

## 2011 Discharge to the decentralized Agencies

### WRITTEN QUESTIONS TO THE NETWORK OF EU AGENCIES AND TO THE INDIVIDUAL AGENCIES

Hearing on 24 January 2013

#### General questions to the Agencies network for discharge

- 1) How are the co-ordinating agencies (ECDC to March 2013, then European Railways Agency) following up on the work of the Inter-Institutional Working Group on Agencies which concluded in July 2012, so that agencies can tackle the problems identified in many instances by the European Court of Auditors, i.e.:
  - carry-overs which are not supported by commitments or which appear excessively high,
  - lack of transparency or rigour in recruitments,
  - problems with procurement and contract management,
  - potential conflicts of interest on boards?

#### Answer:

The EU Agencies Network (“the Network”) is a forum for coordination, information exchange and agreement of common positions on issues of common interest for Agencies. The role of the co-ordinating Agency is to act as the contact- and spokesperson for the EU institutions for matters concerning the Network. The co-ordinating Agency communicates common positions or, in the absence thereof and need be, preliminary views on behalf of the Network.

Members of the Network are different in size, mandate and in some cases on certain aspects of their legal framework. While the Network does not have a mandate to do it, it is left to each member to tackle internally the issues identified by the Court of Auditors. The co-ordinating Agency can on the other hand facilitate the exchange of information between the Court of Auditors and the Network and promote the sharing of best practices between Agencies.

Agencies have followed pro-actively the work of the Inter-Institutional Working Group since its establishment.

While the work of the Inter-Institutional Working Group was still in progress, the co-ordinating Agency has been responsible for distributing to the Network the information received from the involved Institutions. The co-ordinating Agency has promoted the internal discussion within the Network, with the aim of reaching common positions to be informally conveyed to the Inter-Institutional Working Group actors. The preparation of the implementation phase began long before the conclusions of the Inter-Institutional Working Group, through constant informal contacts between the co-ordinating Agency and the Secretariat General of the Commission.

Now that the work of the Inter-Institutional Working Group has concluded, the co-ordinating Agency is acting together with the Secretariat General to formalize the respective roles for the implementation of the conclusions. The Commission road map will serve as a starting point for the joint work in the coming months.

The road map implementation work will include tackling the challenges identified by the Court of Auditors. The specialized sub-networks of the EU Agencies Network will be involved to guarantee technical expertise. The approach identified is to share best practices and, wherever possible, draft guidelines that can be voluntarily adopted by each Agency or that can be a starting point for the Commission for their further activities in the area.

Regarding to the cooperation with the European Court of Auditors, the Network invited Mr Pietro Russo to the meeting held in October 2012.

- 2) What co-ordination takes place to share best practice and experience to overcome the kind of technical and management challenges presented by complex IT systems which have to operate on an EU-wide basis?

Answer:

The basic difficulty with the complex IT systems like ABAC and SYSPER2 is that they are designed to satisfy the needs of the Commission rather than the needs of Agencies. In particular two agency sub-networks deal with the consequences of this:

- The EU Agencies Information and Communication Technology Network deals with IT issues, and
- The Heads of Administration sub-network discusses regularly how Agencies could improve the use of ABAC and SYSPER2.

The Network would welcome more cooperation from the Commission on this topic.

- 3) What common training do the co-ordinating agencies (ECDC to March 2013) envisage all agencies will need to ensure that the range of financial problems identified by the ECA in 2011 can be overcome and avoided when the new Financial Regulation is implemented from January?

Answer:

The definition of training needs for the members of the Network is outside the scope of the mandate of the co-ordinating Agency. However, the co-ordinating Agency has been available to liaise with the Commission to discuss the topic.

- 4) What actions are undertaken by the Co-ordinating agencies to ensure that newly-formed agencies benefit from the best practice present in older established agencies to avoid recruitment, procurement and financial regulation problems? E.g. ACER, EBA and EIOPA founded in 2011.

Answer from ECDC:

Newly formed EU Agencies are participating in the meetings of the Network of EU Agencies, including ACER, EBA and EIOPA.

The Network meets three times a year and during these meetings part of the time is devoted to sharing best practices. Specific issues which require technical knowledge can be discussed in the relevant sub-networks. Recruitment, procurement and financial regulation issues generally fall under the mandate of the sub-network of the Heads of Administration. The sub-network of the Heads of Administration meets with the same frequency as the Network, as a general rule one day before and in the same venue. Therefore, newly established Agencies are invited to and participate to discussions on recruitment, procurement and financial regulations.

Answer from ESMA:

ESMA joined the EU agencies network mid-2011 to benefit from the experience and best practice of agencies with a longer history. In addition, two study visits were organised by ESMA at ERA in 2011 and at EMSA in 2012 in which ESMA staff had the opportunity to learn best practice from these well-established agencies. There is frequent contact between the three ESAs (ESMA, EIOPA, and EBA), including Head of Operations' meetings to share experiences, align practices and profit from synergies.

- 5) In view of the recent discussion about women on boards, what policies do the agencies pursue to ensure that women are properly represented on their governing bodies, and if specific indications are not given in the founding regulations, are there general guidelines which the co-ordinating agency/ agencies promote regarding best practice?

Answer:

In most of the cases, it is the responsibility of Member States to select the representatives in the governing bodies of Agencies. Therefore, neither the co-ordinating Agency nor the Network can influence the composition of the governing boards to promote gender equality. The Executive Directors can indeed raise the awareness of the members of the board on this topic when the Chair and vice-Chair are to be elected. Two of the current Troika agencies have a woman as Chair of their governing board.

1. ACER - Agency for the Cooperation of Energy Regulators

- 6) Does the Agency envisage recovery of the subsistence allowances paid to the seconded experts who were not entitled to receive the allowance according to its Rules on the Secondment of National Experts?

Answer:

“The Agency has accepted the interpretation and the preliminary recommendation of ECA and has immediately stopped the payment of the subsistence allowance to the seconded national experts with a Slovenian place of origin.

However, the Agency has come to the view that, as this allowance which was paid, only for a few months, in good faith and was also received in good faith by the seconded national experts concerned, it would be unfair to these experts if the Agency were to recover the amounts paid in the past. The experts made themselves available for secondment to the Agency also considering the prospect of receiving the allowance in question. Moreover, one expert had already left the Agency by the time the ECA formulated its recommendation.”

**2. BEREC - Body of European Regulators for Electronic Communications**

None

**3. CDT - Translation Centre for the Bodies of the European Union**

- 7) Does the Centre identify possible further decrease of the translation needs of its biggest client, OHIM (representing >60% of the workload), as a risk?  
Has the Centre envisaged any actions to be taken in this context?

Answer:

## **Response of the Translation Centre**

### **1. Background**

A distinctive feature of the Translation Centre is the specific service it delivers, namely, the translation of the Community Trademarks (CTM) for the Office of Harmonization of Internal market (OHIM) for which the Centre is an exclusive service provider. The table below presents the ratio between volumes of documents and CTMs and revenues generated by documents and CTMs respectively.

Year	Total revenue (invoiced) from clients Mio EUR	Revenue from trademarks in Mio EUR	Percentage of CTM revenues on	Total pages	CTM pages	Percentage of CTM on pages
2007	40.3	26.0	63 %	732 673	549 794	75.04 %
2008	45.5	24.6	54 %	747 416	512 915	68.63 %
2009	44.1	25.2	57 %	736 008	524 240	71.23 %
2010	52.1	27.1	52 %	819 598	565 312	68.97 %
2011	40.8	16.3 <sup>1</sup>	40 %	712 813	433 885	60.87 %
2012	44.0 budget	17.0 budget	39 %	731 007	435 981	60.58 %
2013 forecast (1 <sup>st</sup> AB)	45.0	17.7	39 %	715 881	444 490	62.09 %

### **2. The risk**

This dependability of the Centre on one major client has always been perceived by the Centre's management, in principle, as a major risk. Moreover, certain developments at the OHIM allowed assuming that at a certain time in the future the Centre may lose a certain part of trademark pages to be translated. In 2010, the OHIM provided a quite alarming forecast for the coming years: 2012 – 655 000 pages; 2013 – 663 000 pages; 2014 and onwards – 33 000 pages.

However, in 2011 the Office updated its forecast which did not confirm the previous dramatic decrease: 2012 – 371 000 pages; 2013 – 370 000 pages<sup>2</sup>; 2014 and onwards – 300 000 pages.

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<sup>1</sup> The lower revenue generated by translation of TM in 2011 is explained by the reduced price (32 EUR instead of 48 EUR in previous year) which the Centre proposed to OHIM in line with the principle of costs/price alignment.

<sup>2</sup> The forecasted volume in the draft budget 2013 is 444 490 pages of CTMs.

Given that in the past the volumes of Trademarks translation were about 550 000 pages per year, the decrease of volumes to 300 000 pages as of 2014 will represent, roughly, a reduction by half. This would have a twofold effect to the Centre's life. First, the decrease of trademark pages to be translated automatically means less revenue. Second, with a drop in the volumes of trademarks, the overheads allocated initially to trademarks will have to be allocated to the price of translation of documents and other services, i.e., the price per page for translation of documents for other clients will have to increase, which is against the policy of the Centre.

### **3. Actions already put in place to reduce the risk**

In 2010, the Centre disclosed this risk to its Management Board, which expressed, in several consecutive meetings, its concern as regards a potential increase of price for translation of documents, on one hand, and as regards the future of the Centre, as the provider of good-quality, timely and acceptably-priced services to a great number of EU entities, on the other hand. Equally, the Centre took a proactive approach by proposing and implementing several structural measures to mitigate the risk.

