

## REPORT

### on the annual accounts of the European Chemicals Agency for the financial year 2016, together with the Agency's reply

(2017/C 417/15)

#### INTRODUCTION

1. The European Chemicals Agency (hereinafter 'the Agency', aka 'ECHA'), which is located in Helsinki, was set up by Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(1)</sup>. Its main tasks are to ensure a high level of protection of human health and the environment as well as the free movement of substances on the internal market while enhancing competitiveness and innovation. The Agency also promotes the development of alternative methods for the assessment of hazards relating to substances.

2. The *table* presents key figures for the Agency <sup>(2)</sup>.

Table

#### Key figures for the Agency

	2015	2016
Budget (million euro) <sup>(1)</sup>	114,8	110,1
Total staff as at 31 December <sup>(2)</sup>	572	578

<sup>(1)</sup> Budget figures are based on payment appropriations.

<sup>(2)</sup> Staff includes officials, temporary and contract staff and seconded national experts.

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.

#### OPINION

4. We have audited:

(a) the 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 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).

<sup>(1)</sup> OJ L 396, 30.12.2006, p. 1.

<sup>(2)</sup> More information on the Agency's competences and activities is available on its website: [www.echa.europa.eu](http://www.echa.europa.eu)

<sup>(3)</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>(4)</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

**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.

**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 Regulation <sup>(5)</sup>.

#### **Other matter**

16. Without calling into question its opinion, the Court draws attention to the fact that the United Kingdom (UK) notified the European Council on 29 March 2017 of its decision to withdraw from the European Union. An agreement setting out the arrangements for its withdrawal will be negotiated. ECHA's budget is partly financed by fees from EU economic operators. The amount of fees fluctuates every year depending on the volume of registrations of substances. A future decrease of the Agency's revenue resulting from the UK's decision to leave the EU is possible.

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

#### **COMMENTS ON BUDGETARY MANAGEMENT**

18. Carry-overs of committed appropriations remained high for Title III (REACH operational expenditure) at 10,1 million euro, i.e. 39 % (2015: 7,3 million euro, i.e. 32 %) and are even higher for Title IV (Biocides operational expenditure) at 1,3 million euro, i.e. 68 % (2015: 1,5 million euro, i.e. 74 %). Such high level of carry-overs is in contradiction with the budgetary principle of annuality. The Agency may consider increasing the use of differentiated budget appropriations to better reflect the multiannual nature of operations and unavoidable delays between the signature of contracts, deliveries and payments.

#### **COMMENTS ON INTERNAL CONTROL**

19. Under the Biocidal Products Regulation, ECHA contributes to the functioning of the market for biocidal substances and products. In its audit report dated November 2016 the Commission's Internal Audit Service (IAS) concluded that the design and practical implementation of the internal control system in ECHA in relation to the Agency's processes and activities under the Biocidal Product Regulation is effective and efficient. Although no major weaknesses were identified, the IAS identified some scope for further improvement. The Agency and IAS agreed on a plan to take corrective action.

#### **OTHER COMMENTS**

20. Different from most other agencies, ECHA's founding regulation does not explicitly require periodical external evaluations of its activities, which are key elements to assess performance.

<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

**FOLLOW-UP OF PREVIOUS YEARS' COMMENTS**

21. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the *Annex*.

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 12 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

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## ANNEX

**Follow-up of previous years' comments**

Year	Court's comment	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2014	The expenditure for procedures associated with one new specific activity of the Agency, the implementation of the Regulation concerning biocidal products, was to be, in principle, covered by application fees for the registration of these products. However, fees collected in 2014 covered only 17 % of this expenditure and the remaining part was in fact financed by contributions to the Agency's budget from the Union (6,3 million euro) and EFTA countries (0,2 million euro) <sup>(1)</sup> .	Ongoing
2015	The Agency pays 50 % of the cost for after-school care of staff children in the European School in Helsinki. Its contribution is limited to 1 000 euro per child per annum and in total amounted to some 95 000 euro in 2015. This measure of a social nature was approved in 2008 by the Agency's Director but has not been communicated to the budgetary authority in the framework of the budget procedure <sup>(2)</sup> .	Completed
2015	Carry-overs of committed appropriations were high for Title IV (Biocides operating expenditure) at 1,5 million euro, i.e. 74 %. They mainly concern a large-scale IT project (1,4 million euro). This project could only be started in the second half of 2015 when sufficient fee income for its funding had been collected.	N/A

<sup>(1)</sup> Fees collected in 2015 covered 62 % of this expenditure.

<sup>(2)</sup> Article 1e of Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385/62).

**THE AGENCY'S REPLY**

19. The highest carry-over amounts stem from multiannual IT development projects and rapporteur contracts for substance evaluation which entail a statutory 12-month period starting from the adoption of the Community rolling action plan in March. For the latter, the Agency has already created a differentiated budget line for 2017, which will reduce the nominal carry-over rate for 2017 and beyond. For IT expenditure, ECHA will also consider the possibility of using differentiated budget lines going forward.

20. Noted.

21. ECHA's founding regulation scheduled a first external evaluation of the Agency for 2012, see Article 75(2). The Commission duly undertook this review with the support of an external contractor (PwC). Although not explicitly required by ECHA's founding regulation, in accordance with the Better Regulation EU Evaluation Guidelines, the Commission commissioned another external ECHA performance evaluation study (Deloitte and VVA) in 2016. The consultants' report is available here:

[https://ec.europa.eu/growth/sectors/chemicals/reach\\_en](https://ec.europa.eu/growth/sectors/chemicals/reach_en)

As soon as the Commission adopts its own report on the REACH review in 2017, appropriate follow-up actions will be put in place by ECHA to address the recommendations stemming from the formal Commission's report.

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