



6.2.2017

# **DRAFT REPORT**

on discharge in respect of the implementation of the budget of the European  
Chemicals Agency for the financial year 2015  
(2016/2182(DEC))

Committee on Budgetary Control

Rapporteur: Inés Ayala Sender

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## 1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2015 (2016/2182(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Chemicals Agency for the financial year 2015,
- having regard to the Court of Auditors' report on the annual accounts of the European Chemicals Agency for the financial year 2015, together with the Agency's reply<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2015, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... February 2017 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2015 (00000/20xx – C8-0000/20xx),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC<sup>4</sup>, and in particular Article 97 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>5</sup>, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,

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<sup>1</sup> OJ C 449, 1.12.2016, p. 82.

<sup>2</sup> OJ C 449, 1.12.2016, p. 82.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 396, 30.12.2006, p. 1.

<sup>5</sup> OJ L 328, 7.12.2013, p. 42.

- having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0000/2017),
- 1. Grants the Executive Director of the European Chemicals Agency discharge in respect of the implementation of the Agency's budget for the financial year 2015 / Postpones its decision on granting the Executive Director of the European Chemicals Agency discharge in respect of the implementation of the Agency's budget for the financial year 2015;
- 2. Sets out its observations in the resolution below;
- 3. Instructs its President to forward this decision, and the resolution forming an integral part of it, to the Executive Director of the European Chemicals Agency, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

## 2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on the closure of the accounts of the European Chemicals Agency for the financial year 2015 (2016/2182(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Chemicals Agency for the financial year 2015,
- having regard to the Court of Auditors' report on the annual accounts of the European Chemicals Agency for the financial year 2015, together with the Agency's reply<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2015, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... February 2017 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2015 (00000/20xx – C8-0000/20xx),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC<sup>4</sup>, and in particular Article 97 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>5</sup>, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,

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<sup>1</sup> OJ C 449, 1.12.2016, p. 82.

<sup>2</sup> OJ C 449, 1.12.2016, p. 82.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 396, 30.12.2006, p. 1.

<sup>5</sup> OJ L 328, 7.12.2013, p. 42.

- having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0000/2017),
- 1. Approves the closure of the accounts of the European Chemicals Agency for the financial year 2015 / Postpones the closure of the accounts of the European Chemicals Agency for the financial year 2015;
- 2. Instructs its President to forward this decision to the Executive Director of the European Chemicals Agency, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

### 3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2015**

**(2016/2182(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2015,
  - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0000/2017),
- A. whereas, according to its financial statements, the final budget of the European Chemicals Agency ("the Agency") for the financial year 2015 was EUR 114 412 841 representing an increase of 0,26 % compared to 2014;
- B. whereas the Agency received Union subsidies of EUR 7 318 792 as well as EUR 300 000 from the Instrument for Pre-Accession Assistance but has received no other contributions or funding from the Commission;
- C. whereas the Court of Auditors ("the Court") in its report on the annual accounts of the European Chemicals Agency for the financial year 2015 ("the Court's report"), has stated that it has obtained reasonable assurances that the Agency's annual accounts for the financial year 2015 are reliable and that the underlying transactions are legal and regular;

#### ***Follow-up of 2014 discharge***

1. Acknowledges from the Agency that, in line with the discharge authority's recommendation from the previous year, it will include in its next annual report a separate chapter on transparency, accountability and integrity;

#### ***Legality and regularity of transactions***

2. Notes from the Court's report that the Agency paid 50 % of the cost for after-school care of staff children in the European School in Helsinki; notes moreover that this contribution is limited to EUR 1 000 per child per year, amounting to approximately EUR 95 000 in 2015; takes note from the Court that this measure was not communicated to the budgetary authority in the framework of the budget procedure; acknowledges from the Agency that it will communicate this measure to the budgetary authority in its 2018-2020 Programming Document and in its 2018 financial statement; acknowledges in addition that the Agency already updated the remarks on the relevant budget line by including the information about this measure in the first amendment to the Agency's 2016 budget;

#### ***Budget and financial management***

- Notes that budget monitoring efforts during the financial year 2015 resulted in a budget implementation rate of 98,48 %, representing an increase of 1,4 %; notes moreover that the payment appropriations execution rate was 87,84 %, representing a slight increase of 0,38 % in comparison to 2014;

### ***Transfers***

- Notes that the Agency made in total 44 transfers amounting to EUR 1 395 000; notes with satisfaction that, according to the Agency's annual report, as well as the Court's audit findings, the level and nature of transfers in 2015 have remained within the limits of financial rules;

### ***Commitments and carryovers***

- Notes from the Court's report that the carryovers of committed appropriations for Title IV (biocides operating expenditure) were at EUR 1 500 000 (74 %); acknowledges that these carryovers were mainly related to a large scale IT project amounting to EUR 1 400 000, which was started only in the second half of 2015, when sufficient fee income for its funding had been collected; acknowledges from the Agency that it will continue to be attentive in order to avoid any non-justified carry-over operations;
- Points out that carryovers are often partly or fully justified by the multiannual nature of the agencies' operational programmes, and do not necessarily indicate weaknesses in budget planning and implementation nor are they always at odds with the budgetary principle of annuality, in particular if they are planned in advance and communicated to the Court;

