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A8-0073/2015

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REPORT

on discharge in respect of the implementation of the budget of the European
Chemicals Agency for the financial year 2013
(2014/2116(DEC))

Committee on Budgetary Control

Rapporteur: Ryszard Czarnecki

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2013 (2014/2116(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Chemicals Agency for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Chemicals Agency for the financial year 2013, together with the Agency's replies¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2013 (05304/2015 – C8-0054/2015),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities³,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002⁴, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC⁵, and in particular Article 97 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of

¹ OJ C 442, 10.12.2014, p. 132.

² OJ C 442, 10.12.2014, p. 132.

³ OJ L 248, 16.9.2002, p. 1.

⁴ OJ L 298, 26.10.2012, p. 1.

⁵ OJ L 396, 30.12.2006, p. 1.

19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities¹,

- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council², and in particular Article 108 thereof,
 - having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0073/2015),
1. Grants the Executive Director of the European Chemicals Agency discharge in respect of the implementation of the Agency's budget for the financial year 2013;
 2. Sets out its observations in the resolution below;
 3. Instructs its President to forward this decision, and the resolution forming an integral part of it, to the Executive Director of the European Chemicals Agency, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

¹ OJ L 357, 31.12.2002, p. 72.

² OJ L 328, 7.12.2013, p. 42.

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the European Chemicals Agency for the financial year 2013 (2014/2116(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Chemicals Agency for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Chemicals Agency for the financial year 2013, together with the Agency's replies¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2013 (05304/2015 – C8-0054/2015),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities³,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002⁴, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC⁵, and in particular Article 97 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of

¹ OJ C 442, 10.12.2014, p. 132.

² OJ C 442, 10.12.2014, p. 132.

³ OJ L 248, 16.9.2002, p. 1.

⁴ OJ L 298, 26.10.2012, p. 1.

⁵ OJ L 396, 30.12.2006, p. 1.

19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities¹,

- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council², and in particular Article 108 thereof,
 - having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0073/2015),
1. Notes that the final annual accounts of the European Chemicals Agency are as annexed to the Court of Auditors' report;
 2. Approves the closure of the accounts of the European Chemicals Agency for the financial year 2013;
 3. Instructs its President to forward this decision to the Executive Director of the European Chemicals Agency, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

¹ OJ L 357, 31.12.2002, p. 72.

² OJ L 328, 7.12.2013, p. 42.

3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2013
(2014/2116(DEC))**

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2013,
 - having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0073/2015),
- A. whereas, according to its financial statements, the final budget of the European Chemicals Agency (“the Agency”) for the financial year 2013 was EUR 107 270 800,
- B. whereas the Agency received Union subsidies of EUR 7 632 000 from the Commission and the Instrument for Pre-Accession Assistance pre-financing amounting to EUR 103 524, as well as other contributions and funding from the Commission amounting to EUR 920 900,
- C. whereas the Court of Auditors (“the Court”), in its report on the annual accounts of the European Chemicals Agency for the financial year 2013 (“the Court’s report”), has stated that it has obtained reasonable assurances that the Agency’s annual accounts are reliable and that the underlying transactions are legal and regular,
1. Notes that as of 2012, the Agency was given the task of managing and carrying out the technical, scientific, and administrative aspects of Regulation (EU) No 528/2012 of the European Parliament and of the Council (BPR Regulation)¹ as well as similar tasks related to the export and import of dangerous chemicals under Regulation (EU) No 649/2012 of the European Parliament and of the Council (PIC Regulation)²;

Follow-up of 2012 discharge

2. Notes from the Court’s report that regarding two comments made in its 2011 report and marked as "Ongoing" in its 2012 report, one corrective action has been taken and is now marked in the Court’s report as "Completed" whereas one is marked as “Not applicable”; notes furthermore that for the two comments made in the Court’s 2012 report, one corrective action has been taken in response and the comment is marked as “Completed” whereas one is marked as “Not Applicable”;

¹ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

² Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

3. Acknowledges from the Agency that:
 - a. a formal policy on fixed assets management has been established and implemented in 2013; notes that the Court considered the related recommendation in its report as completed;
 - b. the Agency has published the curricula vitae and the declarations of interests for all members of the Management Board on its website;
 - c. the information on the impact of its activities on Union citizens is provided on the Agency's website through multiple tools and through the publication of the strategic documents such as general reports or reports on evaluation;