#### **3.1. Improved cost analysis and cost and price alignment**

An important structural measure was the improvement of the Centre's pricing system. Based on PricewaterhouseCoopers study of 2009, and with the help of the special Task Force on Pricing established by the Management Board, the Centre:

- carried out its cost analysis and now annually updates it.
- started gradual implementation of cost-price alignment (implemented at the end of 2012).
- introduced the Activity Based Costing system.
- introduced the mid-term evaluation of operating expenditure.
- put in place a concept of prices varying with the number of invoiced pages (included in the price structure of CTMs) as well as the mechanism to adjust the CTM price according to the volume of CTMs.
- created in 2010 the Price stability reserve (EUR 4 906 000).

#### **3.2. Reduction of costs**

In order to maintain the price level acceptable for the clients, the Centre has committed itself to reducing its overhead costs. To this effect, potential areas for cost reduction were identified, and some general guidelines for the future were in principle agreed. In particular, the Centre resorts to the following measures:

- carries out the screening of the posts on a regular basis.
- reviewed employment policy regarding long-term contract staff.
- implemented recommendations of the Working Group on Staff Policy of the Management Board.
- optimised several processes and workflows in core and support business.
- developed a "high level" Contingency plan.
- Implemented the Action Plan of measures and actions contributing to the reduction of costs at the Centre.

The result was the subsequent reduction of the Centre's Establishment plan from 225 in 2011 to 215 staff members in 2012 and with a further reduction of staff numbers to 206 in the year 2013.

### **3.3. Improved forecasting and revenue monitoring**

- Indicators 225, 235 and 329 of the Centre's scorecard allow monitoring volumes variations in number of pages, pages invoiced vs forecast and revenues vs forecast.
- Regular communication with clients concerning volume forecast in order to receive more reliable and precise forecasts in terms of gap real vs. forecast in place; forecast of translation work improved and in place.
- Monthly and quarterly Budget report and revenue monitoring are performed.
- Proactive coordination meetings with our existing and potential clients.

### **3.4. Actions to attract additional volumes from other clients in order to balance the envisaged drop of volumes of CTMs**

The Centre's "Strategy 2012-2014: Embracing the challenges" foresees strategic actions which would allow the Centre to attract other clients and thus increase volumes of pages to be translated. Given that for some solutions the amendment of the Centre's Founding regulation is needed and understanding that any sustainable future option is not feasible without a solid support from its partner DG (Directorate General for Translation of the Commission), the Centre first started paving the way to a strategic partnership with the Commission. For this, the Centre made efforts to close the legal dispute on the employer's contribution to the Community pension scheme (solved in 2010). The years 2011 and 2012 were marked by a constructive dialogue between the Centre and the DGT via the established Working Group. The outcomes of the meetings have been regularly reported by the Chairman of the Centre's Management Board to its Members.

## **4. CEDEFOP - European Centre for the Development of Vocational Training**

- 8) Could the Centre provide a more detailed explanation as regards the delays in the closing of grants for 2010 and in processing of final payments in 2011, and specify what steps had been taken to avoid the recurrence of the mistake?

### Answer:

Delays in payment of final balance of the 2010 grants that occurred in 2011 are due to a particularly heavy work programme during that year (Calls for proposals to conclude a new 4-year Frame Partnership Agreement and renew the network) combined with a temporary under-staffing of the team coordinating the network due to unforeseen long-term absence.

Cedefop provide grants to co-finance activities of ReferNet – Cedefop's network on VET - which counts one institution per Member States, Norway and Iceland.

Nonetheless, to avoid recurrence of the mistake, Cedefop has taken structural measures:

1. Adapted schedule for deliverables by the network, including staggering of the delivery of Final implementation reports (FIRs) throughout the first semester;
2. Preparation of the operational verification using check lists focusing on exchange rates, consistency between audit certificate and report and identifying mistakes in calculations
3. Provision of refined guidelines to the network members regarding the preparation of FIRs, to avoid frequent or long suspensions of invoices;
4. Application of a monthly monitoring mechanism of the deliveries of FIRs.

## 5. CEPOL - European Police College

- 9) Does the College recognise its small size as a drawback when it comes to the share of its resources which it needs to devote to ensure compliance with requirements of budget planning, accounting standards, audit and control, recruitment procedure transparency, etc.?  
Can the need to devote resources to address the administrative burden be seen as a risk factor with regard to the College performance?  
Would those concerns be addressed by merging the College with another Agency?

Answer:

In previous years, CEPOL may have been insufficiently resourced to cope with the administrative burden tied to the functioning of an EU agency but, thanks in no small part to the scrutiny of the European Parliament, CEPOL is now legal, regular and operational.

[..]

All this has been achieved with an operating budget of EUR 8,451,000 – a budget that has remained relatively stable – and a total staff of 38 complemented by five seconded national experts.

So, we recognise the size of our agency, but we do not believe that the need to devote resources to ensure a legal, regular and operational functioning of the agency constitutes a risk factor with regard to our performance.

Regarding a possible merger with another agency, we do not believe that it is within our competence to make this assessment. However, as part of the review of our current legal framework, the subject of a merger is on the agenda of the European Commission and we have been informed that it is currently reflecting on this possibility, in the context of a review of CEPOL's legal framework. The Commission will publish its recommendation during the early part of this year. The ultimate decision, of course, on any such merger will rest with the European Parliament and Council.

- 10) Has the College assessed possible solutions for the future as regards its premises, as well as the timing when a change would have to take place?  
What is the current state of play?  
Has the College considered its relocation as an opportunity for a merger with another Agency?



Answer:

However, it is true that CEPOL will have to relocate during 2014. We have been informed by the UK Home Secretary that the Bramshill site is to close, and will be sold. We have been informed that our lease will be extended until March 2014, and we will not be expected to vacate our current premises before this date. This information will no doubt be considered by the Commission as it prepares its recommendation and should CEPOL remain an independent agency, then this is an opportunity for the Member States to agree a new headquarters for CEPOL.

#### 6. EASA - European Aviation Safety Agency

- 11) Why do the EU's agencies, notably European Aviation Safety Agency, have such high administration costs as a percentage of total funds available to the agencies? How can the agencies justify to European taxpayers such a situation especially when some agencies have seen an exponential rise in the fees charged to outside businesses for their services?

Answer:

According to the analytical accounting system, the cost basis of the Agency has the following split: about 81% is linked to core technical activities as defined by the mandate received while the remaining 19% is linked to General and Administrative activities (HR, Communications, Finance, IT, Corporate management, Legal, General management).

- 12) Could the Agency inform the CONT committee which measures were taken on the basis of the findings of the Court of Auditors in its special report 15/2012? Which measures were operational by December 2012?

Answer:

The Agency adopted on 1st of August 2012 a revised Code of Conduct for its staff, including an overarching policy on the Prevention and Mitigation of Conflict of Interest in line with the OECD guidelines. This policy covers the recommendations from the report of the Court of Auditors such as Annual Declaration of interests and related assessment, gifts and hospitality, breach of policy, post-employment, etc. It is applicable to all managers, staff members having a position classified as sensitive in accordance with EASA policy on sensitive functions and external experts involved in EASA core activities as necessary.

In addition, the Agency created, on 1st of August 2012, an Ethical Committee to ensure the independent, impartial and objective assessment of declaration of interests declared by Agency staff, to provide support to the managers in the assessment of the completed Declaration of Interest and to deal with any subject related to the "Code of Conduct for staff of EASA" if so requested.

Finally, the Agency is currently implementing the Code of Conduct focusing on the Prevention and Mitigation of Conflict of Interest with regard to all Agency staff members.

In this context, EASA staff is receiving mandatory training by an external consultant on this Code in general and more particular on conflict of interest and gifts and hospitality. Future staff members will be trained during their induction phase.

A similar code of conduct was released for Board of Appeal on 1st of August.

For the Management Board, the Agency released a proposal for a code of conduct last June. The European Commission is now taking the lead with the support of EASA on the code of conduct to be adopted by the Management Board.

- 13) Can the Agency submit more detailed information on the transfer increasing Title III appropriations, which was followed by a carryover of more than half of the total resulting amount?

Can the Agency provide a more detailed explanation as regards the tendering procedures in question?

Answer:

a) Mainly as a result of the significant reduction in the salary coefficient for 2010/11 appropriations, a total of € 3.2M were freed up in the second part of the year and made available for the funding of a number of high priority projects that had been planned but could not be implemented at the start of the year due to funding restrictions.

In particular, the transfer increased the appropriations available for:

- Consultancy Fees for Development of Business Applications - € 1M
- Rulemaking Studies and Translation Expenses - € 0.691M
- International Cooperation Studies - € 0.3M
- Research Studies - € 1.2M

b) At the end of the year, € 7.8M in relation to Title III subsidy appropriations had to be carried over to cover activities duly contracted. Carryovers are always required mainly due to the practical difficulties of matching contractual requirements to coincide with the financial year, however, the transfers mentioned above increased the available appropriations during the year and, although the related contracts were completed as quickly as possible, many of them could only be completed toward the end of the year. Consequently, this contributed to the high level of commitments carried over at year end. Significant amounts carried over related to contracts covering:

- IT Consultancy Fees - € 1.9M
- Rulemaking Studies & Translation Expenses - € 2.7M
- International Cooperation studies - € 0.65M
- Research Studies - € 1.2M

- 14) What steps has the Agency taken in order to put in place a treasury policy and to limit the financial risk?

Has the Agency already reviewed its service contract with its main bank, and what steps the Agency intends to take?

Answer:

In 2011 the Agency's bank applied on average an interest rate of 1.25% on the Agency's deposits, which is higher than in 2010 and generated 583K euros interests. The Agency takes no financial risk with having the cash available on a current deposit which allows for immediate liquidity.

In order to minimise the credit risk, the Agency will open bank accounts in at least 2 banks as recommended by the European Court of Auditors, and for this purpose will launch a negotiated tender at the beginning of 2013. This will also allow EASA to implement a credit monitoring process through a systematic screening of their ratings.

Important to know is also that the current service contract with EASA's main bank contains the same terms and conditions as those offered by the same bank to the European Commission.

