

# Official Journal

## of the European Union

C 388



English edition

### Information and Notices

Volume 55

15 December 2012

<u>Notice No</u>	<u>Contents</u>	<u>Page</u>
IV <i>Notices</i>		
NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES		
<b>Court of Auditors</b>		
2012/C 388/01	Report on the annual accounts of the European Agency for Cooperation of Energy Regulators for the financial year 2011, together with the Agency's replies .....	1
2012/C 388/02	Report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2011, together with the Office's replies .....	8
2012/C 388/03	Report on the annual accounts of the Translation Centre for the Bodies of the European Union for the financial year 2011, together with the Centre's replies .....	12
2012/C 388/04	Report on the annual accounts of the European Centre for the Development of Vocational Training for the financial year 2011, together with the Centre's replies .....	17
2012/C 388/05	Report on the annual accounts of the European Police College for the financial year 2011, together with the College's replies .....	23
2012/C 388/06	Report on the annual accounts of the Community Plant Variety Office for the financial year 2011, together with the Office's replies .....	29
2012/C 388/07	Report on the annual accounts of the Education, Audiovisual and Culture Executive Agency for the financial year 2011, together with the Agency's replies .....	34

**EN**
**Price:**  
**EUR 8,50**

(Continued overleaf)

<u>Notice No</u>	Contents (continued)	Page
2012/C 388/08	Report on the annual accounts of the Executive Agency for Competitiveness and Innovation for the financial year 2011, together with the Agency's replies .....	40
2012/C 388/09	Report on the annual accounts of the Executive Agency for Health and Consumers for the financial year 2011, together with the Agency's replies .....	46
2012/C 388/10	Report on the annual accounts of the European Aviation Safety Agency for the financial year 2011, together with the Agency's replies .....	53
2012/C 388/11	Report on the annual accounts of the European Banking Authority for the financial year 2011, together with the Authority's replies .....	60
2012/C 388/12	Report on the annual accounts of the European Centre for Disease Prevention and Control for the financial year 2011, together with the Centre's replies .....	66
2012/C 388/13	Report on the annual accounts of the European Chemicals Agency for the financial year 2011, together with the Agency's replies .....	73
2012/C 388/14	Report on the annual accounts of the European Environment Agency for the financial year 2011, together with the Agency's replies .....	80
2012/C 388/15	Report on the annual accounts of the European Fisheries Control Agency for the financial year 2011, together with the Agency's replies .....	86
2012/C 388/16	Report on the annual accounts of the European Food Safety Authority for the financial year 2011, together with the Authority's replies .....	92
2012/C 388/17	Report on the annual accounts of the European Institute for Gender Equality for the financial year 2011, together with the Institute's replies .....	98
2012/C 388/18	Report on the annual accounts of the European Insurance and Occupational Pensions Authority for the financial year 2011, together with the Authority's replies .....	104
2012/C 388/19	Report on the annual accounts of the European Institute of Innovation and Technology for the financial year 2011, together with the Institute's replies .....	110
2012/C 388/20	Report on the annual accounts of the European Medicines Agency for the financial year 2011, together with the Agency's replies .....	116
2012/C 388/21	Report on the annual accounts of the European Monitoring Centre for Drugs and Drug Addiction for the financial year 2011, together with the Centre's replies .....	123



## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## COURT OF AUDITORS

## REPORT

## on the annual accounts of the European Agency for Cooperation of Energy Regulators for the financial year 2011, together with the Agency's replies

(2012/C 388/01)

## INTRODUCTION

1. The European Agency for Cooperation of Energy Regulators (hereinafter "the Agency"), which is located in Ljubljana, was created by Regulation (EC) No 713/2009 of the European Parliament and of the Council<sup>(1)</sup>. The Agency's main task is to assist National Regulatory Authorities in exercising, at Union level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action. Under the REMIT regulation<sup>(2)</sup> the Agency is given new additional responsibilities, together with national regulatory authorities, regarding the monitoring of the European wholesale energy market<sup>(3)</sup>.

2. The Commission granted financial autonomy to the Agency on 8 March 2011. The audited period for the 2011 financial year therefore runs from 8 March to 31 December 2011.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

4. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, 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 the implementation of the budget"<sup>(6)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management'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 the authorised appropriations<sup>(7)</sup>. The Director is responsible for putting in place<sup>(8)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(9)</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.

<sup>(1)</sup> OJ L 211, 14.8.2009, p. 1.

<sup>(2)</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 (OJ L 326, 8.12.2011, p. 1).

<sup>(3)</sup> The *Annex* 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 further information on budget implementation and management.

<sup>(5)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

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

<sup>(7)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(8)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(9)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

### The Auditor's responsibility

6. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(10)</sup> with 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 International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

8. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

9. The Court considers 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>(11)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended,

in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(12)</sup>.

### 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 2011 are legal and regular in all material respects.

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

### COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

13. The Agency's total budget amounted to 4,8 million euro, out of which 1,5 million euro (31 %) of appropriations were not committed. The amount was entirely paid back to the Commission. Appropriations amounting to 0,9 million euro (29 % of total appropriations) were carried forward to 2012. The carry-forward was particularly high for Title II (administrative expenditure) with 0,3 million euro (59 % of total Title II appropriations) and Title III (operational expenditure) with 0,4 million euro (59 % of Title III appropriations). The level of payments against commitments was also low with 41 % for Title II and 41 % also for Title III. The high level of appropriations not used and of carry overs as well as the low level of payments indicate shortcomings in budget planning and implementation and are at odds with the budgetary principle of annuality.

### OTHER COMMENTS

14. There is room to improve the transparency of recruitment procedures. As an example, vacancy notices did not specify the maximum number of candidates to be put on a reserve list and made no reference to the possibility of appeal. Moreover the questions for written tests and interviews and their weightings were not prepared before the examination of the applications.

15. In 2011 the Agency paid subsistence allowances amounting to 10 839 euro to seconded experts who were nationals of the State where the Agency is situated. This payment conflicts with the Rules on the Secondment of National Experts adopted by the Administrative Board of the Agency, which provide for the granting of such allowances only to temporary agents who are not nationals of the Member State where they are employed; such payments are irregular.

<sup>(10)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

<sup>(11)</sup> The Final Annual Accounts were drawn up on 19 June 2012 and received by the Court on 2 July 2012. 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://www.acer.europa.eu/>.

<sup>(12)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---

## ANNEX

**Agency for the Cooperation of Energy Regulators (Ljubljana)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 114 (ex Article 95 TEC) and Article 194 of the Treaty on the Functioning of the European Union)</i></p>	<p>The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.</p> <p>In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States to:</p> <ul style="list-style-type: none"> <li>(a) ensure the functioning of the energy market;</li> <li>(b) ensure security of energy supply in the Union;</li> <li>(c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and</li> <li>(d) promote the interconnection of energy networks.</li> </ul> <p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve these objectives. Such measures shall be adopted after consultation of the Economic and Social Committee and the Committee of the Regions.</p>
<p><b>Competences of the Agency</b></p> <p><i>(As specified in Regulation (EC) No 713/2009 of the European Parliament and of the Council; Commission Regulation (EU) No 838/2010; Regulation (EU) No 1227/2011 of the European Parliament and of the Council)</i></p>	<p><b>Objectives</b></p> <p>The purpose of the Agency is to assist National Regulatory Authorities in exercising, at Union level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action.</p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— complement and coordinate the work of National Regulatory Authorities,</li> <li>— participate in the creation of European network rules,</li> <li>— take, under certain conditions, binding individual decisions on terms and conditions for access and operational security for cross border infrastructure,</li> <li>— give advice on various energy related issues to the European institutions,</li> <li>— monitor and report developments of the energy markets,</li> <li>— formulate a proposal to the EU Commission on the annual cross-border infrastructure compensation sum for the ITC mechanism,</li> <li>— cooperate with the national regulatory authorities, ESMA, competent financial authorities of the Member States and where appropriate with national competition authorities to monitor the wholesale energy markets,</li> <li>— assess the operation and transparency of different categories of market places and ways of trading, and</li> <li>— make recommendations to the Commission as regards market rules, records of transactions, orders to trade, standards and procedures which could improve market integrity and the functioning of the internal market.</li> </ul>
<p><b>Governance</b></p>	<p><b>Administrative Board</b></p> <p><i>Composition:</i></p> <p>Two members appointed by the European Parliament, two members appointed by the Commission and five members appointed by the Council. Each member has an alternate.</p>

	<p><i>Tasks:</i></p> <p>The Administrative Board adopts the Agency's annual programme and budget and monitors their implementation.</p> <p><b>Director</b></p> <p>Appointed by the Administrative Board after a favourable opinion from the Board of Regulators and on the basis of a list of candidates proposed by the Commission.</p> <p><b>Board of Regulators</b></p> <p><i>Composition:</i></p> <p>A senior representative of the regulatory authorities from each Member State and one non-voting representative of the Commission. Each member has an alternated as nominated by the national regulatory authority from each Member State.</p> <p><i>Tasks:</i></p> <ul style="list-style-type: none"> <li>— the Board shall provide opinions to the Director on the opinions, recommendations and decisions that are considered for adoption,</li> <li>— provide guidance to the Director in the execution of its tasks,</li> <li>— deliver an opinion to the Administrative Board on the candidate to be appointed as director, and</li> <li>— approve the work programme of the Agency.</li> </ul> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>Parliament, acting on recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011</b></p>	<p><b>Final Budget</b></p> <p>4,8 million euro</p> <p><b>Staff as at 31 December 2011</b></p> <p>Authorised: 40</p> <p>Occupied: 39</p> <p>Other posts: 12</p> <p>Total: 39, assigned to the following duties:</p> <ul style="list-style-type: none"> <li>— operational tasks: 28</li> <li>— administrative and support tasks: 11</li> </ul>
<p><b>Products and services 2011</b></p>	<ul style="list-style-type: none"> <li>— 5 Framework guidelines (Electricity: FG on Grid Connections, FG on Capacity Allocation and Congestion Management, and FG on System operations; Gas: FG on Capacity Allocation Mechanisms for the European Gas Transmission Network, FG on Gas Balancing in Transmission Systems). Public consultations organised as required ex art. 10 of Regulation (EC) No 713/2009, including workshops;</li> <li>— Opinion on ENTSO-E and ENTSG Statutes, List of Members and Rules of Procedure;</li> <li>— Opinion on ENTSG EU Wide Ten-Year Development Plan was adopted;</li> <li>— Opinion on ENTSO-E 2012 Work Programme was adopted;</li> </ul>

---

	<ul style="list-style-type: none"><li>— Data requirements and indicators for monitoring ex art. 11 of Regulation (EC) No 713/2009;</li><li>— Official opening (3 March 2011) and development of the Agency's website;</li><li>— Two Agency Working groups established (Electricity and Gas WGs) and the Rules for the functioning of the Working groups were agreed;</li><li>— The coordination role over the activities of the Regional initiatives was taken over from ERGEG;</li><li>— New competence for the Agency was acquired via the Regulation on Energy Market Integrity and Transparency, which entered into force on 28 December 2011. Seminar on 28 November 2011.</li><li>— Guidance on the application of the definitions listed in Article 2 of REMIT was issued on 20 December 2011. Establishment of a web platform for receiving notifications of delayed publication of inside information and suspected breaches of market abuse prohibition from market participants and persons professionally arranging transaction, respectively.</li></ul>
--	--

---

Source: Information provided by the Agency.

---



**THE AGENCY'S REPLIES**

13. During its first operational year, ACER had to recruit most of its staff which represented a challenge and resulted in late occupancy of opened positions, which had a significant impact on the Agency's budget implementation rate. This also influenced the estimation of the procurement needs and led to a concentration of procurement procedures towards the end of the year, resulting in a high level of carry forwards to honour the signed legal and budgetary commitments. With most of the positions occupied at the beginning of 2012, ACER is now in a much better position to implement its assigned tasks and the corresponding budget.

14. ACER accepts the remarks of the Court and has already implemented corrective measures.

15. ACER accepts the preliminary finding and has already stopped the payments of allowances to Slovenian SNEs.

---

## REPORT

**on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2011, together with the Office's replies**

(2012/C 388/02)

## INTRODUCTION

1. The Office of the Body of European Regulators for Electronic Communications (BEREC), hereinafter "the Office", which is located in Riga, was established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council<sup>(1)</sup>. The Office's task is, under guidance of the Board of Regulators, to collect and analyse information on electronic communications and to disseminate among National Regulatory Authorities regulatory best practices such as common approaches, methodologies or guidelines on the implementation of the EU regulatory framework<sup>(2)</sup>.

2. The Commission granted financial autonomy to the Office on 12 September 2011. Therefore the audited period for the financial year 2011 runs from 12 September to 31 December 2011.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

4. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Office, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

5. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with

the financial rules of the Office, under his own responsibility and within the limits of the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

6. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Office and the legality and regularity of the transactions underlying them.

7. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Office are free of material misstatement and the transactions underlying them are legal and regular.

8. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 337, 18.12.2009, p. 1.

<sup>(2)</sup> The *Annex* summarises the Office's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Office.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

9. The Court considers 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 Office's Annual Accounts <sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer <sup>(11)</sup>.

***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 Office for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

13. The Office's 2011 budget adopted by the Management Committee disclosed appropriations by Titles and Chapters only and was not subdivided into articles and items. This situation is at odds with the principle of specification.

14. The Court identified 21 cases with a total value of 94 120 euro in which appropriations carried over to 2012 did not correspond to legal commitments. These carryovers were therefore irregular.

**COMMENTS ON KEY CONTROLS OF THE OFFICE'S SUPERVISORY AND CONTROL SYSTEMS**

15. The Office had not yet adopted and implemented all the internal control standards. Notably, no central register of invoices and no register of exceptions was introduced.

**OTHER COMMENTS**

16. The Office needs to improve the transparency of recruitment procedures. Questions for oral and written tests were not set before the applications were examined by the selection board, there was no decision of the Appointing Authority to appoint the selection board and the grade of the members of the selection board was not indicated.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 3 July 2012 and received by the Court on 3 July 2012. 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://www.berec.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**Office of the Body of European Regulators for Electronic Communications (Riga)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 114 of the Treaty on the Functioning of the European Union)</i></p>	<p>Article 114 of the Treaty on the Functioning of the European Union</p> <p>— Approximation of laws in the field of electronic communications</p>
<p><b>Competences of the Office</b></p> <p><i>(Regulation (EC) No 1211/2009 of the European Parliament and of the Council)</i></p>	<p>The Office's powers as defined in Regulation (EC) No 1211/2009 of the European Parliament and of the Council.</p> <p>The Office referred to in Article 6 shall provide administrative and professional support services to BEREC.</p> <p>It shall perform its functions under the guidance of the Board of Regulators.</p>
<p><b>Governance</b></p>	<p>The Office comprises:</p> <p>(a) a <b>Management Committee</b>;</p> <p>(b) an <b>Administrative Manager</b>,</p> <p>which share between themselves all administrative and financial responsibilities, including the responsibilities for the staff.</p> <p>However, only the Management Committee is responsible for appointment of staff (art. 7(4));</p> <p>The guidance on the services and products to be provided by the Office is provided by the Board of Regulators, as specified in "Products and services in 2011".</p>
<p><b>Resources made available to the Office in 2011</b></p>	<p><b>Final Budget:</b> 1,8 million euro (amended budget 1/2011)</p> <p>Financial autonomy obtained on 12 September 2011.</p> <p><b>Staff as at 31 December 2011:</b> 18</p>
<p><b>Products and services in 2011</b></p>	<p>Under the guidance of the Board of Regulators, the Office has provided the following services:</p> <p>— Professional and administrative support services to BEREC,</p> <p>— Collection of information from NRAs and exchange and transmission of information,</p> <p>— Dissemination of regulatory best practices among NRAs within the EU and to third parties,</p> <p>— Assistance to the Chair in the preparation of the work of the Board of Regulators and the Management Committee of the Office,</p> <p>— Support to the Expert Working Groups set up by the Board of Regulators.</p>

Source: Information supplied by the Office.

### THE OFFICE'S REPLIES

13. BEREC Office will discontinue this practice. The 2012 Budget, which is already subdivided into articles and items, will be approved by the Management Committee at the detailed level and published in our website in September 2012.

14. The start-up phase made it difficult to forecast correctly the carry-forwards. A close follow-up of the budget implementation is in place now. Instructions will be given at the end of the year 2012 and relevant information collected from the units in order to decommit unused commitments.

15. The current Implementation Plan for ICS is defining the implementation deadlines for different standards during the period from November 2011 until January 2013. The registration of invoices and the recording of exceptions are implemented since 18 June 2012 with impact on further registrations in 2012. Preparation of relevant Administrative Instructions is in progress.

16. The Office has followed the same procedures as DG INFSO until ECA findings in May 2012. As from June 2012 the Office has updated its Guidelines for recruitment procedures in order to address these findings.

---

## REPORT

**on the annual accounts of the Translation Centre for the Bodies of the European Union for the financial year 2011, together with the Centre's replies**

(2012/C 388/03)

## INTRODUCTION

1. The Translation Centre for the Bodies of the European Union (hereinafter "the Centre"), which is located in Luxembourg, was created by Council Regulation (EC) No 2965/94 <sup>(1)</sup>. The Centre's task is to provide any European Union institutions and bodies which call upon its services with the translation services necessary for their activities <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Centre's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Centre, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Centre, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant

for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Centre and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Centre are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 314, 7.12.1994, p. 1.

<sup>(2)</sup> The Annex summarises the Centre's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Centre.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Centre's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Centre for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Centre's 2011 budget amounted to 51,3 million euro<sup>(12)</sup> compared with 55,9 million euro the previous year. The 2011 budget outturn decreased to 1,2 million euro in 2011 as compared with 8,3 million euro in 2010. This mainly results from a 15 % decrease in revenues, reflecting the Centre's new pricing policy which aims to align prices of products with their costs.

**FOLLOW-UP OF PREVIOUS YEAR'S OBSERVATIONS**

13. Continuing the trend from last year, the accumulated budget surplus decreased from 9,2 million euro in 2010 to 3,0 million euro in 2011. This reduction is the net effect of the 2011 budget surplus and allocations to reserves for pricing stability and for exceptional investments.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 27 June 2012 and received by the Court on 29 June 2012. 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 [www.cdt.europa.eu](http://www.cdt.europa.eu).

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Amended budget (OJ C 375, 22.12.2011, p. 5-7); including budget transfers.

## ANNEX

**Translation Centre for the Bodies of the European Union (Luxembourg)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p>	<p>The representatives of the Member States' governments adopted by mutual agreement a declaration concerning the creation, under the aegis of the Commission's translation departments in Luxembourg, of a Translation Centre for the bodies of the Union, which would provide the necessary translation services for the operation of the bodies and services whose seats were established by the Decision of 29 October 1993.</p>
<p><b>Competences of the Centre</b></p> <p><i>(Council Regulation (EC) No 2965/94 as last amended by Council Regulation (EC) No 1645/2003)</i></p>	<p><b>Objectives</b></p> <p>To provide the necessary translation services for the operation of the following bodies:</p> <ul style="list-style-type: none"> <li>— the European Environment Agency;</li> <li>— the European Training Foundation;</li> <li>— the European Monitoring Centre for Drugs and Drug Addiction;</li> <li>— the European Medicines Agency;</li> <li>— the European Agency for Safety and Health at Work;</li> <li>— the Office for Harmonisation in the Internal Market (<i>Trademarks and Designs</i>);</li> <li>— the European Police Office (<i>Europol</i>) and the Europol Drugs Unit.</li> </ul> <p>Bodies set up by the Council other than the above may use the Centre's services. The institutions and bodies of the European Union which already have their own Translation Services may, if need be, call upon the Centre's services on a voluntary basis.</p> <p>The Centre plays a full part in the work of the Interinstitutional Translation Committee.</p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To make arrangements for cooperation with the bodies and institutions;</li> <li>— To participate in the work of the Interinstitutional Translation Committee.</li> </ul>
<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p><i>Composition</i></p> <ul style="list-style-type: none"> <li>— one representative per Member State;</li> <li>— two representatives from the Commission;</li> <li>— one representative from each body or institution calling upon the Centre's services.</li> </ul> <p><i>Tasks</i></p> <p>To adopt the Centre's annual budget and work programme, establishment plan and annual report.</p> <p><b>Director</b></p> <p>Appointed by the Management Board on a proposal from the Commission.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p>



	<p><b>Internal audit</b></p> <p>The Commission's internal audit service (IAS).</p> <p><b>Discharge authority</b></p> <p>Parliament acting on a recommendation from the Council.</p>
<b>Resources made available to the Centre in 2011 (2010)</b>	<p><b>Final Budget</b></p> <p>51,3 (55,9) million euro</p> <p><b>Staff</b></p> <p>225 (225) provided in the establishment plan, of which 205 (215) were occupied.</p> <p>+ 14 (10) contract agents</p> <p>Total staff: 219 (225), undertaking the following tasks:</p> <p>— operational: 107 (110)</p> <p>— administrative: 112 (115)</p>
<b>Products and services 2011 (2010)</b>	<p><b>Number of pages translated</b></p> <p>712 813 (819 598)</p> <p><b>Number of pages by languages</b></p> <p>— official languages: 704 613 (813 907)</p> <p>— other languages: 8 200 (5 691)</p> <p><b>Number of pages per client</b></p> <p>— Bodies: 676 925 (805 529)</p> <p>— Institutions: 3 888 (14 069)</p> <p><b>Number of pages translated by freelances</b></p> <p>436 445 (448 160)</p>

Source: Information supplied by the Centre.

**THE CENTRE'S REPLIES**

The Centre has taken note of the Court's report.

---

## REPORT

**on the annual accounts of the European Centre for the Development of Vocational Training for the financial year 2011, together with the Centre's replies**

(2012/C 388/04)

## INTRODUCTION

1. The European Centre for the Development of Vocational Training (hereinafter "the Centre"), which is located in Thessaloniki, was established by Council Regulation (EEC) No 337/75<sup>(1)</sup>. Its core mandate is to serve the development of vocational training at Union level. In order to achieve this objective, it has the task of compiling and disseminating documentation on vocational training systems<sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Centre's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Centre, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Centre, under his own responsibility and within the limits of the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting in

place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Centre and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Centre are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 39, 13.2.1975, p. 1.

<sup>(2)</sup> The *Annex* summarises the Centre's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Centre.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Centre's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Centre for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Centre's 2011 budget amounted to 18,9 million euro, out of which 0,9 million euro (5 %) were carried over

to 2012<sup>(12)</sup>. The carryovers include 0,6 million euro appropriations for Title II "administrative expenditure" (37 % of total Title II appropriations). Only 0,075 million euro (13 %) of this amount related to services received in 2011 and were accrued as charges. The low level of accruals is due to contracts being signed close to the year end, for which most of the goods and services will be provided in 2012. The excessive level of carryovers for Title II is at odds with the budgetary principle of annuality.

13. A significant number of budgetary transfers was made which were mostly concentrated at the year end<sup>(13)</sup>. An amount of 0,7 million euro was transferred from Title I "staff expenditure" to Title II "administrative expenditure" (0,2 million euro) and Title III "operational expenditure" (0,5 million euro). The justification for these budgetary transfers was insufficient, as no estimate of needs was made. This situation indicates weaknesses in budget planning and programming and is at odds with the principle of specification.

**COMMENTS ON KEY CONTROLS OF THE CENTRE'S SUPERVISORY AND CONTROL SYSTEMS**

14. Annually, the Centre's financing of grants for vocational education and training (VET)<sup>(14)</sup> amounts to about 1 million euro<sup>(15)</sup>. There were significant delays in the closing of grants for the year 2010, because beneficiaries submitted their final reports on activities late. The Centre itself was late in the verification of these reports and the processing of final payments<sup>(16)</sup>.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*

Vítor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 13 June 2012 and received by the Court on 29 June 2012. 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://www.cedefop.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> The carried over appropriations refer to Title I "staff expenditure" and Title II "administrative expenditure" (there are no automatic carry overs for Title III "operating expenditure", as they are managed as dissociated appropriations).

<sup>(13)</sup> In total, 77 budget transfers were made, totalling 1,5 million euro, of which 67 transfers (1,3 million euro) were made in November and December 2011.

<sup>(14)</sup> The Centre provides grants to a European network of reference and expertise ('ReferNet'), for providing information on the national vocational education and training systems and policies in the Member States, Norway and Iceland.

<sup>(15)</sup> 2011 and 2010: 0,9 million euro

<sup>(16)</sup> On average, final payments were late by about 50 days.