### ***Procurement and recruitment procedures***

- Takes note that the recruitment target of the Agency was achieved with 98 % of posts filled at the end of 2015 for REACH/CLP (classification, labelling and packaging of substances and mixtures) and PIC (export and import of hazardous chemicals); acknowledges furthermore from the Agency that this percentage cannot exceed 98 % since the Agency was required to reduce the number of staff by 2 % (10 posts) in order to be aligned with the 2016 establishment plan; acknowledges that the percentage of posts filled for biocides was 83 %, due to uncertainty with respect to fee income levels and the Agency's authorised staff allocation for 2016;
- Takes note from the Agency's annual report that in 2015 it signed 739 contracts, out of which 540 contracts were under framework contracts and 199 contracts as a result of new tendering procedures; notes that the 25 contracts included in the latter category were signed as a result of exceptional negotiated procedures based on the relevant rules of the Financial Regulation;

### ***Prevention and management of conflicts of interests and transparency***

- Notes with satisfaction that the CVs and declarations of interests are well organised, visible, accessible and user-friendly on the Agency's website;
- Notes that the Agency adopted the guidelines for whistle-blowers in December 2015;



takes note that, following the adoption of the Agency's anti-fraud strategy in December 2014 which covers the 2015-2016 period, the Agency already implemented different actions stemming from the anti-fraud action plan; acknowledges that the internal fraud risk assessment exercise, which preceded the adoption of the strategy, revealed that the risk profile of the Agency is low; acknowledges moreover that the main aim of the anti-fraud strategy is to develop a widespread anti-fraud culture in the Agency, with a focus on awareness;

11. Acknowledges from the Agency that in 2015 it adopted internal guidelines for the staff; acknowledges moreover that these guidelines include potential conditions which could be imposed by the Appointing Authority on former staff, with regard to a new employment for a period of two years after active employment; takes note that the Agency has an advisory Conflict of Interest Advisory Committee, which gives recommendations to the Executive Director and the Management Board on individual cases of perceived conflict of interest; recognises that, due to the stringent measures in place to avoid conflicts of interest, no actual conflict of interest cases materialised during 2015;
12. Notes that the Agency has implemented a robust conflict of interest policy and a detailed anti-fraud strategy in order to contribute to a culture of high ethical behaviour among the staff and experts working for the Agency, but not has set up specific rules on obligations after leaving the service for its experts and staff;
13. Takes note that the Agency's committees are composed of national delegates, appointed by Member State authorities or the Agency's Management Board; notes moreover that the Agency's committees have in total 9 co-opted members on the basis of a public call for expression of interest, as allowed by the Agency's founding legal act; takes note that these co-opted members may act as rapporteurs but have no voting rights, as well as that the Agency's policy on prevention of conflicts of interest applies to them in full; looks forward to the report by the Agency's Management Board on the experiences with co-opted members, which is scheduled for 2017;
14. Notes that the Agency in 2015 granted full access to 27 % and partial access to 68 % of documents requested according to the Regulation (EC) No 1049/2001<sup>1</sup>; takes note that the main reasons for partial refusal were the protection of privacy and integrity of the individual, as well as the protection of commercial business information; acknowledges that, in principle, in cases of partial access most of the content in documents is disclosed to the applicants; notes that in 2015 the Agency refused access to 5 % of documents requested, mainly due to the protection of ongoing decision-making process, the protection of commercial business information and the protection of court proceedings;

### ***Performance***

15. Notes that the Agency presented its framework and approach to evaluation to its Management Board in December 2015; observes that this approach established a range of evaluation tools and controls, including a governance framework, an evaluation coordination function to ensure methodological consistency, evaluation checklists and a

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43)

rolling plan of ex-ante and ex-post evaluations; acknowledges the Agency's efforts to strengthen its governance framework and approach for ex-ante and ex-post evaluations;

### ***Internal audit***

16. Notes that in 2015 an audit on "Forecasting, Calculation and Collection of Fee Income and Charges under REACH, CLP and BPR" was conducted by the Commission's Internal Audit Service (IAS); notes furthermore that as a result, the IAS issued two "very important", one "important" and no "critical" recommendations; acknowledges that the Agency developed an action plan in response to the issued recommendations;
17. Notes that the assurance audits on "Performance Indicators in the General report", "ECHA Helpdesk" and "Contract management and payments" were carried out by the Agency's Internal Audit Capability (IAC); notes that the audits resulted in five "very important" and two "important" recommendations; acknowledges that the action plans developed by the Agency's management to respond to the recommendations of the IAC were considered by the IAC as adequate;

### ***Other comments***

18. Notes with satisfaction the gender equality balance of its Management Board members;
19. Notes with concern that 453 staff members participated in 2015 in away days for which the cost was EUR 11 3975 (EUR 251,60 per person), and 565 staff members participated in closed conferences for EUR 31 468 (EUR 54,25 per person);
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20. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [xx xxxx 2017]<sup>1</sup> [on the performance, financial management and control of the agencies].).

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<sup>1</sup> Texts adopted of that date, P[8\_TA(-PROV)(2016)0000].