- 15) How could the Agency explain the considerable difference between the future dilapidations costs as estimated by the Agencies lawyers and the owner?  
What is the outcome of the Agency's investigations on this issue?

Answer:

The dilapidations costs fall into two categories:

**1. Works and materials.**

The difference in estimates is due largely to:

- Carpet cleaning or replacement ( €120.000 estimated by the Agency for cleaning vs. €600.000 estimated by the lessor for carpet replacement).
- The Agency has also deducted €325.000 to take into account the estimated residual value of additional air-co installations it has carried out on its own expense.

**2. Loss of revenue for the lessor during the works.**

Here the difference in estimates stems from a difference in views on the duration of the refit works affecting additional rental payments. The Agency estimates 2 months (based on expert reports) vs. the lessor's estimate of 4 months.

The Agency's current position is based on a review performed by a technical expert in 2012, together with legal advice from its lawyers. It is usual practice that the final costs will be determined during an assessment to be made in 2016 when the lease is due to expire.

**7. EBA - European Banking Authority**

- 16) Has the validation of the Authority's accounting system already taken place as foreseen?

Answer:

Yes, the validation has been carried out by the external auditor Deloitte. The full audit report is attached to this e-mail; the overall conclusion is copied below:

“On the basis of the compliance validation procedures performed, Deloitte overall conclusion is that EBA accounting system is compliant with the criteria specified by the European Commission (DG Budget). A number of internal controls are already in place and are adequately executed by the EBA responsible for the accounting process, and for granting access to the key involved IT infrastructure elements, in line with good practices.”

- 17) Has the Authority already updated its procurement arrangements so as to comply with EU procurement rules?

Answer:

The Authority has made significant progress updating its procurement arrangements so as to comply with EU procurement rules. During 2012 the Authority launched and concluded 16 procurement procedures in line with a full scale procurement plan adopted and reviewed regularly by the Management Board. New contracts were signed for IT hardware, software and services, interim HR/IT services, legal services, insurance, training, catering, office furniture, and consultancy services related to bank stress tests. These contracts were awarded in full compliance with the EU procurement rules. The backlog of outstanding procurement procedures was substantially reduced. Some exceptions to the procurement rules were granted however the number was much lower than in 2011. Most areas of significant non compliance have been corrected. The remaining backlog/areas of non compliance will be corrected during 2013.

**8. ECDC - European Centre for Disease Prevention and Control**

- 18) Can the Centre provide explanation why and following what procedure the original framework contract with the maximum amount limit of 9 million EUR was amended to the new value of 14.9 million EUR?

Answer:

The draft framework contract (‘FWC’) supplied with the call for tender did not specify a total amount to be awarded either under the specific FWC or under all FWC resulting from this call. However the published contract notice stated a “minimum of EUR 3 000 000/year”

The FWCs signed also did not state a value of contracts to be awarded either under the specific FWCs awarded or as a result of the procurement procedure as a whole. In fact, Art I.1 Subject in each contract signed explicitly specifies that “Signature of the Contract imposes no obligation on ECDC to purchase”.

At the expiry of the FWCs as a result of this call a “minimum of EUR 3 000 000/year” had been awarded and therefore terms of the contracts were not amended, either in writing or in practice.

Prior to inception of the call for services it was identified that a minimum of EURO 3 000 000/year would be spent under the ensuing FWCs. This was made clear to all potential tenderers in the published contract notice. Subsequently, purchases have been made under specific contracts in accordance with procedures laid down in the FWCs.

Delivery of contracted services has been verified and accounts duly paid in accordance with the procedures laid down in the Financial Regulations. All payments have been legally made for services provided. Hence, no funds have been lost.

FWCs were awarded following an 'open call' public procurement procedure which was performed in a manner compliant with the 'open call' procedure defined in the Financial Regulations and in accordance with the ECDC Internal procedure on Procurement (ECDC/ADM/012) to ensure 'best value for money' (Art. 97 FR). The FWC concluded were also in accordance with the terms outlined both in the contract notice and the call for tender specifications therefore ensuring requirements of both 'genuine competition' (Art. 98 FR) and transparency (Art. 99) towards both potential tenderers and contractors were met. It is therefore held that no parties can be identified who may have been disadvantaged by either the procurement procedure or subsequent contracts awarded.

- 19) As in the previous year, a high level of carryover is reported for 2011. What further measures does the Centre intend to take in order to reduce the carryover to an acceptable level?

How the Centre substantiates its statements that as a result no funds were lost and parties have been disadvantaged?

Answer:

A certain amount of carry-forwards are unavoidable, to pay for activities delivered late in the year, or early in the following year. However, as part of the new Financial Policy, ECDC will improve the planning in order to ensure that carry-forwards are only made for such activities where it is indeed unavoidable.

#### 9. ECHA - European Chemicals Agency

- 20) Could the Agency inform the CONT committee which measures were taken on the basis of the findings of the Court of Auditors in its special report 15/2012?  
Which measures were operational by December 2012?

Answer:

## **Annex 2: ECHA follow-up actions to the recommendations of the European Court of Auditors' special report 15/2012 on the management of conflicts of interest**

ECHA acknowledges that at the time of the audit, shortcomings were identified when benchmarking the Agency's policies and procedures against OECD guidelines. It is, however, important to recall in this context that policies and procedures adopted and/or implemented after the Court completed its fieldwork (October 2011) have not been evaluated. A significant number of recommendations had thus already been addressed by the time of publication of the report. Some of the important developments not taken into account in the report include for instance:

- ECHA Policy for Managing potential Conflicts of Interest, adopted September 2011;
- New, more detailed template for declarations of interest (Annex to the policy);
- New guidance for filling in declarations of interests, adopted November 2011;
- Publication of declarations of interest of the ECHA managers on the website since January 2012;
- Conflicts of Interest Advisory Committee established June 2012, constituent meeting August 2012;
- Code of Conduct for the Management Board members, adopted March 2012;
- Provisional eligibility criteria for ECHA bodies, adopted September 2012;
- Implementing rules (work instructions) on prevention of conflicts of interest and on processing information on potential conflicts of interest of ECHA staff, adopted June 2012 and October 2012 respectively;
- Guidance for managers on the prevention of conflicts of interest, including concrete assessment criteria adopted November 2012;
- Revised guidelines on gifts and hospitality for staff adopted in December 2012.

It can be concluded that ECHA had already proactively addressed the majority of the Court's recommendations by the time of the publication of its special report, while a small number of actions are still ongoing or pending. A detailed overview of the Court's recommendations and ECHA's follow-up actions can be found in Annex.

### **Attachment:**

Table of follow-up actions undertaken/planned

21) Did the Agency formalise the fixed asset management policy as foreseen in 2012?

### **10. EEA - European Environment Agency**

22) Can the Agency provide more detailed information as to the procedure following which the financial decisions related to the participation of the agency's staff in the expeditions organised by an NGO have been taken?

Can the Agency provide more information about its current state of play as regards its conflict of interest policy?

Answer:

a) The financial decision on which staff were sent on training and data collection organised by an NGO followed the regular practice of approval of the individual staff member's training and annual work plans by the line manager in line with the needs of the EEA, during the annual Career Development interview. The decisions were registered and approved by the line manager in the Agency's mission system.

At the 65th Management Board it was agreed that the Board would review ex ante, the EEA training policy and be informed in advance of training outside EEA member countries as exceptional in terms of either number of people being trained or the type provided (see Annex I).

b) In response to issues raised during the Budgetary discharge for the financial year 2010, the EEA undertook an assessment, based on the European Ombudsman's positive report of the existing measures in place and put forward a plan to strengthen prevention of CoI requirements in relation to creating a greater awareness amongst staff, continued vigilance of any potential CoI and reputational risks associated with collaborative work, attendance at meetings or missions and an annual review of external activities of each staff member.

In its 65th meeting on 12 December 2012, the EEA Management Board endorsed all the measures already in force and the new procedures proposed by the Executive Director - summarised in the attached document. This now constitutes the official policy of the agency in preventing conflicts of interest and reputational risks (see Annex I).

To summarise, the EEA policy on prevention of conflict of interest is governed by the staff regulations of officials of the European communities and its implementing rules are directly applicable to EEA staff. These consist of ex ante control mechanisms and preventative measures including staff awareness-raising and training. The agency enforces standards as in the services of the European Commission, and in particular the internal control standards concerning irregularities and recording and correction of internal control weaknesses. The agency has signed an agreement with the European Anti-Fraud Office (OLAF) to conduct internal administrative investigations. It is important to note that the concept of conflict of interest under which the European Environment Agency and other agencies operate is different to the fee-based agencies that were subject to the European Court of Auditors' report on preventing conflict of interest. This should be kept in mind in comparative studies of agencies.

Annex II contains a brief summary of the various forms and procedures in force grouped by type of activity. All this information is available on the agency's intranet and can be accessed by all staff. Please note that this list is not exhaustive and may be supplemented with rules and recommendations that may be issued by the Agency or supervisory bodies internal as well as external.

#### 11. EFCA - European Fisheries Control Agency

None

#### 12. EFSA - European Food Safety Agency

- 23) Could the Authority provide information as to which other financial options were discussed/ available in purchasing the new 38,6 million headquarters, and why it made the choice implying an 18,5 million interest payment over 25 years?  
Which suggestions were made by the Court of Auditors to reduce these costs?

Answer:

In compliance with the Financial Regulation, the Authority submitted in 2005 the building project to the Budgetary authority with a deferred purchase price agreement payments over 25 years. This payment structure was similar to that used for European Commission buildings, reviewed and endorsed by DG BUDG and ECFIN. The budgetary authority approved the building project.

On suggestion of the Court of Auditors, a request was made to the Commission to seek additional payment credits in order to cover the full purchase with only one down-payment. The Commission however do not see the possibility to increase the appropriations towards EFSA to cover a single down-payment in the current climate of tight expenditure.