## ANNEX

## European Centre for the Development of Vocational Training (Thessaloniki)

## Competences and activities

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 166(1) of the Treaty on the Functioning of the European Union)</i></p>	<p><b>Collection of information</b></p> <p>The Union shall implement a vocational training policy which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.</p>
<p><b>Competences of the Centre</b></p> <p><i>(Articles 2 and 3 of Council Regulation (EEC) No 337/75)</i></p>	<p><b>Objectives</b></p> <p>In its capacity as the European Union reference centre for vocational education and training, the Centre provides policy-makers, researchers and professionals with evidence on current trends to enable them to reach soundly based decisions and actions.</p> <p>The Centre assists the European Commission in promoting and developing vocational education and training at Union level.</p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To compile selected documentation and produce data analysis,</li> <li>— To contribute to research development and coordination,</li> <li>— To utilise and disseminate relevant information,</li> <li>— To encourage and support a concerted approach to matters relating to the development of vocational training,</li> <li>— To provide a forum for a broad and diverse public.</li> </ul>
<p><b>Governance</b></p>	<p><b>Governing Board</b></p> <p><i>Composition</i></p> <p>For each Member State:</p> <ol style="list-style-type: none"> <li>a) One member representing the Government,</li> <li>b) One member representing the employers' organisations,</li> <li>c) One member representing the employees' organisations.</li> </ol> <p>Three members representing the European Commission.</p> <p>The members referred to in a), b) and c) are appointed by the Council. The Commission appoints the members who are to represent it.</p> <p>Coordinators from the Employers' organisations and Employees' organisations at European level and observers of the EEA countries also attend Governing Board and Bureau meetings.</p> <p><i>Duties</i></p> <p>To adopt the budget, medium term priorities (the Centre's multiannual planning), work programme and assess and analyse the annual activity report and the annual accounts. To adopt the final budget and the establishment plan.</p> <p><b>Bureau</b></p> <p><b>Composition</b></p> <p>The chairman and the three vice-chairmen of the Governing Board, one coordinator per group and one additional representative of the Commission.</p>

	<p><b>Director</b> appointed by the Commission from a list of candidates submitted by the Governing Board; he/she is responsible for the management of the Centre and implements the decisions of the Governing Board and the Bureau.</p> <p><b>Internal audit</b></p> <p>Internal Audit Service of the European Commission.</p> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Centre in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>18,83 (18,25) million euro</p> <p>Union contribution <sup>(1)</sup>: 97,5 % (97,7 %)</p> <p><b>Staff as at 31 December 2011</b></p> <p>Number of posts in establishment plan: 101 (101) Posts occupied: 97 (96)</p> <p>Other staff: contract staff, 25 (24) Seconded national experts 3 (5)</p> <p>Total staff: 125 (125) Operational: 90 (90) Administrative: 35 (35)</p>
<p><b>Products and services in 2011 (2010)</b></p>	<p><b>Analysing and reporting on policy developments</b></p> <p>The Centre's mandate to <b>review progress</b> achieved in implementing joint priorities for VET was confirmed and broadened in 2010. The Centre developed a new approach to: (i) take stock every year of policy developments in countries since 2010; (ii) prepare a comprehensive policy report on progress towards strategic policy objectives in 2014. A new framework for ReferNet - the Centre's European network on VET - to collect systematic information on VET systems and policy developments was implemented. The Commissioners for Education and Culture and of Employment contributed to the Centre's <b>Agora conference</b> A bridge to the future - European vocational education and training policy 2002-10. Outcomes of a comparative analysis of most effective and efficient cost-sharing mechanisms for <b>financing VET</b> were debated at a DG EAC-Hungarian presidency conference on Adult learning and at the ILO Skills Development Academy.</p> <p><b>Supporting development and implementation of common European tools</b></p> <p>The Centre coordinated the <b>EQF (European Qualifications Framework)</b> Advisory Group jointly with the European Commission (DG EAC). A report Development of national qualifications frameworks in Europe. October 2011 was published. The Centre analysed "referencing reports" by 14 countries. 24 background papers and 24 presentations at 16 EQF related meetings informed policy debates (for example: Hungarian EQF Presidency conference). The second <b>ECVET</b> monitoring report focusing on strategies for implementing ECVET was finalised. Support to <b>EQAVET</b> continued; a publication <i>Assuring quality in VET – the role of accrediting VET providers</i> was released. The <b>Europass</b> website – managed by the Centre - has been increasingly used by Europe's citizens. Since its launch, 16,6 million CVs have been generated on-line (2011: 5,8 million (3,8 million)). To stimulate greater <b>coherence between the European tools</b> the Centre organised a joint workshop in the European Parliament and a Conference with the social partners on their role in implementing EU tools. Two briefing notes: Qualifications frameworks in Europe: modernising education and training; and Shaping lifelong learning: making the most of European tools and</p>

principles summarised the most important messages for policy makers. 243 **Study Visits** were coordinated in the year 2010/11 for 2 723 specialists from 31 countries. Impact studies underline high satisfaction rate 96 % (100 %) of social partners and quality.

#### **Skills and competence analysis**

**An updated skills forecast** was released. A conference was held on comparing methods for forecasting skill needs. The approach and methods for a European survey of employers on skill needs in enterprises were agreed upon. An international seminar on skills anticipation and matching brought together main international and national players in the field. The synthesis report **Skills for green jobs**: a global view was published with the I.L.O. Research on **skill mismatch** focused on migration issues. The study report "Migrants, minorities, mismatch?" was released.

#### **Qualifications for lifelong learning**

Research findings on curriculum and assessment policies and the implications of learning outcomes for individuals were presented at the Polish Presidency Conference on youth competence development. An international workshop on **curriculum innovation** and reform was organised. The study **Learning while working** - Success stories on workplace learning in Europe was presented at a Hungarian Presidency conference and discussed at the meeting of Directors General for VET under the Polish Presidency. A report on **Lifelong guidance** reviewed countries' progress in implementing the lifelong guidance Council resolution. An update of the European inventory **on validation** in 32 countries was completed. A briefing note and four research papers have been published on the socio-economic benefits of VET.

#### **Organisational impact**

**Key-indicators** show high organisational impact: citations in 105 EU policy documents, 16 EU-level mandates; direct contributions to 13 EU policy documents. Increase of website traffic; contribution to over 100 conferences; 108 conferences/ events organised by the Centre; 130 publications; 380 media articles relating the Centre's work recorded. More than 496 000 publications of the Centre downloaded in 2011 (+ 40 % compared to 2010).

For more information see [www.cedefop.europa.eu](http://www.cedefop.europa.eu) (Annual Report and Annual Activity Report 2011).

(1) Union contribution includes Union subvention as well as BRS.

Source: Information supplied by the Centre.

### THE CENTRE'S REPLIES

12. The 2011 and 2012 ABB reports show that over 57 % (and 53 % respectively) of the Title II budget was committed by June 2011 (and by May 2012).

By nature some projects often last more than one year and for operational reasons commitments have to be done during the last quarter of the year. In 2011, 50 % of commitments were made during the last quarter as projects had to be postponed to the end of the year because of delays in the building repair works which were outside the Centre's control. Over 75 % of the value of the automatic carryovers in Title II were completed and invoiced during the first quarter of 2012.

The financial rules foresee automatic carryovers in full consideration of the principle of annuality. The Centre has developed a comprehensive process to monitor budget implementation and will continue its efforts to lower the percentage of automatic carryovers in Title II.

13. Cedefop was aware by October 2010 of lower budgetary needs in Title I and planned its work programme accordingly. The Centre was advised not to change the draft budget at this point in the budgetary procedure but to foresee a substantial transfer from Title 1 to cover expenditures in Titles II and III for projects included in the annual work programme. The remaining transfers amounted to less than 4 % of the budget. Adjustments in this magnitude are necessary if budget implementation is high (99,18 % for the EU subsidy).

Transfers are only implemented when actual needs for these funds arise. In consequence, it is unavoidable that they are mainly made by the end of the year.

The Centre makes transfers based on assessment of needs but will document their justification more extensively in future taking note of the Court's observation.

14. Payments of grants are dealt with in the same way as any other payments. The Centre introduced in 2009 an efficient payment automation method (PAME) and has substantially reduced the delay between receipt of invoices/reports and payment during the past years.

The 2011 delay in payment of grants was a mistake and management has already taken all necessary steps to avoid its recurrence.

---



## REPORT

**on the annual accounts of the European Police College for the financial year 2011, together with the College's replies**

(2012/C 388/05)

## INTRODUCTION

1. The European Police College (hereinafter "the College"), which is located in Bramshill, was established by Council Decision No 2000/820/JHA, as repealed in 2005 and replaced by Council Decision 2005/681/JHA <sup>(1)</sup>. The College's task is to function as a network and bring together the national police training institutes in the Member States to provide training sessions, based on common standards, for senior police officers <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the College's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the College, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the College, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the College and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the College are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 256, 1.10.2005, p. 63.

<sup>(2)</sup> The *Annex* summarises the College's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Collage.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the College's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the College for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The College's total 2011 budget amounted to 8,3 million euro. Appropriations amounting to 1,8 million euro (22 %) were carried over to 2012. Out of the appropriations carried over from 2010 amounting to 2,5 million euro, 0,7 million euro (27,5 %) were cancelled in 2011. The high level of carryovers as well as the high level of cancellations indicate shortcomings in budget planning and/or implementation and are at odds with the budgetary principle of annuality.

13. In 2011, the College made 38 budgetary transfers amounting to 1,8 million euro. This situation indicates weaknesses in budget planning and is at odds with the principle of specification.

**OTHER COMMENTS**

14. The College is located in Bramshill, using premises of the UK National Policing Improvement Agency (NPIA). NPIA is due to close at the end of 2012 and it is not clear until when the College can continue using its current premises.

15. The College needs to improve the transparency of recruitment procedures. Vacancy notices made no reference to the possibility of appeal; weightings for selection criteria were not set before the examination of applications and reports summarising screening procedures and decisions on reserve lists were not always prepared.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vítor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 15 June 2012 and received by the Court on 3 July 2012. 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://www.cepol.europa.eu>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Police College (Bramshill)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p>(Article 87 TFEU)</p>	<p><b>Approximation of laws</b></p> <p>“1. The Union shall establish police cooperation involving all the Member States’ competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.</p> <p>2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning: [...]</p> <p>(b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;” [...]</p>
<p><b>Competences of the College</b></p> <p>(Council Decision 2005/681/JHA)</p>	<p><b>Objectives</b></p> <p>The aim of College shall be to help train senior police officers in the Member States by optimising cooperation between College’s various components. It shall support and develop a European approach to the main problems facing Member States in the fight against crime, crime prevention and the maintenance of law and order and public security, in particular the cross-border dimensions of those problems.</p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To increase knowledge of the national police systems and structures of other Member States and of cross-border police cooperation within the European Union.</li> <li>— To improve knowledge of international and European Union instruments, particularly in the following sectors: <ul style="list-style-type: none"> <li>(a) the institutions of the European Union, their functioning and role, as well as the decision-making mechanisms and legal instruments of the European Union, in particular as regards their implications for law-enforcement cooperation;</li> <li>(b) Europol’s objectives, structure and functioning, as well as ways to maximise cooperation between Europol and relevant law-enforcement services in the Member States in the fight against organised crime;</li> <li>(c) Eurojust’s objectives, structure and functioning.</li> </ul> </li> <li>— To provide appropriate training with regard to respect for democratic safeguards, with particular reference to the rights of defence.</li> </ul>
<p><b>Governance</b></p>	<p><b>Governing Board</b></p> <p><i>Composition</i></p> <p>One delegation from each Member State.</p> <p>Each delegation shall have one vote. Representatives of the European Commission and of the General Secretariat of the Council of the European Union and Europol shall be invited to attend meetings as non-voting observers.</p> <p><b>Director</b></p> <p>Manages the College, is appointed and removed by the Governing Board.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p>

	<p><b>Internal Audit</b></p> <p>Internal Audit Service of the Commission.</p> <p><b>Discharge authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the College in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>8,3 (7,8) million euro</p> <p><b>Staff</b></p> <p>The Establishment Plan 2011 foresaw: 26 (26) Temporary Agents.</p> <p>In addition: 8 (10) Contract Agent posts were budgeted.</p> <p>Member States also seconded a total of: 7 (4) National Experts during the course of the year.</p>
<p><b>Products and services in 2011 (2010)</b></p>	<p><b>Courses and Seminars</b></p> <p>The College implemented a total of 88 (91) activities (courses, seminars and conferences). A preliminary assessment of the evaluations shows that the general satisfaction with College activities and its learning outcomes are high (93 %). CEPOL has brought together 2 043 (1 997) law enforcement participants and 784 (841) trainers from 37 (36) countries (EU Member States and Third Countries). The College itself organised 17 (10) activities in support of the network and initiated a Grant Agreement application process for 2012. No activities were postponed to the next calendar year.</p> <p><b>External Relations</b></p> <p>External policy: CEPOL has endorsed two new cooperation agreements with Georgia and Montenegro. CEPOL is continuing its fruitful cooperation with strategic partners, partner agencies and EU institutions, including EEAS and has been clearly identified as one of the key providers in training for police officers taking part in EU police missions.</p> <p><b>Development of Training Manuals and (Common) Curricula</b></p> <p>In 2011, a Trainers Manual for SIRENE training has been developed in cooperation with the SIRENE Training Committee and the SIRENE/SIS Working Group in the Council of the European Union.</p> <p>On the level of the Common Curricula, three basic documents were elaborated on the definition of Common Curricula: implementation/integration; marketing of Common Curricula, and quality assurance.</p> <p><b>Research and Science</b></p> <p>The network of National Research and Science Correspondents and the Research and Science Working Group supported the preparations for the 2011 Annual CEPOL European Police Research and Science Conference “Cybercrime, Cyber security and Social Networks” that took place between 28-30 June 2011.</p> <p>Three new issues of the “European Science and Research Bulletin” were published on the website.</p> <p>Growing e-Library is used as a knowledge repository for registered e-Net users on a regular basis.</p> <p><b>Exchange Programme</b></p> <p>CEPOL European Police Exchange Programme 2011 was implemented from April to December 2011 and comprised the following elements:</p> <p>— Senior Police Officers and Training Staff;</p>

- Commanders;
- Cybercrime experts; and
- Study visits to Europol and OLAF.