Budget and financial management

4. Notes that in respect of the BPR Regulation, the Agency's biocidal products expenditures are financed partially through fees paid by industry and partially through a Union subsidy, as referred to in Article 185 of Regulation (EC, Euratom) No 1605/2002; notes that in 2013, the majority of the Agency's expenditure budget was financed by a Union subsidy because it commenced the invoicing of registrants under the BPR Regulation from 1 September 2013;
5. Notes, in addition, that the Agency was supported by an amount of EUR 920 900 from the Commission as compensation for non-materialised income and that an exceptional, one-time voluntary contribution of EUR 177 057 was received from Norway on 30 December 2013 (to be used towards the development of biocidal services at the Agency);
6. Notes that in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council ("REACH Regulation")¹, the Agency is financed through fees paid by the industry for registrations of chemical substances and by a possible Union-balancing subsidy, as referred to in Article 185 of Regulation (EC, Euratom) No 1605/2002; notes, moreover, that in 2013, for the third consecutive year, the Agency was fully financed through fee incomes for the registration, evaluation, authorisation and restriction of chemicals as well as for the classification, labelling and packaging operations;
7. Notes that in accordance with the PIC Regulation, the Agency's expenditure in 2013 was financed by a subsidy from the general budget of the Union;
8. Draws attention to the fact that the budgetary revenue from fees and charges in terms of cash received amounted to EUR 86 113 139; stresses that for the implementation of the activities under the BPR Regulation and the PIC Regulation, an amount of EUR 7 632 000 was provided by the general budget of the Union; points out that the latter amount represents 0,005 % of the overall Union budget;

¹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

9. Notes that budget monitoring efforts during the financial year 2013 resulted in a budget implementation rate of 98,64 % and that the payment appropriations execution rate was 86,18 %; notes that the payment appropriations execution rate increased by 3,28 % in comparison to the previous year; notes furthermore from the Court's report that it considers the budget implementation rates for Title I and II satisfactory;

Commitments and carry-overs

10. Notes with concern that the level of committed appropriations carried over to 2014 remained high at 46 % for Titles III, IV and V (operational expenses); acknowledges however from the Court's report that these carry-overs were mainly as a result of the multiannual nature of planned IT development projects, costs for translations ordered but not received by year-end and substance evaluations for which the regulatory deadline was February 2014; calls on the Agency to continue to be attentive to the level of carry-overs in operational titles;

Procurement and recruitment procedures

11. Notes that for the year 2013, neither sampled transactions nor other audit findings have led to any comments on the Agency's procurement procedures in the Court's report; notes furthermore that the Court in its report made no comments as regards the Agency's recruitment procedures;
12. Points out that staff-related expenses have increased by 11 % between 2012 and 2013; points out furthermore that 468 of 503 available posts had been occupied and 95 contract agents and seconded national experts were employed by the end of 2013;

Prevention and management of conflicts of interests and transparency

13. Notes that the Agency followed the recommendations in the Special Report of the Court No 15/2012 on the management of conflicts of interests in selected EU Agencies and expects the Agency to strictly apply them;
14. Notes with concern that the Agency grants registration numbers - the pre-condition for being allowed to continue the manufacture or the placing on the market of a chemical substance - after a simple automated completeness check; notes, however, that it does not withdraw registration numbers, even when the clear and persistent non-compliance of registration dossiers has been found;
15. Notes with concern the high level of non-compliant registration dossiers and that the Agency refrains from naming and shaming non-compliant companies;
16. Acknowledges the fact that the Agency has transparent declarations of interests and invites the Agency to continuously review its internal processes and further improve its policies in order to ensure the independence and transparency in all of the Agency's work areas covering both external and interim staff;

17. Notes the Agency's discussion platform with non-governmental organisations as a useful forum to discuss topical issues of interest for civil society;