It is important to highlight that the modalities adopted for this purchase led to a reduction of the cost of EFSA premises in comparison to the rent solution previously used.

- 24) Could the Authority submit an additional extra chapter of its annual activity report outlining which were the actions undertaken in its policies on preventing/ dealing with possible conflicts of interest and revolving doors?

Answer:

Since 2011, EFSA has introduced in its Annual Activity Report (AAR) a special section describing the actions taken to implement its independence policy, thus answering to the recommendation formulated by the EP in its EP resolution of 23.10.2012, under point 19, concerning discharge in respect of the implementation of the budget of the European Food Safety Authority for the financial year 2010. Furthermore, EFSA compiled a comprehensive report on the implementation of its independence policy in June 2012 which was submitted to the EP CONT Committee and is available on the Parliament website at the following address:

<http://www.europarl.europa.eu/document/activities/cont/201207/20120718ATT49107/20120718ATT49107EN.pdf> (see point 3 below).

- 25) What is the state of play concerning the follow up of the critical remarks made by the Court of Auditors in its special report 15/2012 and the 2010 discharge procedure?

Answer:

The EP Resolution on EFSA's 2010 discharge of 23 October 2012 acknowledges that effective actions have been taken by EFSA on budget and financial management, as well as on the contract management process. It also addresses recommendations on conflicts of interest and transparency. In the latter context, EFSA has, on the one hand, carried out a complete follow-up of actions suggested within the framework of the 2010 discharge process, and, on the other hand, has responded to the Court of Auditors special report 15/2012 on the management of conflicts of interest in selected Agencies. Both related EFSA's initiatives are reflected in the attached documents.



Moreover, EFSA would like to specifically mention two points that have been addressed in the above mentioned EP resolution related to EFSA's 2010 discharge, and which concern the following:

- under point 15: it should be noted that EFSA has systematically screened all its panel members under the new 2012 rules on independence. All experts newly appointed in 2012 in the context of the renewal of 8 panels were screened under the new rules. As a result, several candidates were excluded during the selection exercise due to potential conflicts of interest. Regarding the other two panels (ANS and CEF), whose experts were appointed before the implementation of the 2012 rules on independence, a new screening of all their experts has been carried out since the entry into force of the new rules. This has led to the exclusion of some experts from these two panels due to potential conflicts of interest or to their withdrawal from the potentially conflicting activities.

- under point 19: the Authority confirms that, from 2011 onwards, it has introduced a special section describing the actions taken to implement its independence policy in its AAR. As mentioned, This follows the publication of a special report to the EP on the implementation of EFSA independence policy (June 2012) , which has been posted on your website, at the following address:

<http://www.europarl.europa.eu/document/activities/cont/201207/20120718ATT49107/20120718ATT49107EN.pdf> (see point 2 above)

26) Can the Authority explain why none of the critical remarks mentioned in Chapter VI.2 "relations with European Institutions and agencies" seem to be discussed with MEPs?

Answer:

The question is unclear. If it means that EFSA did not include in its AAR 2011 (Chapter VI.2) any reference to the critical remarks of the European Court of Auditors in its Special report 15/2012, EFSA would like to note the following:

- The ECA Special report 15/2012 on the management of conflicts of interest in selected agencies was released in late 2012. Given that EFSA is legally required to issue its AAR by the end of March of the following year at the latest, the 2011 EFSA's AAR could not refer or reflect the conclusions of the above mentioned ECA special report.

- In any event, EFSA has in both its AAR 2010 and 2011 proactively included reference to its independence policy and to various criticisms raised. As mentioned above (see points 2 and 3 above), starting from the AAR 2012 (to be adopted in March 2013), EFSA will introduce a specific section dealing with the implementation of EFSA's policy on independence and scientific decision-making processes.

- More generally, over the last three years EFSA has had several discussions with MEPs on independence issues in the context of its regular relations (hearings at the EP, visits of EP delegations to EFSA, dedicated newsletters to MEP, etc.).

### 13. EIGE - European Institute for Gender Equality

27) Does the Institute recognise its small size as drawback when it comes to the share of its resources which it needs to devote to ensure compliance with requirements of

budget planning, accounting standards, audit and control, recruitment procedure transparency, etc.?

Answer:

Since the Institute's first six months of operation in 2010 and following administrative autonomy granted on the 15 June 2010, the European Institute for Gender Equality (EIGE) has been audited annually by both the European Court of Auditors and the Commission's DG Internal Audit Service (IAS). The Institute is also subject to investigations by OLAF, if the need arises. We are of the opinion that these external and independent audits are most suited to assure the budgetary authority on the Institute's compliance with the above-mentioned requirements.

The Court of Auditors' reports on 2010 and 2011 both confirmed that the Institute performed well. The Court has given its assurance that the reliability of our accounts was in accordance with the provisions of the Financial Regulation, and that the legality and regularity of the transactions underlying the accounts were in all material respects, legal and regular.

The Commission's IAS, in the yearly reports issued in 2010 and 2011, provided "reasonable assurance" on the internal control system in place at the Institute.

With respect to OLAF, to date, EIGE has no cases against it. During its start-up phase the Institute made sure that both formal (cooperation agreement in place since 26 January 2011) and informal measures to prevent any irregularities or fraud were introduced. OLAF officials were invited to Vilnius in 2010 to provide information sessions to staff concerning issues related to external activities,

conflict of interest, code of ethics, etc. EIGE arranged in 2011 a series of information sessions and trainings for all staff on ethics and integrity.

On a separate note however, there have been operational difficulties relating to procurement and budget execution that can partly be attributed to the stage of establishment during the first two years and to the size of the Institute. Findings highlighted by the two audit institutions are adequately and promptly addressed and progressively implemented. This is underpinned by the experience of the Institute's administrative staff who play a key role in ensuring compliance, given their experience in the different areas.

Can the need to devote resources to address the administrative burden be seen as risk factor with regard to the Institute's performance?

Answer:

Compliance is undoubtedly a risk factor that needs to be managed on an on-going basis. To date, it has been certified that the Institute is by and large, meeting its administrative obligations.

It can be pointed out that the Institute's yearly budgetary allocation is manageable from both a risk and compliance perspective. Given its nature the Institute does not need to deal with the more demanding grants that other agencies have to deal with.

Moreover, from the start EIGE has sought out synergies with other EU institutions. One example is the recently established EU House whereby EIGE shares premises with the European Parliament information office and the European Commission Representation Office to the Republic of Lithuania. This arrangement is intended to not only increase the EU's visibility, but also as a long run cost saving and cost sharing measure.

Would those concerns be addressed by merging the Institute with another Agency?

Answer:

A merger as suggested might result in some minor economies of scale keeping in mind the applicable country correction coefficient for Lithuania at 72.5. Yet given that the Institute is meeting its administrative obligations, would such a merger undermine more than it seeks to gain? During the first two years of operations EIGE has already given proof that it is capable to give a unique and valuable contribution to the vision of the legislators by delivering its first concrete products relevant to the EU.

One consequence of a merger - a decision that lies well beyond the remit of the Institute's management - will be that gender equality, as a value and principle of the European Union, will be marginalized.

#### 14. EIOPA - European Insurance and Occupational Pensions Authority

28) Has the validation of the Authority's accounting system already taken place as foreseen?

Answer:

The EIOPA Accounting Officer requested the services of Deloitte Consulting under the framework contract no. 30-CE-0227438 to assist with the validation of the EIOPA accounting system which took place in the offices of EIOPA on 9 and 10 October 2012. It was preceded by a kick off meeting between the Deloitte team and EIOPA on 28 September 2012 and followed by a closing workshop on 22 October 2012.

Attached hereto please find the final report. Copies of the report were sent to the EIOPA Executive Director, the office of the accounting officer of the Commission and the IAS. On the basis of the compliance validation procedures performed, Deloitte's overall conclusion was that the EIOPA accounting system is in general compliant with the criteria specified by the European Commission (DG Budget).

A number of improvement areas were identified which will be addressed by EIOPA in 2013. These improvements do not have a significant impact on the overall compliance noted. The EIOPA Accounting Officer will make sure that an action plan is set up and the necessary steps are taken in order to implement the recommendations as soon as possible.

- 29) Has the Authority updated its procurement arrangements so as to comply with EU procurement rules?

Answer:

EIOPA has a Procurement Officer as of 1 June 2012 and procurement workflows have been established. Staff members of EIOPA have received awareness and training sessions related to the EU procurement rules. Procurement related templates have been developed and all the tender procedures are launched according to the relevant EU procurement rules. Review of the in-house contracts and assessment of the situation and analyses of the needs to launch new procedures has been performed. Procurement Officer is making sure that the EU procurement rules are observed.

- 30) Has the Authority brought its recruitment procedures in line with the Courts recommendations?

Answer:

EIOPA has indeed brought its recruitment procedures in line with the Court's recommendations. The workflow for the AIPN to formally decide on the composition of selection committees has been improved. Written tests and interview scripts are finalised prior to the deadline of publication of vacancy notices. Threshold scores have also been introduced for admission to written tests and interviews and for inclusion in the list of suitable candidates. The internal recruitment guidelines have been updated accordingly. In addition, candidates' guidelines have been drafted and published in EIOPA's website, informing them on what to expect when applying for a position at EIOPA, including the timeframe of the selection process, the communication with the candidate throughout the process and the threshold of candidates being interviewed. For cost/efficiency purposes we only invite three candidates per position for a panel interview and if there are more we run pre-screening exercises.

#### 15. EIT - European Institute of Innovation and Technology

- 31) Does the Institute recognises its small size as drawback when it comes to the share of its resources which it needs to devote to ensure compliance with requirements of budget planning, accounting standards, audit and control, recruitment procedure transparency, etc.?  
Can the need to devote resources to address the administrative burden be seen as risk factor with regard to the Institute's performance?

Answer:

As mentioned in the EIT's Annual Activity Report for the financial year 2011 (part 2. Management and internal control systems), the total headcount during 2011 was 40 (23 TA+ 17 CA), representing a 66% increase compared to 2010.