The programme included topics deriving from the Stockholm Programme priorities and selected specialist/expert topics in line with the training needs of the counterparts. Each exchange visit was 12 calendar days and it was organised on a bilateral basis where each participant took part as an exchangee and a tutor (host). Three study visits were organised to Europol and one to OLAF. Altogether 292 participants from 26 Member States took part. The Programme had a budget of about 800 000 euro financed by CEPOL.

#### **Electronic Network (e-Net)**

The College's e-Net (Electronic Network) received 109 000 (102 000) unique visitors and had 9 283 (6 226) registered users at the end of 2011 (an increase of 49 % compared to the same figure at the end of 2010). CEPOL's LMS (Learning Management System) proved to be highly successful both in supporting traditional CEPOL activities and by offering a platform for information sharing to the CEPOL/ISEC Exchange Programme and several Working Groups. Open Platforms have been made also available, where in a networked learning context communities of practice can learn from and with each other easily using online technology.

#### **E-Learning**

In 2011 the College developed five e-Learning Modules on the subjects Europol, Schengen, Cybercrime, Gender Based Violence and CoPPra (Community Policing Preventing Radicalisation & Terrorism). The modules can be used by law enforcement officers for the professionalisation on any time/any place basis, to support life-long learning and self-directed individual learning.

A new successful product in the field of e-Learning - the webinars (web-based seminars) - was introduced in 2011. The College organised in total 18 webinars (9 on Police related topics and 9 for Learning Management System support) where 398 participants attended. This improves the existing e-Learning culture within the Law Enforcement Services and the positive correspondence by the Member States confirms that in today's global financial and learning environment, the College is showing new ways of improving their productivity.

Source: Information supplied by the College.

**THE COLLEGE'S REPLIES**

12. The College agrees with the comment of the Court. The College would draw attention to the fact that measures have been implemented to ensure that the carried over appropriations are kept to the minimum. The year end carryover procedure has been reviewed and improved. This improved process has resulted in the reduction in the carry over amounts.

13. The College acknowledges the comment of the Court. The College has implemented improvements to strengthen budget planning. In 2010 there were 63 transfers completed while in 2011 - 38 transfers, out of which 20 were within budget chapters.

14. The Home Office informed the College and as well as the Commission that the National Policing Improvement Agency (NPIA) is due to close at the end of 2012; the Home Secretary intends to establish a new police professional body.

With regard to the future of the Bramshill estate no final decision has been made. Should Bramshill be sold, this is unlikely to occur until at least 2015. In this eventuality, it is assured that the UK Home Office will work closely with the College and the Commission and will update further once the domestic consultation has concluded.

15. The college agrees with the comments of the Court. The documentation standards and templates for each stage of recruitments procedures were revised in June 2012 to ensure better transparency and clarity in the documentation.

---

## REPORT

**on the annual accounts of the Community Plant Variety Office for the financial year 2011, together with the Office's replies**

(2012/C 388/06)

## INTRODUCTION

1. The Community Plant Variety Office (hereinafter "the Office"), which is located in Angers, was created by Council Regulation (EC) No 2100/94 of 27 July 1994 <sup>(1)</sup>. Its main task is to register and examine applications for the grant of Union industrial property rights for plant varieties and to ensure that the necessary technical examinations are carried out by the competent offices in the Member States <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Office, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the President implements the revenue and expenditure of the budget in accordance with the financial rules of the Office, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The President is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the Administrative Council of the Office <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Office and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Office are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgement, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to preparation and fair presentation of accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 227, 1.9.1994, p. 1.

<sup>(2)</sup> The *Annex* summarises the Office's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Office.

<sup>(9)</sup> Article 111 of Regulation (EC) No 2100/94 (OJ L 227, 1.9.1994, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Office's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Office for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON THE BUDGETARY AND FINANCIAL MANAGEMENT**

12. Total commitment appropriations amounted to 14,4 million euro compared with 13,1 million euro the previous year. For Title II related to administrative expenditure, an amount of 0,4 million euro or 25 % of commitment appropriations was carried forward to 2012 and 0,3 million euro or 15 % of commitment appropriations were cancelled. The high level of carry-over and cancellations is at odds with the budgetary principle of annuality.

13. Weaknesses were noted as regards the recording of four legal commitments in advance of budget commitments (18 791 euro). Purchase orders are frequently dated prior to the approval of the budget commitments.

**OTHER COMMENTS**

14. The Office did not adopt the Implementing Rules of the Staff Regulations as regards the engagement and use of contract staff and the temporary occupation of management posts.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---

<sup>(10)</sup> The Final Annual Accounts were drawn up on 18 June 2012 and received by the Court on 19 June 2012. 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://www.cpvo.europa.eu/main/en/home/about-the-cpvo/financing>.



## ANNEX

**Community Plant Variety Office (Angers)****Competences and Activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Extract of article 36 of the Treaty on the Functioning of the European Union)</i></p>	<p><b>Free movements of goods</b></p> <p>Such prohibitions or restrictions [the protection of industrial and commercial property] shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.</p>
<p><b>Competences of the Office</b></p> <p><i>(Council Regulation (EC) No 2100/94 &amp; Strategic Plan 2010-2015)</i></p>	<p><b>Objectives</b></p> <p>To apply the system of European Union plant variety rights as the sole and exclusive form of European Union industrial property rights for plant varieties.</p> <p>To foster innovation in plant varieties by high quality processing of applications for Community plant variety rights at affordable costs while providing policy guidance and assistance in the exercise of these rights for the benefit of stakeholders.</p> <p><b>Tasks</b></p> <p>To decide whether to refuse or grant applications for Union plant variety rights.</p> <p>To decide on objections.</p> <p>To decide on appeals.</p> <p>To decide on the revocation or cancellation of a European Union plant variety right.</p>
<p><b>Governance</b></p>	<p><b>The President</b></p> <p>Directs the Office. He is appointed by the Council from a list of candidates proposed by the Commission after obtaining the opinion of the Administrative Council.</p> <p><b>The Administrative Council</b></p> <p>Oversees the Office's work programme and draws up rules governing the Office's working methods. It is composed of one representative of each Member State and one representative of the Commission, plus their alternates.</p> <p>Decisions regarding the grant of Community plant variety rights are adopted by <b>Committees</b> composed of three members of staff of the Office and by <b>the Board of Appeal</b> in appeal proceedings.</p> <p><b>Control of the legality of the Office's acts</b></p> <p>Review by the Commission of the legality of the acts of the Office's President in respect of which European Union law does not provide for any control on legality by another body and of the acts of the Administrative Council relating to the Office's budget.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>Administrative Council.</p>

<b>Resources made available to the Office in 2011 (2010)</b>	<b>Final Budget</b> 14,4 (13) million euro  <b>Staff as at 31 December 2011</b> Number of posts in the establishment plan: 46 (46) Posts occupied: 45 (46). Total staff: 45 (45), undertaking the following tasks: operational: 17,5 (17,5) administrative: 21,5 (21,5) mixed: 6 (6)
<b>Products and services 2011 (2010)</b>	Applications received: 3 184 (2 886) Rights granted: 2 584 (2 303) European Union rights in force at 31 December 2011: 18 907 (17 610)  <b>International Cooperation in Plant Variety Protection</b> — Contribution to enforcement of plant variety rights — Contacts and cooperation with the following organisations: European Commission (DG SANCO, Standing Committees), UPOV <sup>(1)</sup> , CIOPORA <sup>(2)</sup> , ESA3 <sup>(3)</sup> , OAPI <sup>(4)</sup> , OECD <sup>(5)</sup> , MAFF <sup>(6)</sup> (Japan)

<sup>(1)</sup> Union pour la Protection des Obtentions végétales.

<sup>(2)</sup> International Community of Breeders of Asexually Reproduced Ornamental and Fruit Plants.

<sup>(3)</sup> European Seed Association.

<sup>(4)</sup> Organisation africaine de la Propriété intellectuelle.

<sup>(5)</sup> Organisation for Economic Co-operation and Development.

<sup>(6)</sup> Ministry of Agriculture, Food & Fisheries (JP).

Source: Information supplied by the Office.

### THE OFFICE'S REPLIES

12. A high cancellation rate is an indication of savings made during the year. It should also be noted that the level of C8 carry-over is partly linked to the timing of events which take place at the year-end.

Furthermore, the CPVO has made significant efforts in the past years to reduce the carry over amount. The absolute amounts carried over have fallen significantly from over 1 million euro in 2008 to 450 000 in 2011. The amount of C8 credit appropriations cancelled have also fallen significantly. The Office will continue its efforts as regards year end budget estimations.

13. The Office reiterates the comment of the Court that under the current system purchase orders are only sent after approval of the commitment. The legal commitment only becomes valid once it is physically sent to the supplier, regardless of the date that the document is generated. The risk of earlier sending is negligible and indeed under the development of an e-platform for sending purchase orders, this risk will be completely eradicated.

14. The procedure for engagement and use of contract staff has been under revision by the agencies for quite some time, due to the adoption of a new decision by the Commission. The CPVO has chosen to wait until a new model decision has been agreed on in order to avoid having to adopt several decisions on the same issue. Since the CPVO is not engaging contract staff it has not been considered urgent to adopt this decision.

Concerning the decision on temporary occupation of management posts the CPVO did not consider this urgent since such a situation never has occurred in the CPVO yet. However, a draft has been prepared and is under consideration before being sent to the Commission for approval.

---

## REPORT

**on the annual accounts of the Education, Audiovisual and Culture Executive Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/07)

## INTRODUCTION

1. The Education, Audiovisual and Culture Executive Agency (hereinafter "the Agency"), which is located in Brussels, was established by Commission Decision 2009/336/EC <sup>(1)</sup>. The Agency's task is to manage programmes decided by the Commission in the educational, audiovisual and cultural fields, including undertaking the detailed implementation of technical projects <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Agency, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the

<sup>(1)</sup> OJ L 101, 21.4.2009, p. 26.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 25 of Commission Regulation (EC) No 1653/2004 (OJ L 297, 22.9.2004, p. 10).

<sup>(7)</sup> Article 29 of Regulation (EC) No 1653/2004.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VI of Regulation (EC) No 1653/2004 as last amended by Regulation (EC) No 651/2008 (OJ L 181, 10.7.2008, p. 15).

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

8. The Court considers 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***

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results

of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---

<sup>(10)</sup> The Final Annual Accounts were drawn up on 8 June 2012 and received by the Court on 2 July 2012. 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://eacea.ec.europa.eu/index\\_en.php](http://eacea.ec.europa.eu/index_en.php).