Implementation of REACH

18. Notes the appointment of a small and medium-sized enterprises (SMEs) ambassador who advocates the interest of smaller enterprises externally and internally within the Agency; notes furthermore that the Agency's priority is to provide intensive support so that SMEs will be able to comply with the requirements, without this posing a disproportionate burden for them;
19. Notes the actions taken in order to improve communication between the Agency and its beneficiaries; observes in this regard the development of IT tools such as Frequently Asked Questions or technical guidance and the publication of a roadmap in the run-up to the registration deadline, as well as support for national help-desks; considers that the Agency should reach out more to downstream users;
20. Notes with concern the way the Agency applies the authorisation process as part of the REACH Regulation, with a focus, above all, on providing help to companies to obtain an authorisation for the use of substances of very high concern rather than help companies to the same extent in order to encourage the substitution of the most hazardous chemicals and innovation by swapping them for safer alternatives;
21. Notes with concern that the Agency does not properly assess confidentiality claims in the context of authorisation applications;

Internal audit

22. Notes from the Agency's General Report that in 2013, the Commission's Internal Audit Service (IAS) carried out an audit on "Committees Management in the European Chemicals Agency", resulting in seven recommendations, including one marked as "Very Important";
23. Notes that the very important recommendation concerns a review of the Agency's interpretation of the timeframe for the completion of risk assessment committee opinions on substances proposed for harmonised classification, labelling and packaging under the Regulation (EC) No 1272/2008 of the European Parliament and of the Council¹;
24. Takes note that the Agency's Internal Audit Capability (IAC) carried out assurance audits on the implementation of video-surveillance at the Agency's premises, on the forum secretariat and on document and record management; ascertains that the action plans have been developed in response to the IAS' and IAC' recommendations;
25. Welcomes the fact that the Agency carried out an audit to increase efficiency in its

¹ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

procurement contract management processes that resulted in actions to be implemented in 2014;

Other comments

26. Notes with concern that the Agency's Executive Director made a reservation regarding his declaration of assurance for the year 2013, since the Agency's mandate does not include controls or inspections at national level and therefore, no confirmation could be given that only registered or authorised substances and products, for which a fee was paid to the Agency, were circulating on the Union market;
27. Welcomes the exemplary measures taken by the Agency with regard to cost-effective and environment-friendly solutions; encourages the Agency to continue the good practice;
28. Asks again that the Agency make clear in its internal and external communication that it receives funds from the general budget of the Union ("Union subsidy") instead of a "Commission" or "Community" subsidy;

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29. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ... 2015¹ on the performance, financial management and control of the agencies.

¹ Texts adopted, P8_TA-PROV(2015).

3.2.2015

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY

for the Committee on Budgetary Control

on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2013
(2014/2116(DEC))

Rapporteur: Giovanni La Via

SUGGESTIONS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Recalls that the European Chemicals Agency ("the Agency") is a consolidated entity in accordance with Article 185 of Council Regulation (EC, Euratom) No 1605/2002¹;
2. Notes that as of 2012, the Agency was given the task to manage and carry out technical, scientific, and administrative aspects of Regulation (EU) No 528/2012 of the European Parliament and of the Council (BPR Regulation)² as well as similar tasks related to the export and import of dangerous chemicals under Regulation (EU) No 649/2012 of the European Parliament and of the Council (PIC Regulation)³;
3. Notes that, in respect of the BPR Regulation, the Agency's biocidal products expenditures are financed partially through fees paid by industry and partially through a Union subsidy, as referred to in Article 185 of Regulation (EC, Euratom) No 1605/2002; notes that in 2013, the majority of Agency's expenditure budget was financed by a Union subsidy, because it commenced the invoicing of registrants under

¹ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

² Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

³ Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

the BPR Regulation from 1 September 2013;