In addition to the staff increase, a new organisational structure was established in September 2011 to allocate a sufficient number of staff to reinforcing the administrative and horizontal tasks, and mainly budget planning and implementation, human resources, accounting and internal audit tasks, thus creating a solid supportive service base for the EIT.

Once the core functions of the EIT have been reinforced, the staff increase in the subsequent years is primarily focused on strengthening the operational capacities in line with the Institute's developing role as defined in the Strategic Innovation Proposal (SIA) proposal. With the planned resources for 2013 and 2014, the EIT will be equipped to deliver on its core mission, namely to support the operational activities of the current three KICs, prepare the new wave of KICs and to scale up its outreach strategy as an Institute providing benefits across the European Union.

Regarding the second question, the EIT external evaluation<sup>1</sup> suggested that a small number of KICs means that part of the organisation the EIT is unable to reap economies of scale in terms of its administration and monitoring functions. Additional KICs would enable the EIT to operate at a more efficient scale. As to the efficiency of the EIT headquarters, this appears to be an issue for all small EU agencies, especially in their starting phase. In its annual specific reports for 2007, the Court of Auditors reports an average of 30% of EU Agencies' staff assigned to administrative tasks, with a proportion exceeding 50% for the smaller ones, suggesting a high administrative burden that the current regulatory framework and implementing procedures represent for small-scale agencies, such as the EIT. Moreover, the compliance burden diminishes with agency's age: newer agencies find it more difficult to cope with the financial regulations and the implementing rules. Thus, there seems to be a learning curve for new agencies – and their new administrative staff.

#### **16. EMA - European Medicines Agency**

- 32) Could the Agency inform the CONT committee which measures were taken on the basis of the findings of the Court of Auditors in its special report 15/2012?  
Which measures were operational by December 2012?

#### **Answer:**

Since the Court of Auditors' audit conducted in October 2011, the EMA, as stated in its reply to the Court of Auditors' findings has taken various new initiatives, addressing recommendations in the Court's report:

- A revised EMA Policy on the handling of conflicts of interests of scientific committees' members and experts came into effect on 29 September 2011 and was rolled-out during the Court's audit field work in October 2011. The main characteristics of this revised Policy are a more robust and transparent system. Such EMA policy was further revised in 2012 (mainly to give clearer guidance) and became effective on 3 April 2012 (EMA/531078/2010).

- Compulsory screening of the declared Conflicts of Interests of scientific committees' members has been introduced since 29 September 2011 prior to any formal nomination of the Competent Authority.

In addition, the possibility of pre-screening by the Agency of any expert prior to the formal EMA evaluation for involvement in an EMA activity is offered to any Nominating Authority.

- A revised EMA Policy on the handling of conflicts of interests of the Management Board (in line with the Policy for scientific committees' members/experts) came into effect on 3 April 2012 (EMA/MB/64234/2012).

- Breach of Trust procedures were developed for both scientific committees' members/experts (EMA/154320/2012) (which came into effect on 3 April 2012) and Management Board members (EMA/MB/309079/2012) (which came into effect on 7 June 2012).

- Transparency on conflicts of interests was further increased through the publication online of the declarations of interests of all experts (on 30 September 2011) and their assigned risk level (on 29 January 2012), and through the publication of the declarations of interests of all EMA management (on 29 January 2012).

- Likewise in the field of transparency, the recording of declared interests has been further fine tuned in so far as all restricted involvements put in place vis-à-vis the agenda points of the meeting are now recorded (undertaken before December 2012). As of 18 July 2012 the Agency has started to make the scientific committees' meeting minutes public, starting with the PDCO, COMP and PRAC meeting minutes in 2012, and to be extended to all scientific committees' meeting minutes before the end of 2013.

- EMA adopted on 9 June 2011 rules relating to Articles 11a and 3 of the Staff Regulations concerning the handling of declared interests of EMA employees (EMA/500408/2011) which officially entered into force, following the agreement of the European Commission, on 1 February 2012. These rules were subsequently extended by decision of the Executive Director of 1 February 2012 to trainees, national experts on secondment, interims and visiting experts (EMA/78396/2012).

In addition, the EMA has undertaken the following:

- EMA verified declarations of interests of scientific committees' members and experts invited to scientific or regulatory meetings at the Agency between 1 January and 31 May 2012 in the context of EMA's 2010 budget discharge on the request of the European Parliament (EMA/543340/2012).

33) Can the Agency guarantee that all experts have filed declarations of interest, and how many of them were checked before the expert was taking part in scientific activities?

Answer:

The Agency can confirm that all experts have submitted Declarations of Interest and such declarations are published. Prior to any involvement in EMA activities, these declarations are evaluated.

The EMA policy on the handling of conflicts of interest of scientific committees' members and experts sets out the following requirement:

“All Scientific Committee members and experts must be included in the Agency's experts database prior to the first appointment resulting in involvement in activities at the level of the Agency (meeting attendance, scientific evaluation, inspections, guidance development, etc.). Such inclusion is only possible once the following documents have been submitted to the Agency:

- Nomination form,
- Public declaration of interests and confidentiality undertaking form, and
- Curriculum Vitae.”

All experts currently involved in EMA activities have submitted a declaration of interests, which is included with the expert's record in the Experts Database and is also published in the EMA external webpage.

The EMA policy on the handling of conflicts of interest also sets out the following requirement:

*“Conflicts of interests are classified into 3 categories, i.e. direct versus indirect versus no interests declared. Direct interests are assigned the highest risk level (level 3), indirect interests an intermediate risk level (level 2), and in case no interests are declared a risk level 1 is assigned.*

*Following receipt of the Declaration of Interest, a risk level is automatically assigned. Subsequently the level of participation in the Agency's activities is determined by the Agency's secretariat taking into account the assigned risk level and the restrictions which apply to participation in the various activities of the Agency.”*

These requirements are further elaborated in SOP/EMA/0040 – Evaluation of conflicts of interests of experts for involvement in EMA activities and SOP/EMA/0126 – Arrangements for handling of conflicts of interests for EMA scientific meetings.

The risk level assigned to each expert is included in the Experts Database and is also published in the EMA external webpage. The declared interests of all experts assigned risk level 2 or 3 are evaluated prior to involvement of that expert in EMA activities / issuing of invitations to participate in meetings, and the expert informed of the outcome of such evaluation in case of incompatibility with EMA activities or restrictions applying to his or her participation. In addition, restrictions applying to the participation of experts in any specific meeting are communicated at the start of that meeting and recorded in the Minutes of the meeting which are currently routinely published for a number of EMA Scientific Committees (PDCO, PRAC, COMP). The minutes of all committees' meetings will be published by the end of Q4 2013.

- 34) How does the Agency check if experts or their direct relatives are holders/(co-) owners of patents in the field of human or veterinary medicine?

Answer:

The EMA Declaration of Interests form requires the expert to declare all process and product patents relating to medicinal products and/or patents with a link to a particular medicinal product (e.g. diagnostic tests, medical devices), owned by either the expert or his / her institution, to the extent that he / she is aware, and for which he / she is a beneficiary. The expert is also required to declare current direct interests, including patent ownership, of the members of his / her household. A household member is a spouse, partner or child living at the same address. Such declared interests lead to the assignment of a risk level and consequent restrictions as outlined in the Policy on Handling of conflicts of interest (see also response to question 33).

35) In how many cases in 2011 were members of scientific committees not eligible to vote, due to potential conflicts of interest but participated in the discussions?

Answer:

In the period **January – September 2011**, the Policy on the Handling of Conflicts of Interest of Scientific Committee experts, effective during that time period, was the **January 2006 version**.

Under this policy, experts were assigned a risk level based on background, nature of interest and timeframe of such interest, with consequent restrictions with respect to their involvement in the final deliberations and voting.

For the period January – September 2011, a total of 30 Committee members (across the 6 Committees of the Agency in 2011) were identified as having declared interests which could impact on their participation in voting on specified products in which they had declared a previous involvement, depending on the actual agenda of the meetings concerned.

Following review of the agendas, restrictions were applied to the participation of these members in the relevant committee meetings, in case of agenda items concerning the products to which the restrictions refer. These are recorded in the specific minutes of the committee meetings and can be summarised as follows

**4** members were restricted from participation in discussions and voting on agenda items / procedures in which they had declared an interest.

The revised Policy on the Handling of Conflicts of Interest of Scientific Committee experts, as adopted by the Management Board in October 2010 was implemented on September 29th 2011. The criteria used for risk classification were updated in the revised policy. In the period **October – December 2011**, the Policy on the Handling of Conflicts of Interest of Scientific Committee experts, effective during that time period, was the **September 2010 version**.

Regarding the revised policy (September 2010), the following restrictions may be applied to experts, depending on the nature of the declared interest and the timeframe of involvement:



*No involvement with respect to procedures involving the relevant product or a competitor product in the relevant indication/ products from a specified company, i.e. **no part in discussions, final deliberations and voting as appropriate as regards these medicinal products.***

**Or**

*Involvement in discussions only with respect to procedures involving the relevant product or a competitor product / products from a specified company, i.e. **no part in final deliberations and voting as appropriate as regards these medicinal products.***

It should be noted that both restrictions will prevent an expert from taking part in voting on a medicinal product, in which he / she has declared a previous involvement.

For the period October – December 2011, a total of 24 Committee members (across the 6 Committees of the Agency in 2011) were identified as having declared interests which could impact on their participation in voting on specified products in which they had declared a previous involvement, depending on the actual agenda of the meetings concerned.

Following review of the agendas, restrictions were applied to the participation of these members in the relevant committee meetings, in case of agenda items concerning the products / companies to which the restrictions refer. These are recorded in the specific minutes of the committee meetings and can be summarised as follows:

**12** members were restricted from participation in voting on agenda items / procedures in which they had declared an interest. Dependent on the interests declared, **6** out of these 12 members were also restricted from participation in discussions on these specific agenda items.