---

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**Education, Audiovisual and Culture Executive Agency (Brussels)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p>(Articles 165(1), 166(1), 167(1) and 173(1) of the Treaty)</p>	<p><b>Collection of information</b></p> <p>The European Union shall contribute to the development of quality education.</p> <p>The European Union shall implement a vocational training policy.</p> <p>The European Union shall contribute to the flowering of the cultures of the Member States.</p> <p>The European Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.</p>
<p><b>Competences of the Agency</b></p> <p>(Commission Decision 2009/336/EC)</p>	<p><b>Objectives</b></p> <p>In the framework of the education, culture and industry policies, numerous measures have been taken to promote education, vocational training, audiovisual, culture, youth and active citizenship in the European Union. The main objectives of these measures are to reinforce social cohesion and to contribute to competitiveness, to economic growth and to an ever closer union amongst the people of Europe.</p> <p>These measures include a variety of programmes.</p> <p>The Agency is responsible for managing certain strands of these programmes e.g. "Lifelong learning", "Culture", "Youth in Action", "Europe for Citizens", "MEDIA", "Erasmus Mundus" and "Tempus". In this respect, it implements the aid of the Union, except for programme evaluation, strategic studies and any other task which requires discretionary powers in translating political choices.</p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To manage, throughout their duration, the specific projects entrusted to it in the context of the implementation of programmes of the Union and to perform the necessary checks to that end, by adopting the relevant decisions where the Commission has empowered it to do so.</li> <li>— To adopt the instruments of budget implementation for revenue and expenditure and to carry out, where the Commission has empowered it to do so, the operations necessary for the management of the programmes of the Union and, in particular, those linked to the award of grants and contracts.</li> <li>— To gather, analyse and pass on to the Commission all the information needed to guide the implementation of the programmes of the Union.</li> <li>— To implement, at the level of the Union, the network of information on education in Europe (Eurydice) for the collection, analysis and dissemination of information and the production of studies and publications.</li> </ul>
<p><b>Governance</b></p>	<p><b>Steering Committee</b></p> <p><i>Composition</i></p> <p>Comprises five members appointed by the European Commission.</p> <p><i>Duties</i></p> <p>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>Director</b></p> <p>Appointed by the European Commission.</p>

	<p><b>External Audit</b></p> <p>Court of Auditors.</p> <p><b>Internal control</b></p> <p>The Internal Audit Capability.</p> <p>The Commission's Internal Audit Service.</p> <p><b>Discharge authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>The 2011 administrative budget of the Agency has reached 50 (49) million euro (100 % financed by the general budget of the European Union).</p> <p>The Agency has managed 621 (600) million euro related to the programmes and projects delegated by the Commission to the Executive Agency.</p> <p><b>Staff as at 31 December 2011</b></p> <p><i>Temporary staff:</i> 102 (102) posts for temporary staff in the establishment plan</p> <p>Post occupied: 102 (97)</p> <p><i>Contract staff:</i> 336 (330) contract staff</p> <p>Posts occupied: 331 (315)</p> <p><i>Total staff:</i> 433 (412) posts occupied undertaking the following tasks:</p> <p>Operational: 352</p> <p>Administrative: 81</p>
<p><b>Products and services in 2011 (2010)</b></p>	<p><b>Communication</b></p> <ul style="list-style-type: none"> <li>— Organisation of three Info days, update of EVE <sup>(1)</sup> database with project results, organisation of events in cooperation with parent Directorates-General (DGs).</li> <li>— Organisation of a satisfaction survey of applicants and beneficiaries from 2007 to 2010. Analysis of the results per programme has been concluded and the follow-up actions have been launched in 2011.</li> <li>— The EACEA brochure is available in three languages (EN, FR, DE).</li> <li>— Kick-off meetings were organised in Brussels for project coordinators and partners.</li> </ul> <p><b>Selections</b></p> <ul style="list-style-type: none"> <li>— 28 calls for proposals were published as well as 1 call for tenders.</li> <li>— The corresponding detailed fact sheets (or descriptions) of selected proposals (compendia) were published on the Agency's website.</li> <li>— Management of more than 12 000 received proposals.</li> <li>— Selection of more than 3 800 projects and 420 Erasmus University Charters.</li> </ul> <p><b>Monitoring visits</b></p> <ul style="list-style-type: none"> <li>— More than 400 follow-up meetings (on site or in Brussels) with project participants were organised in order to monitor the project implementation.</li> </ul>

---

	<p><b>Simplification measures</b></p> <ul style="list-style-type: none"><li>— The use of e-forms has been extended to cover more actions, corresponding to 75 % of all applications.</li><li>— Simplified contracting has been introduced (decisions instead of grant agreements) for some actions.</li><li>— A calculation based on lump sums has been redefined and introduced for more actions.</li><li>— Remote expert briefings and remote evaluations of projects have been used for the evaluations of more actions.</li></ul> <p><b>Cooperation with parent DGs</b></p> <ul style="list-style-type: none"><li>— Organisation of four Steering Committee meetings.</li><li>— Periodic coordination meetings on the delegated programmes with the parent DGs operational Directors (three meetings per year).</li><li>— Assistance to the parent DGs in the preparation of the next generation of programmes.</li><li>— Providing information on programme implementation to the Commission on request.</li></ul> <p><b>Audits</b></p> <p>119 audits were closed, 105 new audits were contractualised.</p> <p>Contracts and projects: 4 579 contracts were signed, 4 589 projects were closed.</p>
--	--

---

(<sup>1</sup>) Electronic platform for the dissemination and exploitation of results of projects supported by programmes managed by the European Commission in the fields of Education, Training, Culture, Youth and Citizenship

Source: Information supplied by the Agency.

---



**THE AGENCY'S REPLY**

The Agency has taken note of the Court's report.

---

## REPORT

**on the annual accounts of the Executive Agency for Competitiveness and Innovation for the financial year 2011, together with the Agency's replies**

(2012/C 388/08)

## INTRODUCTION

1. The Executive Agency for Competitiveness and Innovation ("the Agency"), located in Brussels, is the former Intelligent Energy Executive Agency (IEEA). Its mandate and duration were modified by Commission Decision 2007/372/EC <sup>(1)</sup> amending Decision 2004/20/EC <sup>(2)</sup>. The Agency was established for a limited period, beginning on 1 January 2004 and now ending on 31 December 2015, to manage EU actions in the field of energy, entrepreneurship and innovation, and sustainable freight transport <sup>(3)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, 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 2011 and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(7)</sup>. The Director is responsible for putting

in place <sup>(8)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(9)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(10)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgement, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 140, 1.6.2007, p. 52.

<sup>(2)</sup> OJ L 5, 9.1.2004, p. 85.

<sup>(3)</sup> The *Annex* 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 further information on budget implementation and management.

<sup>(5)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

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

<sup>(7)</sup> Article 25 of Commission Regulation (EC) No 1653/2004 (OJ L 297, 22.9.2004, p. 10).

<sup>(8)</sup> Article 29 of Regulation (EC) No 1653/2004.

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

<sup>(10)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for its statement of assurance.

**Opinion on the reliability of the accounts**

9. In the Court's opinion, the Agency's Annual Accounts <sup>(11)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the Accounting Rules adopted by the Commission's Accounting Officer <sup>(12)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Agency's initial 2011 budget of 16,2 million euro included 10,7 million euro for staff costs. Actual staff expenditure was 10 million euro. While the budget was overestimated by 0,7 million euro, the underutilisation was less than in previous years (for example 1,5 million euro in 2010 <sup>(13)</sup>).

**KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

13. Under the rental agreement concluded in 2010 for its new premises, the Agency has to pay a total amount of 2,4 million euro in respect of refurbishment of the offices by the landlord. The Agency made an initial payment of 2 million euro in 2010. The remaining amount was to be paid in three further instalments in 2011, 2012 and 2013.

14. The Agency incorrectly calculated the amount to be paid in 2011 and, as a consequence, made an overpayment of 108 287 euro. The landlord reimbursed the overpaid amount in January 2012. However, the incorrect payment by the Agency indicates the need to reinforce its controls in order to prevent such overpayments.

This report was adopted by Chamber II, headed by Mr Harald NOACK, Member of the Court of Auditors, in Luxembourg at its meeting of 10 October 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

<sup>(11)</sup> The Final Annual Accounts were drawn up on 28 June 2012 and received by the Court on 28 June 2012. The Final Annual Accounts can be found on the following website [http://ec.europa.eu/eaci/docs\\_en.htm](http://ec.europa.eu/eaci/docs_en.htm).

<sup>(12)</sup> The Accounting Rules adopted by the Commission's Accounting Officer are derived from International Public Sector Accounting Standards (IPSAS) or, by default, by International Financial Reporting Standards (IFRS).

<sup>(13)</sup> See paragraph 13 of the Report on the annual accounts 2010 (OJ C 366, 15.12.2011, p. 81).

## ANNEX

**Executive Agency for Competitiveness and Innovation (Brussels)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty on the Functioning of the European Union (TFEU)</b></p>	<ol style="list-style-type: none"> <li>1. The Union policy on the environment shall contribute to preserving, protecting and improving the quality of the environment; protecting human health; prudent and rational utilisation of natural resources; and promoting measures at international level to deal with regional or worldwide environmental problems.  <i>(Article 191 of the TFEU)</i></li> <li>2. The Union policy on industry shall ensure that the conditions necessary for the competitiveness of the Union's industry exist by speeding up the adjustment of industry to structural changes, encouraging an environment favourable to initiative and to the development of and cooperation between undertakings, fostering better exploitation of the industrial potential of policies of innovation, research and technological development. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The Commission may take any useful initiative to promote such coordination.  <i>(Article 173 of the TFEU)</i></li> <li>3. The common transport policy shall lay down common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States. It shall also set out the conditions under which non-resident carriers may operate transport services within a Member State, and lay down measures to improve transport safety.  <i>(Articles 91(1) and 100(2) of the TFEU)</i></li> </ol>
<p><b>Competences of the Agency</b></p> <p><i>(as defined in Commission Decision 2004/20/EC amended by Decision 2007/372/EC)</i></p>	<p><b>Objectives</b></p> <p>Within the framework of the Lisbon strategy for growth and jobs, the European Union has taken measures to promote and develop competitiveness and innovation. These measures include the establishment of the Competitiveness and Innovation Framework Programme (CIP) 2007-2013 (Decision No 1639/2006/EC), notably with the programmes Intelligent Energy - Europe (IEE) and Entrepreneurship and Innovation (EIP). The measures also include the Marco Polo (MP) programme (Regulation (EC) No 1692/2006). The main objectives are to foster competitiveness of enterprises, in particular SMEs; to promote all forms of innovation, as well as eco-innovation; to promote energy efficiency and new and renewable energy sources in all sectors, including transport. Under these EU programmes, the Agency is responsible for all implementing tasks concerning EU aid, except for programme evaluation, monitoring of legislation and strategic studies, or any other action which comes under the exclusive competence of the European Commission.</p> <p><b>Tasks</b></p> <p>Implementing the EU programmes according to the delegations received from the Commission:</p> <ul style="list-style-type: none"> <li>— to manage all phases in the lifetime of specific projects;</li> <li>— to carry out all operations necessary to manage the EU programmes, in particular budget implementation with awarding contracts and grants;</li> <li>— to gather, analyse and pass on to the Commission all the information needed to guide the implementation of the programmes as well as to promote coordination and synergy among the programmes;</li> <li>— as regards the EIP, to be in charge of project management and network animation of the Enterprise Europe Network, eco-innovation pilot and market replication projects, and innovation actions with a high degree of standardisation (IP Base project).</li> </ul>

<b>Governance</b>	<p><b>Steering Committee</b></p> <p>Comprises five members appointed by the European Commission. 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>Director</b></p> <p>Appointed by the European Commission.</p> <p><b>External Audit</b></p> <p>The Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>Parliament, acting on a recommendation by the Council.</p>
<b>Resources made available to the Agency in 2011 (2010)</b>	<p><b>Budget</b></p> <p>A) <i>Operational budget</i></p> <p>229,6 (249,8) million euro planned (100 % general budget of the EU). The EACI implements the operational budget under the responsibility of the Commission:</p> <ul style="list-style-type: none"> <li>— for IEE 83,8 (71,0) million euro;</li> <li>— for EIP-eco-innovation 38 (35,2) million euro;</li> <li>— for EIP-Networks 50,9 (79,7) million euro,</li> <li>— for MP 56,8 (63,8) million euro.</li> </ul> <p>B) <i>Administrative budget</i></p> <p>15,6 million euro (100 % EU subsidy) for the administrative budget for which the EACI is autonomous.</p> <p><b>Staff at 31 December 2011</b></p> <ul style="list-style-type: none"> <li>— Total staff: 159 (155) planned, of which 156 (142) occupied;</li> <li>— TA posts: 37 (37) planned, of which 33 (33) occupied;</li> <li>— Contract staff: 122 (118) posts planned, of which 123 (109) occupied.</li> </ul>
<b>Products and services 2011</b>	<p><b>For the Intelligent Energy Europe (IEE)</b>, 384 applications were received in the call for proposals and more than 100 project meetings were attended. By the end of March 2011, the Agency completed most contract negotiations for the 44 proposals selected under the Call 2010. The majority of contracts were signed by the end of April 2011.</p> <p>The EACI participated in more than 20 national info days. It also answered to about 200 pre-proposal check requests, in less than a week on average. Special efforts were dedicated to the promotion of the new 'Build Up Skills' initiative to train and qualify the building workforce. A stakeholder's workshop was organised by the EACI on 16 March to inform building, training and institutional actors about the initiative.</p> <p><b>EIP programme - Enterprise Europe Network</b></p> <p>The programme is made up of more than 580 partner organisations in 47 countries, including the 27 EU member states. In addition to project management tasks of 92 contracts (specific grant agreements) and the IPEuropAware project, the EACI is also responsible for the 'animation' of the Enterprise Europe Network and for managing the IT tools and databases for the interactive communication among the network partners. In 2011, EACI implemented on behalf of the Commission the following actions:</p> <ul style="list-style-type: none"> <li>— Enterprise Europe Network: <ul style="list-style-type: none"> <li>— Network operations;</li> </ul> </li> </ul>

- Network support (animation);
- IT-tools for the Network.
- IPR-projects and Your Europe Business portal;
- Eco-innovation first application and market replication projects.

