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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 2009

together with the Agency's replies

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INTRODUCTION

1. The European Maritime Safety Agency (hereinafter "the Agency"), located in Lisbon, was set up by Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002¹. 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.
2. The Agency's 2009 budget amounted to 53,3 million euro, compared with 50,2 million euro the previous year. The number of staff employed by the Agency at the end of the year was 212, as compared with 211 the previous year.

STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287(1), second subparagraph, of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts³ of the Agency, which comprise the "financial statements"⁴ and the "reports on implementation of the budget"⁵ for the financial year ended

¹ OJ L 208, 5.8.2002, p. 1.

² The ***Table*** summarises the Agency's competences and activities. It is presented for information purposes.

³ These accounts are accompanied by a report on the budgetary and financial management during the year which gives *inter alia* an account of the rate of implementation of the appropriations with summary information on the transfers of appropriations among the various budget items.

⁴ The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in capital and the annex to the financial statements which includes the description of the significant accounting policies and other explanatory information.

⁵ The budget implementation reports comprise the budget outturn account and its annex.

31 December 2009 and the legality and regularity of the transactions underlying those accounts.

4. This Statement of Assurance is addressed to the European Parliament and the Council in accordance with Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002⁶.

The Director's responsibility

5. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Agency under his own responsibility and within the limits of authorised appropriations⁷. The Director is responsible for putting in place⁸ the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts⁹ that are free from material misstatement, whether due to fraud or error, and for ensuring that the transactions underlying those accounts are legal and regular.

The Court's responsibility

6. The Court's responsibility is to provide, on the basis of its audit, a statement of assurance as to the reliability of the annual accounts of the Agency and the legality and regularity of the transactions underlying them.

⁶ OJ L 248, 16.9.2002, p. 1.

⁷ Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 (OJ L 357, 31.12.2002, p. 80).

⁸ Article 38 of Regulation (EC, Euratom) No 2343/2002.

⁹ The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in chapter 1 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 of 9 July 2008 (OJ L 181, 10.07.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

7. The Court conducted its audit in accordance with the IFAC and ISSAI¹⁰ International Auditing Standards and Codes of Ethics. Those standards require that the Court complies with ethical requirements and plans and performs the audit to obtain reasonable assurance about whether the accounts are free from material misstatement and whether the underlying transactions are legal and regular.

8. The Court's audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and about the legality and regularity of the transactions underlying them. The procedures selected depend on its audit judgment including the assessment of the risks of material misstatement of the accounts or of illegal or irregular transactions, whether due to fraud or error. In making those risk assessments internal control relevant to the entity's preparation and presentation of accounts is considered in order to design audit procedures that are appropriate in the circumstances. The Court's audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the accounts.

9. The Court believes that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinions set out below.

Opinion on the reliability of the accounts

10. In the Court's opinion, the Agency's Annual Accounts¹¹ present fairly, in all material respects, its financial position as of 31 December 2009 and the results

¹⁰ International Federation of Accountants (IFAC) and International Standards of Supreme Audit Institutions (ISSAI).

¹¹ The Final Annual Accounts were drawn up on 13 June 2010 and received by the Court on 25 June 2010. The Final Annual Accounts, consolidated with those of the Commission are published in the Official Journal of the European Union by 15 November of the following year. These can be found on the following website <http://eca.europa.eu> or www.emsa.europa.eu.

of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation.

Opinion on the legality and the regularity of the transactions underlying the accounts

11. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2009 are, in all material respects, legal and regular.

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

COMMENTS ON THE BUDGETARY AND FINANCIAL MANAGEMENT

13. As in 2008¹², the procedures for drawing up the budget were not sufficiently rigorous and led to a significant number of budgetary transfers¹³. To cover expenses of a programme financed from assigned revenue,¹⁴ a transfer of 260 000 euro was made from the European Commission subsidy. This increased the amount of appropriations carried forward to 2010 and reduced the amount to be repaid to the Commission. Weaknesses in the planning and monitoring of anti-pollution measures¹⁵ and of the new LRIT¹⁶ activity contributed to the cancellation of payment appropriations amounting to 6,6 million euro.

¹² Paragraph 13 of the 2008 annual report (OJ C 304 OF 15.12.2009, p. 57).

¹³ 49 transfers of appropriations in 2009.

¹⁴ Project Equasis co-financed with three Member States and four third countries.

¹⁵ Clean Seagnet payment appropriations were reduced by 1,3 million euro.

¹⁶ Long Range Identification and Tracking Data Centre (LRIT), payment appropriations were reduced by 1,3 million euro.

