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**Vítor Caldeira**

PRÉSIDENT  
COUR DES COMPTES EUROPEENNE

Monsieur le Directeur,

J'ai l'honneur de vous transmettre ci-joint un exemplaire, dans toutes les langues officielles des Communautés européennes, du rapport de la Cour des comptes sur les comptes annuels de l'Agence exécutive pour la santé et les consommateurs relatifs à l'exercice 2008, ainsi qu'une copie de la lettre sous couvert de laquelle j'ai communiqué ce rapport à M. Robert MADELIN.

Veillez agréer, Monsieur le Directeur, l'expression de ma haute considération.

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DIRECTION	ADMINISTRATION	SCIENTIFIC

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Monsieur Luc BRIOL  
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TRIBUNAL DE CUENTAS EUROPEO  
EVROPSKÝ ÚČETNÍ DVŮR  
DEN EUROPÆISKE REVISIONSRET  
EUROPÄISCHER RECHNUNGSHOF  
EUROOPA KONTROLLIKODA  
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ  
EUROPEAN COURT OF AUDITORS  
COUR DES COMPTES EUROPÉENNE  
CÚIRT INIÚCHÓIRÍ NA HEORPA



CORTE DEI CONTI EUROPEA  
EIROPAS REVĪZIJAS PALĀTA  
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EUROOPAN TILINTARKASTUSTUOMIOISTUIN  
EUROPEISKA REVISIONSRÄTTEN

Report on the annual accounts of the  
Executive Agency for Health and Consumers for the financial year 2008

together with the Agency's replies

## CONTENTS

	Paragraph
Introduction	1 - 2
Statement of Assurance	3 - 12
Comments on the budgetary and financial management	13
Table	
The Agency's replies	

## **INTRODUCTION**

1. The Executive Agency for Health and Consumers (hereinafter "the Agency"), located in Luxembourg, was set up by Commission Decision 2004/858/EC<sup>1</sup> and amended by Commission Decision 2008/544/EC<sup>2</sup>. The Agency was established for a period beginning on 1 January 2005 and ending in 2013 for the management of Community actions in the field of health and consumer policy<sup>3</sup>.
2. The Agency's 2008 administrative budget amounted to 4,4 million euro compared with 4,1 million euro the previous year. The number of staff employed by the Agency at the end of the year was 42 as compared with 28 the previous year.

## **STATEMENT OF ASSURANCE**

3. Pursuant to the provisions of Article 248 of the Treaty the Court has audited the annual accounts<sup>4</sup> of the Agency, which comprise the "financial statements"<sup>5</sup> and the "reports on implementation of the budget"<sup>6</sup> for the financial year ended 31 December 2008 and the legality and regularity of the transactions underlying those accounts.

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<sup>1</sup> OJ L 369, 15.12.2004, p. 73.

<sup>2</sup> OJ L 173, 3.7.2008, p. 27.

<sup>3</sup> The ***Table*** summarises the Agency's competences and activities. It is presented for information purposes.

<sup>4</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives inter alia an account of the rate of implementation of the appropriations with summary information on the transfers of appropriations among the various budget items.

<sup>5</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in capital and the annex to the financial statements which includes the description of the significant accounting policies and other explanatory information.

<sup>6</sup> The budget implementation reports comprise the budget outturn account and its annex.

4. This Statement of Assurance is addressed to the European Parliament and the Council in accordance with Article 14 of Council Regulation (EC) No 58/2003<sup>7</sup>.

The Director's responsibility

5. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Agency under his own responsibility and within the limits of authorised appropriations<sup>8</sup>. The Director is responsible for putting in place<sup>9</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>10</sup> that are free from material misstatement, whether due to fraud or error, and for ensuring that the transactions underlying those accounts are legal and regular.

The Court's responsibility

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

7. The Court conducted its audit in accordance with the IFAC and ISSAI<sup>11</sup> International Auditing Standards and Codes of Ethics. Those standards require that the Court complies with ethical requirements and plans and performs the

<sup>7</sup> OJ L 11, 16.1.2003, p. 5.

<sup>8</sup> Article 25 of Commission Regulation (EC) No 1653/2004 of 21 September 2004 (OJ L 297, 22.9.2004, p. 10).

<sup>9</sup> Article 29 of Commission Regulation (EC) No 1653/2004 of 21 September 2004 (OJ L 297, 22.9.2004, p. 11).

<sup>10</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in chapter 1 of Title VI of Commission Regulation (EC) No 1653/2004 of 21 September 2004 (OJ L 297, 22.9.2004, p. 6) as last amended by Commission Regulation (EC) No 651/2008 of 9 July 2008 (OJ L 181, 10.7.2008, p. 15).

<sup>11</sup> International Federation of Accountants (IFAC) and International Standards of Supreme Audit Institutions (ISSAI).

audit to obtain reasonable assurance about whether the accounts are free from material misstatement and whether the underlying transactions are legal and regular.

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

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

***Opinion on the reliability of the accounts***

10. In the Court's opinion, the Agency's Annual Accounts<sup>12</sup> present fairly, in all material respects, its financial position as of 31 December 2008 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation.

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<sup>12</sup> The Final Annual Accounts were drawn up on 2 June 2009 and received by the Court on 26 June 2009. The Final Annual Accounts, consolidated with those of the Commission are published in the Official Journal of the European Union by 15 November of the following year. These can be found on the following website <http://eca.europa.eu> or <http://ec.europa.eu/eahc/about/about.html>.

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

11. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2008 are, in all material respects, legal and regular.