#### **Eco-innovation**

Eco-innovation is supported via the CIP through several types of measures (financial instruments, networks of national and regional actors, first application and market replication projects). The Agency is entrusted with the management of the eco-innovation first application and market replication projects with an indicative budget of EUR 185 million for the period 2008-2013.

The efforts in 2011 concentrated on:

- Completion of the implementation of call for proposals 2010: negotiations were completed by end of November 2011, all contracts (47) were signed by end of November.
- New call for proposals 2011. The 2011 call was launched in April 2011 and attracted 280 proposals. Central evaluation took place from 21 November to 9 December. Final meeting was scheduled for 14 February 2012.
- Generation and dissemination of information about the EIP eco-innovation projects, as set out in the Agency's Communication Work Plan (electronic news alerts, regular updates of the Eco-innovation website; transfer of Eco-innovation projects database to a new server, new hosting and maintenance contract in place; organization of the European Info Day 2011 organised in April 2011.
- Management of ongoing projects.

#### **Marco Polo programme**

Key activities:

- Completion of the implementation of call for proposals 2010 (101 applications were received).
- Following the adoption of the 2011 MP Work Programme, to promote and implement the 2011 Call for proposals - the call was published on 21 October with a deadline for the submission of proposals of 16 January 2012.
- To generate and disseminate information about the Marco Polo programme, as set out in the Agency's Communication Work Plan.
- To make recommendations to parent DG MOVE on the implementation of the Marco Polo programme and its future development.
- Management of ongoing projects.

Source: Information supplied by the Agency.

**THE AGENCY'S REPLIES**

12. In line with previous recommendations from the Court, the Agency has improved its forecasting on Title 1 (Staff expenditure). There was indeed a small overestimation in 2011, due to factors external to the Agency or difficult to predict when the initial budget was adopted, such as: absence of decision on salary indexation, staff requesting parental or unpaid leave, higher staff turnover than anticipated, and recruitment for specific functions taking longer than expected. The 2012 budget continues a stricter forecasting approach. The budget implementation in 2012 shows that the estimates of staff expenditure are more accurate than in previous years. The Agency considers that it is unlikely to have a significant surplus in the future.

13-14. The overpayment in question was acknowledged by the Agency. As noted by the Court, it was immediately reimbursed by the landlord. The case has been documented and the fitting out works related to this contract have now been fully reimbursed. The Agency will take the necessary measures to avoid a similar situation for future contracts with early reimbursements.

---

## REPORT

**on the annual accounts of the Executive Agency for Health and Consumers for the financial year 2011, together with the Agency's replies**

(2012/C 388/09)

## 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 1 January 2005 and ending in 2015 for the management of Union actions in the field of health and consumer policy <sup>(3)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287(1), second subparagraph, of the Treaty on the Functioning of the European Union, 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 the implementation of the budget" <sup>(6)</sup> for the financial year ended 31 December 2011 and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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>(7)</sup>. The Director is responsible for putting in place <sup>(8)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up the final accounts <sup>(9)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(10)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<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 Annex 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 of 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 a description of the main accounting policies and other explanatory information.

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

<sup>(7)</sup> Article 25 of Commission Regulation (EC) No 1653/2004 (OJ L 297, 22.9.2004, p. 6).

<sup>(8)</sup> Article 29 of Regulation (EC) No 1653/2004.

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

<sup>(10)</sup> Article 14 of Council Regulation (EC) No 58/2003 (OJ L 11, 16.1.2003, p. 1).



8. The Court considers 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***

9. In the Court's opinion, the Agency's Annual Accounts <sup>(11)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer <sup>(12)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year

ended 31 December 2011 are legal and regular in all material respects.

11. The comment which follows does not call the Court's opinions into question.

**COMMENT ON THE BUDGETARY AND FINANCIAL MANAGEMENT**

12. For Title III – Expenditure related to operational expenditure, an amount of 0,8 million euro, or 46 % of commitments made, was carried forward to 2012. The high level of carry-over is at odds with the budgetary principle of annuality.

This Report was adopted by Chamber I, headed by Mr Ioannis SARMAS, Member of the Court of Auditors, in Luxembourg at its meeting of 25 July 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

<sup>(11)</sup> The Final Annual Accounts were drawn up on 12.6.2012 and received by the Court on 29.6.2012. 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>.

<sup>(12)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**Executive Agency for Health and Consumers (Luxembourg)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 168 and 169 of the Treaty on the Functioning of the European Union)</i></p>	<p>A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities. Union 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 Union shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.</p> <p>In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union 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.</p>
<p><b>Competences of the Agency</b></p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>— 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 No 1350/2007/EC, the Consumer programme for 2007-2013 as adopted by Decision No 1926/2006/EC and the food safety training measures covered by Regulation (EC) No 882/2004 and Directive 2000/29/EC.</li> <li>— The Agency also manages all the phases in the lifetime of the implementing measures delegated to it in the framework of the programme of Union action in the field of public health 2003-2008, adopted by Decision No 1786/2002/EC of the European Parliament and of the Council of 23 September 2002.</li> </ul> <p><b>Tasks</b></p> <p>Under the Union programmes mentioned below, the Agency is responsible for implementing the following tasks as defined in the delegation act adopted on 9th September 2008 <sup>(1)</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> <ul style="list-style-type: none"> <li>(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);</li> <li>(b) Monitoring projects implemented under these programmes and measures including the necessary checks;</li> <li>(c) Collecting, processing and distributing data and in particular compiling, analysing and transmitting to the Commission all information required to guide implementation of the Union programmes and measures, promote coordination and synergy with other programmes of the Communities, the Member States or international organisations;</li> <li>(d) Organising meetings, seminars, talks, and training measures;</li> </ul>

	<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>
<b>Governance</b>	<p><b>Steering Committee</b></p> <p>Comprises five members appointed by the European Commission. The members of the Steering Committee are appointed for two years.</p> <p>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>Director</b></p> <p>Appointed by the European Commission for four years.</p> <p><b>External audit</b></p> <p>The European Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>The European Parliament following a recommendation from the Council.</p>
<b>Resources made available to the Agency in 2011 (2010)</b>	<p><b>Final Budget</b></p> <p>The Agency's administrative budget for 2011 amounted to 7,04 million euro.</p> <p><b>Staff at 31 December 2011</b></p> <p>On 31 December 2011, the Agency employed 49 statutory staff members, including 11 temporary staff and 38 contract staff.</p>
<b>Products and services 2011 (2010)</b>	<p>1. Monitoring of the 2005, 2006, 2007, 2008 and 2009 grants provided under the Public Health programme (PHP) 2003-2008, successfully finalized negotiations for grants under the 2009 Calls for proposals, including projects, Conferences, Operating Grants, Joint Actions and managed Call for proposals 2011. Calls and grants and contracts awarded under the 2008 calls for proposals and for tenders of the 2007 – 2013 Consumer Programme (CP) and projects awarded under the 2007, 2008 and 2009 calls for tender under Food Safety Training Measures.</p> <p><b>2.1. PHP work programme</b></p> <ul style="list-style-type: none"> <li>— Execution of the 2011 Call for proposals "Public Health programme". 173 proposals were received. Of those 115 were applications for projects, 10 for Joint Actions, 25 for Operating Grants and 27 for Conferences.</li> <li>— Management of contracts with international organisations, including the running of projects transferred by DG SANCO to the Agency.</li> <li>— Launching and contracting of the Calls for tender in the Work Programme 2010 of the Health Programme. Nine Calls for tender were launched for DG SANCO.</li> <li>— Launching of the Calls for proposals 2012: In addition to the 2011 Call for proposals (see above), EAHC launched the 2012 Calls for proposals according to its 2012 Work Plan published in the EU Official Journal on 8 December 2011.</li> </ul>

- Contribution to DG SANCO policies: Preparation of the Impact Assessment for the new Public Health Programme proposal (PHP3): the EAHC produced a series of “tailor-made case studies”, on individual actions or Programme areas that substantially contributed to the goals of the second PHP. The Agency also developed a new reporting template with the objective to provide to SANCO colleagues a better assessment of the impact of actions funded under PHP1/PHP2 and their relevance in the policy making process. Tested in December 2011 on a sample of 10 final reports, validated by the resulting reviews, the template will be used as from 2012.

## 2.2. CP work programme

- Calls for proposals. 7 Calls for proposals were launched in 2011.
- Exchange of Officials (GPSD/CPC). Within the framework of the Calls for the exchange of officials, the Agency awarded 20 grants, which allowed enforcement officials from several Member States to share their working experience and knowledge of the implementation of Directive 2001/95 EC of the European Parliament and of the Council of 3 December 2001 on General Product Safety and of Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on Consumer Protection Cooperation. The number of proposals submitted in 2011 has increased slightly compared with 2010 (22 applications in 2010 to 24 in 2011).
- Joint Actions (GPSD/CPC). Agency co-funded a project that aims at exchanging and implementing best practices between the Member States, thereby improving cross-border cooperation and increasing consumer product safety. The product specific activities involved market surveillance on: food imitation child appealing products, children’s fancy dresses, laser pointers, ladders and visibility clothing & accessories.
- Operating Grants for European Consumer Organisations. Within the framework of the Call concerning Operating Grants for European consumer organisations and consumer organisations in the standardisation process, the Agency signed partnership grant agreements with BEUC (Bureau Européen des Unions de Consommateurs) and ANEC. (European Association for the Coordination of Consumer Representation in Standardisation), respectively.
- ECC-Net. The ECC-Net aims to provide consumers with information on cross-border shopping and to help resolve cross-border complaints and disputes. In 2010, ECC-Net handled over 71 000 cases. This number represents a 15 % of increase of consumer cases compared with 2009. The Agency launched a Call for proposals for the provision of financial contributions to ECCs in 2011. This led to the conclusion of 29 grant agreements. Given the enhanced visibility of the network among consumers in Europe, the Agency launched a study in order to improve the quality and attractiveness of the ECC national websites. At present, all ECCs are in the process of implementing the recommendations made in the study.
- Calls for tender. Calls for tender and 4 requests for specific services were launched.
- European School Diary. The Europa Diary is a school Diary, for students in secondary school, aimed as a tool for homework and other school related notes. Several Commission General Directorates and other EU institution contribute with content and funding. During 2010, a Framework contract was awarded and signed with contractor Generation Europe Foundation for the development, printing and distribution of the 2011/2012 edition of the Europa Diary and Teacher’s guide. As manager of the Framework contract, the Agency coordinated and monitored the implementation of this project: it approved 21 contracts from different Commission Directorates General and the Economic and Social Committee.

- DOLCETA. Following the conclusion of a Framework Contract, the Agency signed an initial specific contract for the take over of the Dolceta website by a new contractor. After considering the results of the external evaluation on “consumer education, information and capacity building actions”, two more requests for services were launched. These are aimed at maintaining and hosting the existing website and improving the teacher’s corner.
- Consumer Market Studies. Two specific contracts were signed under the consumer market studies Framework Contract. Also, with the aim of collecting data to better understand, monitor and take account of the consumers’ interest in the internal market, the Agency signed a contract to carry out a survey for monitoring 51 consumer markets in 27 Member States.
- Information campaign on consumer’s rights in Romania: In 2011, the Agency concluded three contracts for the implementation of an information campaign on consumers’ rights in Romania. The campaign is scheduled for launch in Spring 2012.
- In 2011, the Agency concluded five Framework Contracts for consumer behavioural studies. Two request for studies have been launched by DG SANCO and DG JUST.

### 2.3. BTSF work programme

- Monitoring of the contracts transferred by DG SANCO related to projects awarded under the 2007 and 2008 Calls for tender and contracts awarded from the tender 2009. Following an agreement with DG SANCO a block of six contracts signed under the BTSF was transferred to the Agency. The Agency monitored programmes defined within seven new contracts awarded from the Calls for tender launched in 2009.
- During 2011, the Agency took over from DG SANCO almost the complete execution of the BTSF Initiative. All contracts signed by the Commission in 2008 and 2009 were executed in a timely manner and received outstanding evaluation scores from participants.
- Throughout 2011, almost 6 000 participants, mostly Member States officials were trained in 133 different sessions or workshops organized throughout the EU.
- Monitoring of the contracts awarded under Calls for tender of 2009 (7 contracts) and 2010 (15 contracts).
- Launching and awarding 2011 Calls for tender.

3. Generation and dissemination of information on the Public Health programme, Consumer Programme, projects financed by BTSF programme and the Executive Agency’s activities in 2011.

(<sup>1</sup>) Commission Decision of 9 September 2008 - delegating powers to the Agency.