14. For one project, the budgetary commitment (498 780 euro) was made against the 2009 appropriations while the legal commitment was entered in 2010. This situation was at odds with the principle of annuality of the budget.

OTHER MATTERS

15. More than 75 % of the procurement procedures¹⁷ launched during the year were negotiated procedures, mainly based on the exceptions set out in Articles 126 and 127 of the Implementing rules of the Financial Regulation. Such procedures should be reported to the Budgetary authority, as required under Article 30 of Agency's Financial Regulation.

16. The audit of recruitment procedures showed weaknesses: the anonymity of the written tests was not respected, candidates not complying with the predefined criteria were invited to the interview and criteria for shortlisting the candidates were not applied consistently. These practices put at risk the transparency of the recruitment procedures.

This Report was adopted by Chamber IV, headed by Mr Igors LUDBORŽS, Member of the Court of Auditors, in Luxembourg at its meeting of 14 and 16 September 2010.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

¹⁷ In 2009, 53 procurement procedures were launched of which 40 were negotiated procedures, 22 of these based on exceptions.

Table - European Maritime Safety Agency (Lisbon)

| Areas of Union competence deriving from the Treaty | Competences of the Agency as defined in 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 | | Governance | Resources made available to the Agency 2009 (Data for 2008) | Products and services supplied in 2009 |
|--|---|--|---|---|---|
| <p>Common transport policy</p> <p>“The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport”.</p> <p>(Article 100 of the Treaty on the Functioning of the European Union)</p> | <p>Objectives</p> <ul style="list-style-type: none"> - To ensure a high, uniform and effective level of maritime safety and prevention of pollution by ships. - To provide the Member States and the Commission with technical and scientific assistance. - To monitor the implementation of Union legislation in this field and to evaluate the effectiveness of the measures in place. - To introduce operational methods for fighting pollution in European waters. | <p>Tasks</p> <p>The Agency undertakes a broad range of activities in the fields of maritime safety, security and prevention of pollution and response to pollution by ships.</p> <p>Firstly, the Agency has been tasked with assisting the Commission in monitoring the implementation of EU legislation relating, among others, to classification societies, Port State Control, the reception of ship waste in EU ports, certification of marine equipment, ship security, the training of seafarers in EU and non-EU countries and vessel traffic monitoring.</p> <p>Secondly, the Agency develops and operates maritime information capabilities at EU level. Significant examples are the SafeSeaNet vessel traffic monitoring system, to enable effective tracking of vessels and their cargoes; the EU LRIT Data Centre, to ensure the identification and tracking of EU flagged ships worldwide; THETIS, the information system needed for the implementation of the EU Port State Control regime.</p> <p>In parallel, a marine pollution preparedness, detection and response capability has been established, including a European network of stand-by oil spill response vessels as well as a European satellite oil spill monitoring service (CleanSeaNet), both with the aim of contributing to an effective system for protecting EU coasts and waters from pollution by ships.</p> <p>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. A substantial programme of training has been made available to Member States' experts. At the same time assistance is provided to new and incoming Member States in transposing and implementing EU legislation.</p> | <p>1. Administrative Board</p> <p><i>Composition</i></p> <p>One representative per Member State, four representatives of the Commission and four representatives, without the right to vote from the professional sectors concerned.</p> <p><i>Tasks</i></p> <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 response activities. - To supervise the work undertaken by the Executive Director <p>2. Executive Director Appointed by the Administrative Board. The Commission may propose one or more candidates.</p> <p>3. External audit Court of Auditors.</p> <p>4. Discharge Authority Parliament, acting on a recommendation from the Council.</p> | <p>Budget</p> <p>48,3 million euro CA (50,2 million euro CA)</p> <p>53,3 million euro PA (50,2 million euro PA)</p> <p>Staff at 31 December 2009</p> <p>Permanent and temporary staff: 192 (181)</p> <p>Contract staff: 27 (27) SNEs: 15 (15)</p> | <ul style="list-style-type: none"> - 37 Workshops and other events (with about 900 participants in workshops) - 34 different training sessions (including 4 for Port State Control (PSC) officers) which resulted in 486 national experts trained (from which 230 PSC officers) - 113 inspections and visits - SafeSeaNet system fully operational - 2 275 satellite images ordered and 2 113 analysed through CleanSeaNet - EU LRIT Data Centre entered into production - 13 anti-pollution vessel contracts (2 new vessels contracted in 2009) - 47 drills and 12 exercises with the anti-pollution vessels - EMSA Maritime Support Services operating on a 24/7 basis |

Source: Information supplied by the Agency.