36) Will the Agency introduce a system under which these members are also excluded from participating in those discussions?

Answer:

As outlined in the response to Question 35, such system has already been introduced and is in operation. Specifically, the EMA Policy on the handling of conflicts of interests defines restrictions to involvement in EMA activities depending on the nature of the declared interest and the timeframe of involvement. Experts will be excluded from participating in discussions, if the interests declared and the timeframe of involvement in such activities fall under the criteria for such exclusion.

37) Were in 2011 any sanctions applied to members of staff who did not follow the rules on declarations of interest, filed incomplete declarations, or did not update them timely?  
Which sanctions were applied?

Answer:

EMA staff complied with the rules on declarations of interest. All new staff provided a declaration of interest on first starting employment in a timely and complete manner. Serving staff provided an annual update in a complete and timely manner. No sanctions were required.

- 38) Could the Agency explain how they control if and for which amount as a percentage of the total costs involved third parties finance / subsidize research carried out by experts outside their activities for EMA?

Answer:

The Agency does not control if (nor the amount as a percentage of the total costs involved) third parties finance or subsidize research carried out by experts outside their activities for EMA. However, Experts are requested to declare, in the Declaration of Interest form, if they or their institutions, are in receipt of grants or other funding from pharmaceutical companies. In case an expert would declare (current) receipt of such funding, restrictions would apply to the involvement of that expert as Rapporteur (or other key co-ordinating role) for procedures / products from the company involved.

- 39) Can the Agency indicate how many times changes were made to declarations of interest due to the fact that third parties filed complaints/ remarks on the now publicly available information of DOI?  
Had this any effect on the nomination of experts in specific groups?

Answer:

The EMA has received remarks from external parties regarding the declared interests of a limited number of experts (5 cases within the past 5 years, one of which occurred in 2011.).

In each case, the EMA contacted the expert for clarification as needed, and for update of the Declaration of Interests form as appropriate. This did not have any effect on the nomination of experts in specific groups.

It should be noted that, the EMA has now a breach of trust procedure, in place since April 2012 for scientific committees' members/experts and since June 2012 for Management Board members, in case of incomplete or incorrect declarations of interests.

- 40) Could the Agency inform the CONT committee on the implementing rules governing the post employment obligations (revolving doors and insider information)?  
How many applications were filed and which were the assessments criteria to grant or not to grant permission for post employment activities?

Answer:

The number of applications under Art 16 of the Staff Regulations in 2011 were 12.  
The number of applications under Art 16 of the Staff Regulations in 2012 were 43.

The total number in 2001 and 2012 was 55 applications.

Permission for post-employment activities took into account the fundamental right to employment.

The review of each application looked at the nature of the post-employment activity and addressed any conflict of interest in relation to previous work performed at the EMA. Every applicant was reminded of their life long duty of confidentiality and was further reminded of the need to inform EMA of any other or change in post-employment activity for a period of 2 years following the date of departure.

In line with the work that had been carried out by the applicant at the EMA, restrictions were put in place that the applicant could not individually liaise with any member of EMA staff on any product or procedural matter or attend any administrative or product related hearing or meeting involving the Agency for a period of time following the date of departure from the service. This distance aspect was without prejudice to the possibility to request information from the EMA through the standard channels available to all members of the public.

In relation to the medicinal products on which the applicant had worked while employed at the EMA, the restriction applied was that the applicant was not permitted to be involved in these medicinal products in their post-employment activity for a specified period of time.

- 41) Has any progress been made on rules for post employment/nomination of non staff members of the Agency?

Answer:

The EMA has no legal basis to restrict the post-employment activity of Management Board members or experts of the scientific committees; however, they are bound by their confidentiality undertaking, which is included in the declaration of interests form.

*Note: The rules relating to Articles 11a and 3 of the Staff Regulations concerning the handling of declared interests of employees of the EMA were extended to trainees, national experts on secondment, interims, and visiting experts in February 2012.*

- 42) The Court of Auditors in its 2011 report on the agency persists, despite the contrary arguments given in 2010 by the Agency, that the IT framework contract is not regular.

The same position is taken by both institutions on the extension of the contract.  
Could CONT have a copy on the legal opinion on the matter?

Answer:

The original tender procedure in 2009 on which the IT framework contract was based did contain technical mistakes but this did not influence the correct outcome of the procurement procedure.

Therefore the original contract award was regular and the extension to the ceiling of this contract was also regular.

The Head of Legal Service of the Agency was consulted regarding the legal basis for the extension of the framework contract ceiling and by e-mail of 16 March 2011 confirmed his view that the justification was sound from the legal point of view.

**17. EMCDDA - European Monitoring Centre for Drugs and Drug Addiction**

- 43) The Centre bears the annual cost of 275 000 euro for unused office space in its former building and in the new Headquarters. What are the specific initiatives that have been taken in order to find adequate solutions for the unused office space?

**Answer:**

Around 60% of this cost relates to expenditure for rent and utilities concerning those areas of the EMCDDA's new premises (the so-called Relógio building) that were subleased in 2010 to the Portuguese State for the use of the Jacques Delors European Information Centre (JDEIC), following a request from the Government. Evoking budgetary reasons, at the end of 2011, the Portuguese Government announced the intention to unilaterally terminate the contract in force for the aforementioned sublease before the end of its duration. In March 2012, the JDEIC vacated the areas occupied in the building and stopped honouring its financial commitments.

The remaining part of the aforementioned cost, around 40%, relates to the strictly essential maintenance of the former EMCDDA headquarters, which has been owned by the EMCDDA since 1995.

As regards to the latter, the so-called Mascarenhas building, the agency has been actively trying to sell or to rent it out since it moved into its new premises (leased from the Lisbon Port Authority) and since 2008 is working with several key Lisbon real estate agencies for this purpose. The EMCDDA has also addressed the Portuguese Government, other Portuguese authorities, as well as all the diplomatic missions and chambers of Commerce in Lisbon with a view to finding a buyer for the building. The conditions of the concerned real estate market have not facilitated these operations. Although a small number of potential buyers have visited the premises, no formal offer has been received.

The most recent initiatives taken by the EMCDDA concerned the possible lease of this building. There were two potential tenants interested in using the premises as a home for the elderly people. Negotiations with a first potential tenant were unsuccessful, because although a provisional agreement on several key aspects was reached, the potential tenant failed to comply with a request of the EMCDDA to provide a bank guarantee to cover the execution of the contractual obligations (namely the risk of non payment of rent or of the tenant vacating the premises before the end of the lease term or leaving the building in need of serious repairs). The Budget Committee of the EMCDDA endorsed this approach of trying to secure a bank guarantee to cover possible problems in the execution of the contract. Negotiations with a second potential tenant, also for a home for elderly people, are currently ongoing.

The building continues to be used for large technical meetings and as an alternative site for ICT business continuity, allowing some cost savings.

Concerning the above-mentioned areas in the so-called Relógio building previously rented to the Portuguese State for the use of the JDEIC, in 2012, the EMCDDA entered into negotiations with the Ministry of Foreign Affairs (MFA) on possible terms for early termination of the contract. An agreement has not been reached yet because the MFA claimed to not have the means to comply with the two key conditions put forward by the EMCDDA for this purpose, i.e. to have the rents due for the months of April to December 2012 fully paid by the MFA, and to get the commitment that the Portuguese Authorities would take the necessary steps to persuade the landlord — the Lisbon Port Authority — to reduce the rent for the concerned area, in order to make it a neutral operation for the EMCDDA in budgetary terms. In this context the Director of the EMCDDA wrote to the Portuguese Prime Minister on 4 October 2012 seeking his intervention to ensure that the Portuguese State fulfilled its contractual obligations towards the EMCDDA. To date, a reply is still pending.

In parallel, the EMCDDA received a proposal from an established shipping agents company for the sub-renting of the concerned areas. The EMCDDA made a counter proposal. At the time of writing, the agency is waiting for a final reaction from the counterparty, although there were informal indications that the company is still interested in renting the concerned areas.

For both situations, the EMCDDA is pursuing and increasing its efforts in this field, in line with the European Court of Auditors' recommendations. For this purpose, specific initiatives have been recently taken with both the European Commission — the Director of the EMCDDA wrote to Commissioner Malmström — as well as the relevant national authorities. The Budget Committee of the EMCDDA is regularly informed about any developments concerning this issue.

44) Has the Centre adopted and implemented a treasury policy?

Answer:

The EMCDDA has put in place procedures aimed at periodically monitoring and managing the possible treasury risk. In this context, the EMCDDA accounting officer monitors on a monthly basis the evolution of the relevant bank ratings, in close cooperation with the treasury unit of the European Commission (DG BUDG). On this basis, the accounting officer has carried out a risk assessment that will be periodically repeated in the future.

In order to further reduce the treasury risk, the EMCDDA has streamlined its cash flow forecast and management and has fine-tuned the timing for its request for payment of the installments of the EU subsidy to its budget.

This follows and completes a series of prudential and mitigating measures that had already been taken by the EMCDDA, in line with the evolution of the economic and financial situation affecting the level of the aforementioned risk.

In particular, during 2011, the EMCDDA carried out a tendering process for the provision of banking services. To minimise and prevent possible unacceptable financial risks, the EMCDDA took a prudential approach and decided not to award the contract in question, as it verified that at the moment of the awarding, the potential contractor was

not meeting the minimum conditions required in terms of rating and outlook.

Following the closing of this operation, at the beginning of 2012, the EMCDDA concluded a framework contract for bank services with ING Belgium. This is a bank which fully complies with SEPA requirements and has much experience in providing services to the European Commission and to several EU agencies. Its rating and outlook, as well as its core tier, are in line with those recommended in order to minimise the relevant risks.