Source: Information supplied by the Agency.

**THE AGENCY'S REPLIES**

12. EAHC takes note of the Court's observations, on the level of commitment appropriations carried forward in Title III, operational expenditure of the Agency's operating budget.

Over the years, efforts have been made by the Agency, in order to reduce the level of these appropriations carried forward, thereby improving the annuality of the budget implementation. For instance, appropriations carried forward in the budget's Title III (expressed in % of commitments made) decreased from 73 % in 2007 (first year of operation of the Agency) to 59 % in 2010 and 46 % in 2011.

This positive trend will be maintained in the future. Actions planned in the Agency's Work Programme, particularly in Title III of its operating budget, will continue - as much as possible - to be implemented earlier in the year.

---

## REPORT

**on the annual accounts of the European Aviation Safety Agency for the financial year 2011,  
together with the Agency's replies**

(2012/C 388/10)

## INTRODUCTION

1. The European Aviation Safety Agency (hereinafter "the Agency" or "EASA"), which is located in Cologne, was established by Regulation (EC) No 1592/2002 of the European Parliament and of the Council<sup>(1)</sup>. The Agency's tasks are to maintain a high level of civil aviation safety, ensure the proper development of civil aviation safety, establish certification specifications and certify aeronautical products<sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Agency which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting

in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 240, 7.9.2002, p. 1.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

#### **COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The decrease in the country coefficient for Germany in June 2010 caused a significant surplus in the Agency's Title I (staff expenditure) appropriations for 2011. About 3 million euro (7 % of the appropriations) were transferred from Title I to various budget lines in Title III (operational expenditure), despite their low implementation rate in terms of payments<sup>(12)</sup>. As permitted by EASA's Financial Regulation, this significant cross title transfer, which changed considerably the structure of the budget, was not put to the Agency's management

<sup>(10)</sup> The Final Annual Accounts were drawn up on 29 June 2012 and received by the Court on 2 July 2012. 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://www.easa.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Budget line 3 2 0 0 (development of business applications) increased by 37 % to 3,5 million euro; budget line 3 6 0 0 (rule making) increased by 87 % to 1,4 million euro; budget line 3 6 0 1 (international cooperation) increased by 123 % to 778 000 euro and budget line 3 9 0 3 (research) increased by 550 % to 1,3 million euro.

board for approval<sup>(13)</sup>. This situation is however at odds with the budgetary principle of specification.

13. The transfer increased Title III appropriations to 13,7 million euro. However, at the end of the year 7,8 million euro were carried over to 2012. This is at odds with the budgetary principle of annuality.

#### **COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

14. The Agency needs to improve the management of fixed assets. Assets are recorded in two different systems which can only be reconciled manually. Physical inventories should be better reported and summarised. The estimation of project cost of internally generated fixed assets was inadequate and deviations were not monitored. Not all internal staff costs were taken into account and the documentation of external costs was insufficient.

15. At the end of 2011, the Agency held bank balances of 55 million euro (2010: 49 million euro) at one bank only. There was no treasury policy in place to limit this risk while gaining appropriate investment returns.

#### **OTHER COMMENTS**

16. The Court identified further need to improve the transparency of staff selection procedures. There is no evidence that the Agency established the questions for written tests and interviews, the maximum number of candidates for the reserve list or the threshold scores for being put on this list before applications were examined.

17. The Agency's current lease contract requires it to restore the rented premises at the end of the lease and to restore them to their original condition. A provision of 1 million euro was made in the accounts on the basis of the Agency's estimate of dilapidation costs. However, the owner's estimate is 4 million euro. The Agency needs to obtain an independent external estimate of dilapidation costs and reflect them in the accounts accordingly.

18. The Court carried out an audit aimed at evaluating the policies and procedures for the management of conflict of interest situations for four European Agencies, including EASA. The results of the audit are presented in a separate document (Special Report 15/2012).

<sup>(13)</sup> According to both EASA's and the general Financial Regulation, only transfers of more than 10 % of the appropriations must be submitted to the Management Board for approval. However, unlike the general EU Financial Regulation, EASA's Financial Regulation does not limit transfers to a maximum of 30 % of the appropriations in the receiving budget lines.



This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---

## ANNEX

**European Aviation Safety Agency (Cologne)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 100 of the Treaty on the Functioning of the European Union)</i></p>	<p>The European Parliament and the Council may, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport. They shall act after consulting the Economic and Social Committee and the Committee of the Regions.</p>
<p><b>Competences of the Agency</b></p> <p><i>(The Agency's powers as defined in Regulation (EC) No 216/2008 of the Parliament and of the Council (the "Basic Regulation"))</i></p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>— To maintain a high uniform level of civil aviation safety in Europe and to ensure the proper functioning and development of civil aviation safety.</li> </ul> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To issue opinions and recommendations to the Commission;</li> <li>— To issue certification specifications, including airworthiness codes and acceptable means of compliance, and any guidance material for the application of the Basic Regulation and its implementing rules;</li> <li>— To take decisions regarding airworthiness and environmental certification, pilot certification, air operation certification, third country operators, inspections of Member States and investigation of undertakings;</li> <li>— To conduct standardization inspections of the competent authorities in the Member States associated States and ex Joint Aviation Authority (JAA) States <i>(in this case in accordance with working arrangements)</i>.</li> </ul>
<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p>Composition: consisting of one representative of each Member State and one representative of the Commission,</p> <p>Tasks: sets up an advisory body of interested parties.</p> <p><b>Executive Director</b></p> <p>Manages the Agency and is appointed by the Management Board on a proposal from the Commission.</p> <p><b>The Board of Appeal</b></p> <p>Decides on appeals against the Agency's decisions in certain respects such as certification, fees, charges and checks at undertakings.</p> <p><b>External audit</b></p> <p>The Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>Parliament, acting on a recommendation by the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>Total budget: 138,7 (137,2) million euro, including</p> <p>Own revenue: 75,2 (73) million euro (54,2 %)</p> <p>Union subsidy: 34,4 (34,2) million euro (24,8 %)</p> <p>Contribution from non-EU countries: 1,7 (1,7) million euro (1,2 %)</p>

	<p>Assigned revenue from fees and charges: 24,7 (27,1) million euro (17,8 %)</p> <p>Other revenue: 1,4 (0,6) (1 %)</p> <p>Other subsidies: 1,2 (0,7) (1 %)</p> <p><b>Staff as at 31 December 2011</b></p> <p>574 (570) temporary staff in the establishment plan.</p> <p>Posts occupied: 573 (523)</p> <p>Other staff: 68 (63), contract staff 57 (54), seconded national expert 11 (8), special advisor 0 (1)</p> <p>Total temporary staff: 574 <sup>(1)</sup> (524)</p> <p>— Filled posts subsidy-financed: 223 <sup>(2)</sup> (206)</p> <p>— Filled posts fee-financed: 350 <sup>(2)</sup> (318)</p>
<p><b>Products and services in 2011 (2010)</b></p>	<p><b>Opinions</b></p> <p>7 Opinions for amendments to Regulations (EC) No 2042/2003 and (EC) 1702/2003</p> <p><b>Rulemaking Decisions</b></p> <p>15 Decisions related to Certification specifications (5), Acceptable Means of Compliance and Guidance Material (10)</p> <p><b>Additional deliverables in 2011 (which leads to Rules in the forthcoming years)</b></p> <p>21 Terms of Reference (ToRs), 20 Notice of Proposed Amendment (NPAs), 18 Comment Response Document (CRDs)</p> <p><b>International Cooperation</b></p> <p>8 Working Arrangements.</p> <p>12 Implementation Procedure to the Working Arrangement.</p> <p>25 recommendations provided to International Civil Aviation Organization (ICAO) State Letters.</p> <p><b>BASA (Bilateral Aviation Safety Agreement)</b></p> <p>Entry into force of the EU-US Bilateral Aviation Safety Agreement and EU-Canada Bilateral Aviation Safety Agreement.</p> <p>Support for the preparation of 2 Bilateral Oversight Board, 2 Certification Oversight Board and 2 Joint Maintenance Coordination Board meetings with the Federal Aviation Administration (FAA) and 1 Sub-committee on certification with Transport Canada Civil Aviation (TCCA).</p> <p><b>Certification decisions at 31 December 2011</b></p> <p>Type Certificates/Restricted Type Certificates (TCs/RTCs): 13 <sup>(3)</sup></p> <p>Supplemental Type Certificates (STCs): 656</p> <p>Airworthiness Directives (ADs): 271</p> <p>Alternative Method of Compliance (AMOC): 53</p> <p>European Technical Standard Order Authorisation (ETSOA): 236</p> <p>Major changes/Major repairs/TC New Derivatives: 903</p>

<p>Minor changes/Minor repairs: 977</p> <p>Aircraft Flight Manual (AFM): 383</p> <p>Approval of flight conditions (PTF): 594</p> <p>Certification Support for Validation (CSV): 8.</p> <p>Approval of Design organisations (AP and Alternative Procedures to DOA (AP-DOA): 495</p> <p>Approval of Maintenance organisations (bilateral) <sup>(4)</sup>: 1 533</p> <p>Approval of Maintenance organisations (foreign) <sup>(4)</sup>: 278</p> <p>Approval of Maintenance training organisations <sup>(4)</sup>: 45</p> <p>Approval of Manufacturing <sup>(4)</sup>: 23</p> <p><b>Standardisation inspections (number of countries by type) at 31 December 2011</b></p> <p>In the field of Airworthiness (AIR): 26</p> <p>In the field of Operations (OPS): 25</p> <p>In the field of flight crew licensing (FCL): 22</p> <p>In the field of flight simulation training devices (FSTD): 9</p>
---

<sup>(1)</sup> Two structural part-time pilots occupy one post.

<sup>(2)</sup> The split of filled posts between fee-financed and subsidy-financed may change subject to possible revision of the cost-accounting allocation keys as of 31 December 2011.

<sup>(3)</sup> Only those TCs/RTCs are counted which were issued for a new type design. TCs issued as a result of grandfathering, transfer or administrative re-issuance are excluded.

<sup>(4)</sup> The organisation approval activity is subdivided into a main surveillance activity of already approved organisations (with a renewal every 2/3 years) and an activity linked to new approvals. The data supplied concern the total number of approvals on 31 December 2011.

Source: Information supplied by the Agency.

### THE AGENCY'S REPLIES

12. The surplus identified in title I resulted mainly from events outside the Agency's control and could not have been foreseen at the budget planning stage. Following careful consideration by senior management, the available title I funds were reallocated to high priority projects in line with the budget transfer rules laid down in the Agency's financial regulation.

13. The time consuming, however rapidly launched, tendering procedures heavily contributed to the high level of carry forward of commitments at year end. Moreover, the Agency's authorising officers always carefully balanced in their decisions the sometimes conflicting requirements of the principle of annuality and sound financial management and continuity.

14. The Agency agrees with the findings and is currently working on improving the inventory system and the financial management of internal IT projects costs. However, due to the high threshold of 500 000 euro, only very few IT projects will be concerned.

15. The Agency's current service contract with its main bank is backed by a Commission framework contract. However, the Agency will review this contract in order to further reduce its financial risk.

16. To further improve the transparency of its staff selection procedure, the Agency will ensure that evidence is made available to confirm that questions for interviews and tests are set up before the screening of received applications. A new template for Vacancy Notice specifies the maximum number of candidates for the reserve list, the threshold score for being invited for interviews and for being put on the reserve list.

17. The Agency continues its investigations in order to improve the current estimate of its future dilapidation cost. The amount of 1 065 000 euro provisioned in the 2011 account was, however, the best estimate provided by the Agency's lawyers as of March 2012.

18. The Agency has launched a consulting engagement under the framework contract of DG-BUDG on Internal Control Standards, aiming at defining and implementing an Agency-wide Policy on Code of Conduct, taking into account the Court report on Conflict of Interest.

---

## REPORT

**on the annual accounts of the European Banking Authority for the financial year 2011, together with the Authority's replies**

(2012/C 388/11)

## INTRODUCTION

1. The European Banking Authority (hereinafter "the Authority"), which is located in London, was established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>(1)</sup>. The Authority's task is to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, to contribute to the consistent application of legally binding Union acts, to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities, to monitor and assess market developments in the area of its competence and to foster depositor and investor protection<sup>(2)</sup>. The Authority was set up on 1 January 2011.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Authority, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Authority, under his own responsibility and within the limits of the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting

in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Authority and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Authority are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 331, 15.12.2010, p. 12.

<sup>(2)</sup> The *Annex* summarises the Authority's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002, as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23), and are integrated as such in the Financial Regulation of the Authority.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Authority's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Authority for the financial year ended 31 December 2011 are legal and regular in all material respects.

11. The comments which follow do not call the Court's opinions into question. They should be considered in the context of the Authority's transition from the predecessor Committee of European Banking Supervisors.

