Special report 15/2012 (2011 discharge): Management of conflict of interest in selected EU Agencies

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PURPOSE: to present Special Report No 15/2012 from the Court of Auditors on the management of conflict of interest in selected EU Agencies.

CONTENT: in recent years, a number of alleged cases pertaining to conflict of interest involving certain EU Agencies have been reported in the press and have raised concerns within the European Parliament. In 2011, the European Parliament requested the Court to "undertake a comprehensive analysis of the agencies" approach to the management of situations where there are potential conflicts of interest.

"Conflicts of interest" means that there are situations in which the private interests and affiliations of a public official create, or have the potential to create, conflict with the proper performance of his/her official duties.

Certain conflict of interest risks are embedded in the selected Agencies' structure (e.g. the same organisation is both a management representative and a supplier of services) and in the use of the research performed by the industry.

This audit aimed at evaluating the policies and procedures for the management of conflict of interest situations for four European Agencies making vital decisions affecting the safety and health of consumers, namely:

- the European Aviation Safety Agency (EASA),
- European Chemicals Agency (ECHA),
- European Food Safety Agency (EFSA),
- European Medicines Agency (EMA).

Against this background, it is paramount that selected Agencies have robust systems to manage a high inherent risk of conflict of interest.

Legal framework: there is no comprehensive EU regulatory framework dedicated to conflict of interest which would ensure comparable minimum requirements on independence and transparency applicable to all EU Agencies and all key players that influence strategy, operations and decision-making. In the absence of such a regulatory framework, the OECD Guidelines in this respect, which set an international benchmark for designing a comprehensive conflict of interest policy, have been considered as part of a reference framework for this audit.

Court of Auditor's conclusions: the Court concluded that **none of the selected Agencies adequately managed the conflict of interest situations**. A number of **shortcomings of varying degrees** have been identified in Agency-specific policies and procedures as well as their implementation.

Out of the selected Agencies, EMA and EFSA have developed the most advanced policies and procedures for declaring, assessing and managing the conflict of interest.

Though ECHA has developed Agency-specific policy and procedures for management of conflict of interest, the policy and procedures for ECHA's staff and Board of Appeal have significant shortcomings.

The Court found that EASA did not have an Agency-specific conflict of interest policy and procedures. EASA does not obtain or assess the declarations of interest for staff, Management Board, Board of Appeal and experts.

Court's recommendations: in conclusion, the Court recommends that the selected Agencies improve their conflict of interest policies and procedures by:

- screening candidates for conflict of interest before their appointment;
- establishing conflict of interest policies and procedures which would ensure that conflict of interest situations are managed to a comparable standard by national authorities performing outsourced tasks (EASA and EMA);
- establishing clear and objective criteria for assessment of declarations of interest and applying them consistently;
- introducing gifts and invitations policies and procedures for the entire Agency (EASA, ECHA and EFSA);
- developing clear, transparent and consistent breach of trust policies and procedures for the entire Agency;
- improving the transparency of the declared interests during the meetings and in the context of scientific decision-making processes;
- ensuring comprehensive and compulsory training on conflict of interest;
- addressing the post-employment issues with the selected Agencies in coordination with all the appointing bodies involved.

The Court also recommends for the EU legislator, possibly in consultation with other EU Institutions, to consider **further developing the EU regulatory framework dedicated to management of conflict of interest situations**, using the OECD Guidelines and existing best practices as a reference.