To better manage and spread these risks, the EMCDDA has opened a number of accounts in this bank, where it will keep the bulk of its funds and cash balance. The EMCDDA continues using accounts in some local banks in order to process local transactions of a reduced amount.

#### 18. EMSA - European Maritime Safety Agency

- 45) Has the Agency addressed the issues as regards its asset management?  
Has the inventory of physical assets been completed as foreseen?

Answer:

The Agency has addressed all the issues concerning its asset management: In the course of 2012 detailed rules and procedures as regards asset management were developed and implemented. The correctness of the inventory was verified and, as foreseen, a full inventory of physical assets has been completed in the course of the second half of 2012. Also ABAC Assets, the Agency's tool to keep track of all its assets, has been fully updated.

- 46) Can the Agency provide more information about the steps it has taken in order to prevent recurrence of losses as incurred by the public sale of used equipment?

Answer:

The Agency has established a number of guidelines and procedures with regard to managing its marine pollution response assets. These have been consolidated, in a consistent manner, in a Compendium. This Compendium includes a chapter on the public sale procedure and a detailed procedure for the establishment of the relevant depreciated book value.

#### 19. ENISA - European Network and Information Security Agency

None

#### 20. ERA - European Railway Agency

- 47) What measures has the Agency taken or what further measures does the Agency intend to take in order to ensure that the budgetary principle of annuality is respected, especially for title III (operational expenditures)?

Answer:

As all new agencies, ERA had a high level of carry overs in the first years of its existence. This has however changed in recent years as it will be seen from the following table (all amounts in M€):

Budget Year	Commitments	Carried over		Payments out of the CO	
	Amount	Amount	%	Amount	%
2007	13.3	2.7	20	2.2	82
2008	17.3	4.1	24	3.6	87
2009	20.6	4.5	22	4.3	94
2010	24.0	5.5	23	5.3	98
2011	24.6	3.6	14	3.5	97
2012	24.5	2.4	10		

The reduction of the carry overs from 2012 to 2013 means the targets set for 2013 have almost been reached already in 2012. It should also be noted that practically all amounts carried over have actually been spent during the following year.

The actions taken by ERA to achieve this very significant reduction in carry overs have mainly been:

- Improved business and procurement planning;
- More widespread use of framework contracts;
- Better alignment of contracts and payment schedules with the calendar year;
- Improved procedures for payments reducing processing time.

All this has been supported by targeted training activities for the relevant staff and should be seen as part of the increasing maturity of the organisation. Also, it should be recalled that such actions cannot have an immediate effect and that the improvements demonstrated recently for a part are a result of activities initiated several years earlier.

Efforts will be continued in all areas to secure that the targets set for 2013 will be reached.

## 21. ESMA - European Securities and Markets Authority

48) Has the Authority's internal control provisions already been approved by its Management Board?

Answer:

Yes. The Management Board approved the ESMA Internal Control Standards in 2012. An Internal Control Coordinator has also been appointed in 2012.

49) Had the Authority's implementing rules to the Staff Regulation been adopted?

Answer:

The majority has been adopted, but some still await confirmation or finalisation. ESMA started to discuss its Implementing Rules to the Staff Regulations and CEOS with DG HR in 2010, before its creation.

In January 2011, the Management Board of ESMA provisionally approved all implementing rules before sending them to DG HR for approval - the formal final Management Board approval being possible only after the Commission's approval. The proposed implementing rules were officially submitted to the Commission on 17 January 2011.

The first feedback from the Commission only came in late spring 2011. DG HR required at the time that there should be common rules from the three ESAs – ESMA, EBA and EIOPA. They also requested a consultation of the newly set up Staff Committee which did not exist in January 2011. ESMA, in coordination with EBA and EIOPA, discussed the comments with DG HR during the autumn. A new set of rules was submitted to DG HR on 21 December 2011.

The current state of play (identical for the three ESAs) is the following:

- 14 implementing rules were adopted in 2011,
- 5 implementing rules were approved in 2012,
- 7 implementing rules are awaiting confirmation by the college of the commission or DG HR,
- 4 implementing rules have not been approved by the European Commission that finally required the ESAs to revise the rules based on new templates in line with the new staff regulation. One template is still to be provided by the European Commission.

50) Has the interinstitutional agreement with the European Anti-Fraud Office (OLAF) on fraud investigations been reached?

Answer:

Yes. On 11 January 2011, the Management Board of ESMA adopted a decision which follows the text of the model decision annexed to the Inter-institutional agreement of 25 May 1999 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and illegal activity detrimental to the Communities' interests. Accordingly, a letter was sent to the European Parliament, the European Commission, the European Council and OLAF. Moreover, the agreement with OLAF is part of the ESMA founding regulation.

## 22. ETF - European Training Foundation

51) Has the Foundation already adopted and implemented its treasury policy?

Answer:

The ETF's treasury management is governed by a Memorandum of Understanding with its parent DG, DG EAC, which defines clear criteria for the disbursement of the subvention on the basis of strict cash flow requirements. Following further discussion and clarifications with the Court of Auditors during its visit to ETF in November 2012, ETF plans to draft and adopt a formal treasury policy in 2013.



- 52) Has the Foundation made any progress in tackling the outstanding issues as regards provision of maintenance and essential services for its premises?

Answer:

The ETF has been doing everything in its power, through its contacts at national, regional and local level in Italy, as well as through its Governing Board and the European Institutions to secure a long-term perspective for its seat in Turin following the liquidation of the Consortium managing the building complex in which it is housed (Villa Gualino).

At the time of writing (January 2013), uncertainty still prevails regarding the future of Villa Gualino and no alternative solution is being proposed. The Piedmont Region, owner of Villa Gualino, has taken over direct management of the site.

Negotiations on the 2013 service contract, initiated by the ETF in September 2012 are still ongoing. However, the Region has announced it will not continue the ordinary maintenance of the site formerly ensured by the Consortium in accordance with agreements between the local authorities and the ETF on its premises.

As a precautionary measure to ensure business continuity, ETF has concluded a direct agreement of one year with a private contractor for maintenance of its part of the building and infrastructure. With the support of external legal advisors, ETF is investigating the possibility of legal recourse to assert its legal rights and safeguard its interests in this matter.

### **23. EU-OSHA- European Agency for Safety and Health at Work**

- 53) Has the Agency carried out comprehensive physical check of its assets as it had foreseen?

Answer:

**Inventory:** the inventory has been carried out in 2012, as announced in the Agency's reply to the Court of Auditors' findings regarding the financial year 2011.

- 54) Has the Agency managed to finalize the negotiations on a seat agreement?

Answer:

**Seat Agreement:** the negotiations with the Spanish Government in view of a seat agreement continue. Progress is slow but steady. At the last meeting held in September, the Agency was informed of the fact that the previous draft negotiated before the general elections in Spain will have to go again through inter-consultation. Several Ministries are being involved and the inter-consultation is still on-going.

### **24. EURATOM**

None

**25. EUROFUND - European Foundation for the Improvement of Living and Working Conditions**

None

**26. EUROJUST - The European Union's Judicial Cooperation Unit**

55) What is the state of play as regards the adoption of Implementing Rules of the Staff Regulations?

Answer:

*Overview of the state of play as regards Implementing rules to the Staff Regulations at EUROJUST*

"O" denotes drafts that have been submitted to the Commission, but have not yet been approved pursuant to Article 110(1) SR.

"X" denotes drafts that have received the Commission's agreement pursuant to Article 110(1) SR.

**A. Implementing rules applicable by analogy**

<i>Decision</i>	<i>Legal basis</i>	<i>State of play</i>	<i>Comments</i>
<i>Disabled persons</i>	<i>Art 1d(4) SR</i>	<i>X</i>	-
<i>Parental leave</i>	<i>Art 42a SR</i>	<i>O</i>	-
<i>Family leave</i>	<i>Art 42b SR</i>	<i>O</i>	-
<i>Absence as a result of sickness or accident</i>	<i>Art 59 and 60 SR, Art 16,59,60,91 CEOS</i>	<i>X</i>	<i>Implementation is being prepared in cooperation with Eurojust company doctor, taking into account the specificity of the Dutch medical system; adoption and implementation foreseen in 2013</i>
<i>Household allowance</i>	<i>Art 67 SR, Art 1(2)(d) CEOS</i>	<i>X</i>	-
<i>Family allowance</i>	<i>Art 68 SR, Art 1,2,3 Annex VII SR</i>	<i>X</i>	-
<i>Persons to be treated as dependent children</i>	<i>Art 2(4) SR</i>	<i>X</i>	-
<i>Education allowance</i>	<i>Art 3 Annex VII SR</i>	<i>X</i>	-
<i>Place of origin</i>	<i>Art 7(3) Annex VII SR</i>	<i>X</i>	-
<i>Travel expenses</i>	<i>Art 8 Annex VII SR</i>	<i>X</i>	-
<i>Pension rights: Calculation, taking into account previous periods of activity</i>	<i>Art 4 Annex VIII SR</i>	<i>X</i>	-
<i>Pension rights: purchase of additional rights</i>	<i>Art 22(4) Annex VIII SR</i>	<i>X</i>	-

<i>Pension rights: transfer of rights</i>	<i>Art 11,12 Annex VIII SR</i>	<i>O</i>	-
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**B. Implementing rules subject to technical or formal adjustments**

