual accounts of the European Maritime Safety Agency for the financial year 2016.

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 Maritime Safety Agency for the financial year 2016 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 Maritime Safety Agency
for the financial year 2016

together with the Agency's reply

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 effectiveness.

2. **Table 1** presents key figures for the Agency².

TABLE 1: KEY FIGURES FOR THE AGENCY

	2015	2016
Budget (million euro) ³	64,8	71,1
Total staff as at 31 December ⁴	246	246

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 208, 5.8.2002, p. 1.

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

³ Budget figures are based on payment appropriations.

⁴ Staff includes officials, temporary and contract staff and seconded national experts.

OPINION

4. We have audited:

- (a) the 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 2016, and
- (b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

Reliability of the accounts*Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

Legality and regularity of the transactions underlying the accounts**Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

⁵ The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

⁶ The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

Payments*Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

Responsibilities of management and those charged with governance

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

Auditor's responsibilities for the audit of the accounts and underlying transactions

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if,

individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we 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 Regulation⁷.

16. The comments which follow do not call the Court's opinion into question.

COMMENTS ON INTERNAL CONTROLS

17. In 2014 the Agency concluded a framework contract amounting to 3,5 million euro for the purchase of IT-related goods and services over a six-year period. The Agency

⁷ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

underestimated the needs and likely contract value, leading to an 80 % consumption of the contract at the end of 2016. A new procurement procedure has to be launched four years earlier than expected, resulting in additional administrative costs.

18. In 2016 the Agency concluded seven framework contracts for the purchase of oil pollution response systems. Each framework contract (representing a lot in the procurement procedure) covered a specific type of equipment. The procurement procedure was launched under the assumption that the total value of the seven frameworks contracts would be 7 million euro. However, this assumption underestimated the Agency's needs and seven framework contracts for an amount of 7 million euro each were signed, leading to a total value of the contracts of 49 million euro.

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 17 October 2017.

For the Court of Auditors

Klaus-Heiner LEHNE

President

THE AGENCY'S REPLY

18. Defining the needs related to this contract was particularly challenging as at the time of the procurement the negotiations on the Delegation Agreement for Copernicus were still ongoing and, more importantly, it was not clear if and to which extent IT costs would be eligible under this agreement, mainly because of the issue how to deal with Copernicus specific needs in a hybrid and combined IT environment at EMSA. The fact that Copernicus would consume a substantial part of the above mentioned framework contract could not be foreseen at the time the contract was concluded.

19. It was originally foreseen to launch a six-lot procurement procedure with an overall estimated budget of 7 million euro excluding VAT. However, in the period between the initial estimation of the needs and the actual launch of the tender the forecasted needs evolved and as a result the tender was launched with a different number of lots and different budget ceiling per lot.

The whole package of tender documentation (Tender Specifications, Draft Contract, Contract Notice, Report to the Authorising Officer, Award Decision and Contract Award Notice) was adapted accordingly and published in a coherent way indicating 7 million euro per Lot.