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

**COMMENTS ON THE BUDGETARY AND FINANCIAL MANAGEMENT**

13. The Agency entered into two agreements at the end of December 2008<sup>13</sup> based on negotiated procedures and, according to the rules, contacted respectively five and three candidates. However, the principles of transparency and equal treatment were not fully applied in these cases, as the invitations to bid were sent on different dates, in one case on the day when the contract was awarded. This situation shows that the Agency should improve the transparency and the planning of its procurement procedures throughout the year and apply more strictly the principle of equal treatment of all participants in tendering procedures.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 8 October 2009.

*For the Court of Auditors*

*Vitor Manuel da Silva Caldeira*  
 Rechnungshof  
 Cour des Comptes  
 President



<sup>13</sup> Total value: 66 000 euro.

**Table - Executive Agency for Health and Consumers (Luxembourg)**

Areas of Community competence deriving from the Treaty	Competences of the Agency as defined in Commission decision (2004/858/EC) of 15 December 2004 amended by Commission decision (2008/544/EC) of 20 June 2008	Governance	Resources made available to the Agency in 2008	Products and services supplied in 2008
<p>A high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities. Community action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education. The Community shall complement the Member States' action in reducing drugs-related health damage, including information and prevention. (Article 152 of the Treaty)</p> <p>In order to promote the interests of consumers and to ensure a high level of consumer protection, the Community shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests. (Article 153 of the Treaty)</p>	<p><b>Objectives</b></p> <p>The Agency is responsible for carrying out the implementation tasks for the management of the second Public Health Programme 2008-2013 as adopted by Decision N° 1350/2007/EC, the Consumer programme for 2007-2013 as adopted by Decision N° 1926/2006/EC and the food safety training measures covered by Regulation (EC) N° 882/2004 and Directive 2000/29/EC.</p> <p>The Agency also manages all the phases in the lifetime of the implementing measures delegated to it in the framework of the programme of Community action in the field of public health 2003-2008, adopted by Decision N° 1786/2002/EC of the European Parliament and of the Council of 23 September 2002.</p> <p><b>Tasks</b></p> <p>Under the Community programmes mentioned below, The Agency is responsible for implementing the following tasks as defined in the delegation act adopted on of 9<sup>th</sup> September 2008<sup>14</sup> :</p> <p><b>Public Health Programme 2003-2008</b> – Decision No 1786/2002/EC</p> <p><b>Public Health Programme 2008-2013</b> - Decision No 1350/2007/EC</p> <p><b>Consumers Programme 2007-2013</b> - Decision No 1926/2006/EC</p> <p><b>Food Safety Training Measures</b> - Regulation (EC) No 882/2004 and Directive 2000/29/EC:</p> <p>(a) Managing all the phases of the cycle of projects (for monitoring and dissemination purposes, the Agency shall take the necessary steps to create a database of projects or to continue an existing one, incorporating a project description and the final results);</p> <p>(b) Monitoring projects implemented under these programmes and measures including the necessary checks;</p> <p>(c) Collecting , processing and distributing data and in particular compiling, analysing and transmitting to The Commission all information required to guide implementation of the Community programmes and measures , promote coordination and synergy with other programmes of the Communities, the Member States or international organisations;</p> <p>(d) Organising meetings, seminars, talks, and training measures;</p> <p>(e) Helping to evaluate the programme's impact, in particular the annual and/or mid term evaluation of implementation of the programmes, and implementing the follow-up actions on evaluations decided by the Commission;</p> <p>(f) Disseminate the results of the information operations planned and implemented by the Commission;</p> <p>(g) Producing overall control and supervision data;</p> <p>(h) Participating in preparatory work on financing decisions.</p>	<p><b>1 - Steering Committee</b></p> <p>Comprises five members appointed by the European Commission. The members of the Steering Committee are appointed for two years. It adopts the Agency's annual work programme after approval by the European Commission. In addition, it adopts the administrative budget of the Agency and its annual activity report.</p> <p><b>2 - Director</b></p> <p>Appointed by the European Commission for four years.</p> <p><b>3 - External audit</b></p> <p>The European Court of Auditors.</p> <p><b>4 - Discharge Authority</b></p> <p>The European Parliament following a recommendation from the Council.</p>	<p><b>Budget</b></p> <p>The Agency's administrative budget for 2008 amounted to 4,4 million euro.</p> <p><b>Staff at 31 December 2008</b></p> <p>On 31 December 2008, the Agency employed 42 statutory staff members, including 8 temporary staff and 34 contract staff.</p>	<p>1. Monitor the grant agreements awarded under the 2005, 2006 and 2007 Public Health Programme Calls.</p> <p>2. Execution of the 2008 Call for proposals "Public Health programme"- 2008. The Agency organised 14 info days and the evaluation of the received proposals. By the end of the year, 27 out of 65 grant agreements were signed.</p> <p>3. Generation and dissemination of information on the Public Health programme and the Executive Agency's activities. The Agency redesigned its website in 2008.</p> <p>4. Organisation of Expert Meetings. 24 meetings were organised inviting around 1 200 experts.</p> <p>5. At the end of 2008, the Agency was managing a portfolio of 256 cost shared projects, representing a total EC contribution of 119 million euro</p>

Source: Information supplied by the Agency.

<sup>14</sup> Commission Decision of 9 September 2008 - delegating powers to the Agency.





### **AGENCY ANSWERS**

13. Both cases relate to the acquisition of standard software licences or packages for which only the tenderers' retail prices were requested. For both cases, the award decision was only taken after all price quotations from the tenderers were received.

In 2009 the procurement procedures have been improved and EAHC has established a revised planning for its IT expenditure execution.