<i>Decision</i>	<i>Legal basis</i>	<i>State of play</i>	<i>Comments</i>
<i>Administrative inquiries and disciplinary procedures</i>	<i>Art 2(3) Annex IX SR</i>	<i>Draft is being developed</i>	<i>Submission of a draft foreseen Q1 2013</i>
<i>Classification in grade and step</i>	<i>Art 29-32 SR, Art 15 CEOS</i>	<i>X</i>	-
<i>Mission guide</i>	<i>Art 71 SR, Art 11-13a Annex VII SR</i>	<i>Draft is being developed</i>	<i>Submission of a draft foreseen in 2013</i>
<i>Early retirement without reduction of pension rights</i>	<i>Art 9 Annex VIII SR, Art 39 CEOS</i>	<i>O</i>	-
<i>Part-time work</i>	<i>Art 55a SR, Annex IVa SR</i>	<i>O</i>	-
<i>Job-sharing</i>	<i>Art 55b SR</i>	<i>O</i>	-
<i>Outside activities</i>	<i>Art 11-19 SR, Art 13,44 Annex VIII SR, Art 11, 16,54,57,81,91 CEOS</i>	<i>X</i>	-
<i>Unpaid leave</i>	<i>Art 15,37,40 SR, Art 1,17,88a CEOS</i>	<i>X</i>	-
<i>Leave</i>	<i>Art 57,58,61 SR, Annex V SR, Art 16,91 CEOS</i>	<i>O</i>	-

**C. Implementing rules subject to substantial change**

<i>Decision</i>	<i>Legal basis</i>	<i>State of play</i>	<i>Comments</i>
<i>Middle management</i>	<i>Art 2,4,5,7,29,44 SR</i>	<i>O</i>	-
<i>Temporary occupation of management posts</i>	<i>Art 7(2) SR</i>	<i>O</i>	-
<i>Staff Committee</i>	<i>Art 9 SR</i>	<i>Draft is being developed</i>	<i>Submission of a draft foreseen Q1 2013</i>
<i>Harassment</i>	<i>Art 12a SR</i>	<i>X</i>	-
<i>Training</i>	<i>Art 24a SR</i>	<i>Draft is being developed</i>	<i>Submission of a draft is foreseen in 2013</i>
<i>Appraisal</i>	<i>Art 43 SR, Art 15 CEOS</i>	<i>X</i>	-
<i>Appraisal senior management</i>	<i>Art 43 SR, Art 15 CEOS</i>	<i>Draft is being developed</i>	<i>Submission of a draft foreseen in 2013</i>
<i>Reclassification</i>	<i>Art 45 SR, Art 10(3) CEOS</i>	<i>O</i>	-
<i>Engagement and use of temporary agents</i>	<i>Art 8,12 CEOS</i>	<i>X</i>	-
<i>Engagement and use of contract agents</i>	<i>Art 79(2) and 82 CEOS</i>	<i>X</i>	-

Appraisal of contract agents	Art 87(1) CEOS	X	-
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## **27. EUROPOL - European Police Office**

- 56) Given that the Office had concluded the transfer process of assets from the Host State, has it conducted full physical verification of its assets?

Answer:

Since Europol became an agency in January 2010, a physical verification of fixed assets has been performed on an annual basis.

The physical verification faced challenges due to the move to a completely new building in Q2 2011. The clear priority of Europol was the operational delivery of 24/7 law enforcement systems, which was managed without any service disruption for all EU Member States and cooperation partners.

At the same time Europol needed to reflect the fixed assets donated by the Host State in its final accounts 2011. This was done based on a statement of assurance from the Host State, confirming to Europol the correctness of the values of the transferred assets. Europol holds the view that the statement of assurance gave sufficient evidence for including the asset values into the final accounts. In addition to the assurance statement, the Host State provided a certified opinion by the audit service of the Ministry of Finance of The Netherlands ('Auditdienst Rijk – Ministerie van Financiën') which confirms the correctness of the values of the assets transferred by the Host State to Europol.

In the annual verification of fixed assets for the financial year 2012, the Host State's assets are included.

Europol has a complex asset portfolio, given that in Europol's accounts, assets from across the entire EU and all cooperation partners are included. An analysis shows that € 1.5 Million – 11% - out of the € 14.1 Million of assets acquired from Europol's budget (year end 2012) are located outside the headquarters of Europol (book value - unaudited estimation).

This means that given Europol's specific situation asset verification is always resource intensive and not directly comparable to a situation where the verification of assets is limited to the headquarters building only.

- 57) What actions has the Office accomplished in order to bring the preparation, execution and documentation of procurement procedures up to the Courts expectations?

Answer:

Europol's procurement staff members have received additional in-depth training. As a consequence, the quality of performing tenders and the related documentation has improved from Europol's point of view.

For instance, quality assurance on the technical correctness of calculations and budgetary information in tender evaluation reports has been strengthened. Also internal re-organisation measures at Europol, which came into force as of 2013, are expected to realise further improvements with regard to the planning and preparation of procurement

activities. It should be noted that the audit by the ECA concerning the 2011 financial year did not identify any irregular tender measures.

**28. FRA - European Union Agency for Fundamental Rights**

- 58) Can the Agency confirm or refute allegations that it had awarded contracts to NGOs which are led by the members of the Management Board of the Agency? If there are such cases, have they been examined from the perspective of the Agency's Financial Rules and/or any other applicable rules as regards the possible conflict of interest?

**Answer:**

The basic regulation establishing the FRA (art 12.1.a) defines that the Management Board (MB) shall be composed “inter alia” of one independent person appointed by each Member State, having high level responsibilities in an independent national human rights institution or other public or private sector organisation.

During the nomination period the declaration of interest of all future members of the MB and the issue of being a member of staff of an organization having working relations with the EUMC/FRA was discussed during the MB meetings. It was agreed by MB that no potential conflict of interest was established for members having dual capacity being members of human rights institutions (national focal points of the Agency under a contractual relation) and member of the MB. Consequently, the members of the MB had confirmed that they would abstain from the issues where their situation as member of the national institution may impair their independence. Particularly in case of smaller Member States, where the number of potential candidates is limited, the aforementioned situation may arise.

Furthermore, the Agency has launched a procedure for establishing rules governing conflict of interest for its MB members. A first discussion at MB and Executive Board (EB) level took place at its meetings in September 2012. Following the outcome of discussions and the publication of the report of European Court of Auditors “Management of conflict of interest in selected EU Agencies” on 11th October 2012, the Agency services prepared a first draft outlining a baseline for rules concerning conflict of interest within the MB taking into account the Court’s recommendations. The draft document was discussed at Management Board and Executive Board level on 13th of December 2012, based on received feedback a new version is under preparation and will be presented during the next MB meeting for adoption.

As far as the Agency's Financial Rules are concerned, the Agency introduced a procurement procedure with clear roles and responsibilities mitigating possible conflict of interest. The IAS audited the procedure and made nine recommendations. All nine recommendations have been introduced. The IAS considered that some of the actions introduced by the Agency are good practices. The two good practices are the introduction of an IT application “tender Contract Maker” developed by the Agency to generate standard documentation for the procurement process and the budget module of the IT application “Matrix” used for the Agency project management has been coupled with the

accounting records retrieved from ABAC allowing a daily on-line update of the budgetary implementation.

- 59) What rules as regards whistleblowing are applied at the Agency? Have there been any whistleblowing cases? Can the Agency confirm whether there are any ongoing or concluded OLAF investigations stemming from whistleblowing cases, and what have been their outcomes?

Answer:

The Agency stated in the 2011 annual activity report that rules concerning whistleblowing would be introduced in 2012. On December 12th and 14th 2012, the Agency presented its draft whistleblowing rules to its Executive and Management Boards respectively. On the request of the Commission it was decided to proceed with a formal consultation under article 110 with the Commission Services before they are formally adopted. In the meantime, it was decided the Agency will apply *mutatis mutandis* the Commission “Guidelines on Whistleblowing” adopted on the 9th of December 2012 and will make these readily available to staff, through a link on its intranet site.

The Agency has dealt with some whistleblowing cases, where a staff member reported certain alleged serious irregularities. These were reviewed internally as well as by either the IAS or the European Court of Auditors and all the cases were found to be legal and regular.

In December 2012 OLAF informed the Agency for the opening of an investigation. The Parliament will be informed on the results of the investigation.

The Parliament has been informed that in 2008 OLAF opened an investigation after whistleblowing from a staff member, and closed the case without any further action.

- 60) Following a complaint by an employee of the Agency, European Ombudsman (ref. 0917/2011/(PMC)EIS) has claimed, *inter alia*, that the Agency should launch investigation as regards psychological harassment, make good moral and material damage, relaunch the appraisal procedure (and amend the relevant rules introducing the right to appeal), resume reclassification procedure for contract agents (as well as to amend the relevant rules introducing the right to appeal), etc.

Can the Agency provide further clarifications about circumstances related to the particular case?

Has the Agency carried out the actions as suggested by the Ombudsman?

Have there been any other cases of complaints, expressions of dissatisfaction or communications of a related nature from other employees of the Agency?

Answer:

The Ombudsman case referred to (0917/2011/ (PMC) EIS) was opened on 6th July 2011, and the claims cited are not of the Ombudsman but that of the complainant. This case has not been closed at the time of writing and therefore the Agency has not taken any actions.

Like all institutions, the Agency is not without a small, limited number of expressions of dissatisfaction. However, the Agency takes the issue of staff wellbeing and satisfaction very seriously and every two years launches an anonymous wellbeing survey among

staff. In the latest survey published in October 2012, it should be noted that there is a high level of agreement among staff to the statement: “I believe that the Agency is a dynamic, exciting workplace” as well as to the statement: “I am satisfied with my job content”.

Also of note is the high level of agreement of the statements: “In my Department we help and support one another when we are busy” and “I feel there is a good work atmosphere in my Department”.

**29. FRONTEX- European Agency for the Management of Operational Cooperation at the External Borders**

- 61) Has the Agency finalised and implemented policy on ex-ante controls for grants as the Agency had foreseen?

Answer:

Since 2012, for Joint Return Operations, the Agency requests invoices for aircrafts chartered for return operations. For Joint Operations, the Agency requests supporting documents in case of discrepancies in the final financial statements.

In November 2012, the Agency adopted an ex-ante control policy; the systematic implementation of ex-ante controls will start as of early 2013.

- 62) Has the accounting system of the Agency been already validated by the Accounting Officer?

Answer:

The Accounting System was validated on 28 September 2012.

**30. European GNSS Agency**

None