4. Notes, in addition, that the Agency was supported by an amount of EUR 920 900 by the Commission as compensation for non-materialised income and that an exceptional, one-time voluntary contribution of EUR 177 057 was received from Norway on 30 December 2013 (to be used towards the development of biocidal services at the Agency);
5. Notes that in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council ("REACH Regulation")¹, the Agency is financed through fees paid by the industry for registrations of chemical substances and by a possible Union-balancing subsidy, as referred to in Article 185 of Regulation (EC, Euratom) No 1605/2002; notes, moreover, that in 2013, for the third consecutive year, the Agency was fully financed through fee incomes for its REACH and classification, labelling and packaging operations;
6. Notes that in accordance with the PIC Regulation, the Agency's expenditure, in 2013, was financed by a subsidy from the general budget of the Union;
7. Draws attention to the fact that budgetary revenue from fees and charges in terms of cash received amounted to EUR 86 113 139; stresses that for the implementation of the biocidal and PIC activities, an amount of EUR 7 632 000 was provided by the general budget of the Union; points out that the latter amount represents 0,005 % of the overall Union budget;
8. Asks again that the Agency make clear in its internal and external communication that it receives funds from the Union budget (Union subsidy) instead of a Commission or Community subsidy;
9. Points out that staff-related expenses have increased by 11 % between 2012 and 2013; also points out that 468 of 503 available posts had been occupied and 95 contract agents and seconded national experts were employed by the end of 2013;
10. Acknowledges the fact that the Agency has transparent declarations of interest and invites the Agency to continuously review its internal processes and further improve its policies in order to ensure the independence and transparency in all work areas of the Agency covering both external and interim staff;
11. Welcomes the Agency's commitment to follow-up on the previous year's comments and to continue to be attentive to avoid any non-justified carry-over operations;
12. Welcomes the fact that the Agency carried out an audit to increase efficiency in its procurement contract management processes that resulted in actions to be implemented in 2014;

¹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

13. Welcomes the fact that the Court of Auditors considers the transactions underlying the annual accounts of the Agency for the financial year 2013 as legal and regular in all material respects;
14. Recommends, on the facts available, that discharge be granted to the Executive Director of the European Chemicals Agency in respect of the implementation of the Agency's budget for the financial year 2013.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	29.1.2015
Result of final vote	+: 59 -: 3 0: 2
Members present for the final vote	Marco Affronte, Margrete Auken, Pilar Ayuso, Zoltán Balczó, Catherine Bearder, Ivo Belet, Simona Bonafè, Biljana Borzan, Nessa Childers, Birgit Collin-Langen, Mireille D'Ornano, Miriam Dalli, Seb Dance, Angélique Delahaye, Jørn Dohrmann, Stefan Eck, Bas Eickhout, José Inácio Faria, Francesc Gambús, Elisabetta Gardini, Enrico Gasbarra, Jens Gieseke, Julie Girling, Sylvie Goddyn, Matthias Groote, Françoise Grossetête, Andrzej Grzyb, Jytte Guteland, Anneli Jäätteenmäki, Benedek Jávor, Josu Juaristi Abaunz, Karin Kadenbach, Kateřina Konečná, Giovanni La Via, Peter Liese, Norbert Lins, Valentinas Mazuronis, Susanne Melior, Massimo Paolucci, Gilles Pargneaux, Piernicola Pedicini, Bolesław G. Piecha, Pavel Poc, Marcus Pretzell, Frédérique Ries, Davor Škrlec, Renate Sommer, Tibor Szanyi, Nils Torvalds, Glenis Willmott, Jadwiga Wiśniewska
Substitutes present for the final vote	Nicola Caputo, Mark Demesmaeker, Herbert Dorfmann, Jan Huitema, Peter Jahr, Merja Kyllönen, Nuno Melo, Marijana Petir, Julia Reid, Bart Staes, Kay Swinburne
Substitutes under Rule 200(2) present for the final vote	Clara Eugenia Aguilera García, Damian Draghici

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	23.3.2015
Result of final vote	+: 22 -: 5 0: 0
Members present for the final vote	Inés Ayala Sender, Ryszard Czarnecki, Dennis de Jong, Tamás Deutsch, Martina Dlabajová, Ingeborg Gräßle, Bernd Kölmel, Bogusław Liberadzki, Verónica Lope Fontagné, Monica Macovei, Georgi Pirinski, Petri Sarvamaa, Claudia Schmidt, Bart Staes, Michael Theurer, Marco Valli, Derek Vaughan, Anders Primdahl Vistisen, Joachim Zeller
Substitutes present for the final vote	Caterina Chinnici, Iris Hoffmann, Monika Hohlmeier, Benedek Jávor, Andrey Novakov, Julia Pitera, Miroslav Poche
Substitutes under Rule 200(2) present for the final vote	Laura Ferrara