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Authority's commitments amounted to 9 054 030 euro, or 71 % of the 2011 budget. The commitment rates were low especially for Title II "Administrative expenditure" (57 %) and Title III "Operational expenditure" (46 %). This impacted on the Authority's IT objectives, which were not entirely achieved. The low budget execution rates show difficulties in budget planning and implementation.

13. The Authority's budget for the financial year 2011 was 12,7 million euro. In accordance with its Founding Regulation<sup>(12)</sup>, 60 % of the 2011 budget was financed from Member States' and EFTA countries' contributions and 40 % from the Union budget. At the end of 2011, the Authority recorded a positive budget outturn of 3,6 million euro. In compliance with Articles 15(4) and 16(1) of its Financial Regulation the full amount was then recorded in the accounts as a liability towards the European Commission.

14. Weaknesses were noted as regards three legal commitments made in advance of budget commitments (742 000 euro).

**COMMENTS ON KEY CONTROLS OF THE AUTHORITY'S SUPERVISORY AND CONTROL SYSTEMS**

15. The Authority's accounting system has still to be validated by the Accounting Officer, as required by the Financial Regulation.

**OTHER COMMENTS**

16. Not all the audited procurement procedures were fully consistent with the provisions of the general Financial Regulation. Contracts worth 299 182 euro had been launched under national rules, leading to payments in 2011 of 248 775 euro. The Authority should ensure that all new contracts are awarded in full compliance with the EU procurement rules.

17. The Authority needs to improve the transparency of recruitment procedures: weightings for selection criteria and threshold scores for being invited to interviews or for inclusion in the list of suitable candidates were not set before the examination of applications. In one selection procedure, the allocation of the grade was not in line with the vacancy notice.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*

Vítor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 28 June 2012 and received by the Court on 2 July 2012. 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://www.eba.europa.eu>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Article 62(1).

## ANNEX

**European Banking Authority (London)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Articles 26 and 114 of the Treaty on the Functioning of the European Union)</i></p>	<p>Article 26:</p> <p>“1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties.</p> <p>2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.</p> <p>3. The Council, on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.”</p> <p>Article 114:</p> <p>“1. Save where otherwise provided in the Treaties, the following provisions shall apply for the achievement of the objectives set out in Article 26. The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.”</p>
<p><b>Competences of the Authority</b></p> <p><i>(Parliament and Council Regulation (EU) No 1093/2010)</i></p>	<p><b>Objectives</b></p> <p>(a) improving the functioning of the internal market, including, in particular, a sound, effective and consistent level of regulation and supervision;</p> <p>(b) ensuring the integrity, transparency, efficiency and orderly functioning of financial markets;</p> <p>(c) strengthening international supervisory coordination;</p> <p>(d) preventing regulatory arbitrage and promoting equal conditions of competition;</p> <p>(e) ensuring the taking of credit and other risks are appropriately regulated and supervised; and</p> <p>(f) enhancing customer protection.</p> <p><b>Tasks</b></p> <p>(a) to contribute to the establishment of high-quality common regulatory and supervisory standards and practices;</p> <p>(b) to contribute to the consistent application of legally binding Union acts;</p> <p>(c) to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities;</p> <p>(d) to cooperate closely with the ESRB <sup>(1)</sup>;</p> <p>(e) to organise and conduct peer review analyses of competent authorities;</p> <p>(f) to monitor and assess market developments in the area of its competence;</p> <p>(g) to undertake economic analyses of markets to inform the discharge of the Authority's functions;</p> <p>(h) to foster depositor and investor protection;</p>



	<p>(i) to contribute to the consistent and coherent functioning of colleges of supervisors, the monitoring, assessment and measurement of systemic risk, the development and coordination of recovery and resolution plans, providing a high level of protection to depositors and investors throughout the Union and developing methods for the resolution of failing financial institutions and an assessment of the need for appropriate financing instruments;</p> <p>(j) to fulfil any other specific tasks set out in this Regulation or in other legislative acts;</p> <p>(k) to publish on its website, and to update regularly, information relating to its field of activities;</p> <p>(l) to take over, as appropriate, all existing and ongoing tasks from the Committee of European Banking Supervisors (CEBS).</p>
<b>Governance</b>	<p><b>Board of Supervisors</b></p> <p>Composed of the Chairperson, one representative per Member State (head of NSA <sup>(2)</sup>), Commission, ECB <sup>(3)</sup>, ESRB, EIOPA <sup>(4)</sup> and ESMA <sup>(5)</sup>.</p> <p><b>Management Board</b></p> <p>Composed of the Chairperson and six other members of the Board of Supervisors.</p> <p><b>Chairperson</b></p> <p>Appointed by Board of Supervisors.</p> <p><b>Executive Director</b></p> <p>Appointed by Board of Supervisors.</p> <p><b>Board of Appeal</b></p> <p>Joint body of the three ESAs.</p> <p><b>External Audit</b></p> <p>European Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>European Parliament.</p>
<b>Resources made available to the Authority in 2011</b>	<p><b>2011 Budget</b></p> <p>12,7 million euro</p> <p>Including:</p> <p>European Union subsidy: 5,1 million euro</p> <p>Contributions from Member States: 7,4 million euro</p> <p>Contributions from observers: 0,2 million euro</p> <p><b>Staff as at 31 December 2011</b></p> <p>40 temporary staff</p> <p>6 contract staff</p> <p>5 Seconded National Experts</p>

<b>Products and services in 2011</b>	<ul style="list-style-type: none"> <li>— EU-wide stress test of 90 banks across 21 countries with results published in July.</li> <li>— Bank recapitalization recommendation published in December.</li> <li>— Attended 54 Supervisory College meetings.</li> <li>— Informal technical advice to the EC on its proposal for a single rule book in relation to CRD <sup>(6)</sup>/CRR <sup>(7)</sup> and other legislative proposals.</li> <li>— Guidelines on Internal Governance aiming at enhancing and consolidating supervisory expectations.</li> <li>— Guidelines on data collection on remuneration practices.</li> <li>— Implementation study on CEBS Guidelines on remuneration policies and practices that were published in December 2010.</li> <li>— Opinion providing technical remarks on various features in the consultation on possible EU framework for bank recovery and resolution.</li> <li>— Comments to a number of IASB <sup>(8)</sup> proposals regarding draft IFRS <sup>(9)</sup> in relation to accounting standards.</li> <li>— Comments to IAASB <sup>(10)</sup> proposals regarding draft International Standards on Auditing.</li> <li>— Established a new Standing Committee for Financial Innovation to assist the Authority in fulfilling its tasks and responsibilities related to consumer protection.</li> <li>— 7 road shows and 9 training sessions organised for national supervisory authorities.</li> <li>— Organised over 180 meetings with external participants.</li> </ul>
--------------------------------------	---

<sup>(1)</sup> European Systemic Risk Board.

<sup>(2)</sup> National Supervisory Authority.

<sup>(3)</sup> European Central Bank.

<sup>(4)</sup> European Insurance and Occupational Pensions Authority.

<sup>(5)</sup> European Securities and Markets Authority.

<sup>(6)</sup> Capital Requirements Directive.

<sup>(7)</sup> Capital Requirements Regulation.

<sup>(8)</sup> International Accounting Standards Board.

<sup>(9)</sup> International Financial Reporting Standards.

<sup>(10)</sup> International Auditing and Assurance Standards Board.

Source: Information supplied by the Authority.

### THE AUTHORITY'S REPLIES

12. 2011 was the first year of activity for the EBA, whose Founding Regulation was published only on 15 December 2010. The late publication did not allow for the timely recruitment of the necessary staff, and thus for the full implementation of the EBA's work programme. Although not all of the EBA's internal IT objectives were achieved, the ones pertaining to the core mission of the EBA, including the development and maintenance of a central database, were implemented.

13. The EBA agrees with the comment that the EBA's Financial Regulation (which is fully in line with the Framework Financial Regulation applicable to EU Agencies) does not adequately reflect the EBA's financing structure. The three European Supervisory Authorities (ESAs) have undertaken joint action in order to find a sustainable solution with the European Commission. The three ESAs have expressed their request to the European Commission for a long term solution in the context of the 2014 ESAs' review and, therefore, of a potential change to the respective ESAs' regulations.

14. The EBA acknowledges those weaknesses experienced in the IT area in the very first months of the Authority's establishment. Any non-compliance was promptly addressed in the third quarter of 2011 following the strengthening of the IT team.

15. The validation, which has been delayed because of the exceptional workload in the first year of the EBA's activity, will be performed in 2012.

16. The EBA inherited the majority of its procurement arrangements from its predecessor, CEBS Secretariat Ltd. Due to the heavy workload and to the lack of resources during 2011, it was not possible to ensure full compliance with the EU procurement rules in the first year of the EBA's activity. The lack of full compliance with procurement rules in 2011 was acknowledged by the management, and appropriate exception notes were signed, where needed. A procurement plan setting priorities, has been drawn up, and the correction of the non compliance is a major objective for 2012.

17. The EBA agrees with the comments and has taken the necessary corrective measures by implementing weightings for the selection criteria and threshold scores for inclusion, in the list, of suitable candidates. These criteria are all set before the examination of the applications in every selection procedure.

---

## REPORT

**on the annual accounts of the European Centre for Disease Prevention and Control for the financial year 2011, together with the Centre's replies**

(2012/C 388/12)

## INTRODUCTION

1. The European Centre for Disease Prevention and Control (hereinafter "the Centre"), which is located in Stockholm, was established by Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 <sup>(1)</sup>. The Centre's main tasks are to collect and disseminate data on the prevention and control of human diseases and to provide scientific opinions on this subject. It is also required to coordinate the European network of bodies operating in this field <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Centre's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Centre, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Centre, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Centre and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Centre are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure the legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 142, 30.4.2004, p. 1.

<sup>(2)</sup> The *Annex* summarises the Centre's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Centre.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Centre's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

#### **Basis for a qualified opinion on the legality and the regularity of the transactions underlying the accounts**

10. The Centre concluded a framework contract in 2009 for a maximum amount of 9 million euro, allowing it to sign specific contracts with selected suppliers up to this amount. Under this framework contract, the Centre signed specific contracts with original values amounting to 8,4 million euro. Subsequent amendments increased these contracts' values to 14,9 million euro. By the end of 2011 payments made totalled 12,2 million euro, of which 3,2 million euro in 2011. Commitments and payments above the 9 million euro ceiling set in the framework contract are irregular<sup>(12)</sup>.

#### **Qualified opinion on the legality and the regularity of the transactions underlying the accounts**

11. In the Court's opinion, with the exception of the issues mentioned in paragraph 10, the transactions underlying the annual accounts of the Centre for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

#### **COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

13. As in the previous year, a high level of carryover is reported for 2011. The Centre's budget for 2011 amounted

<sup>(10)</sup> The Final Annual Accounts were drawn up on 28 June 2012 and received by the Court on 2 July 2012. 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://www.ecdc.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Article 117(2) of the Implementing Rules to the Centre's Financial Regulation states that "Specific contracts based in framework contracts shall be awarded in accordance with the terms of the framework contract ..."

to 56,6 million euro, of which 11 million euro (20 %) was carried over to 2012, including 38 % of Title III (operational expenditure) appropriations. This high level of carryover, coupled with a low level of accrued expenditure (5,4 million euro), is at odds with the budgetary principle of annuality.

#### **COMMENTS ON KEY CONTROLS OF THE CENTRE'S SUPERVISORY AND CONTROL SYSTEMS**

14. Irregularities in the management of one framework contract, leading to a qualified opinion on the legality and the regularity of the transactions underlying the accounts, are reported in paragraph 10. The Court found additional cases in which the Centre's controls did not prevent poor management of contracts:

— In one case, under a multiple framework contract, a specific contract was amended by the Centre in 2010 and again in 2011. The amendments were covered by the conditions of the framework contract, but did not comply with the Centre's Implementing Rules to its Financial Regulation. The amendments related to the contract's duration and increases in both the services and contract amounts. Payments in excess of the original contract value amounted to 0,2 million euro;

— For another framework contract concluded for a maximum amount of 1,7 million euro, the four specific contracts signed in 2011 implementing it made no reference to the volume or value of services to be supplied. In 2011 payments related to these specific contracts amounted to 0,06 million euro. The framework contract itself had an excessive maximum duration of 8 years<sup>(13)</sup> and the Centre failed to create a clear link between the technical specifications, the award criteria and the pricing structure as set out in the tender documents sent to suppliers to procure the contracted services.

15. One grant agreement for an amount of 0,2 million euro was signed in 2011 more than four months after the start of the activities. Activities carried out and expenditure incurred before the signature of the grant agreement are ineligible.

#### **OTHER COMMENTS**

16. As in the previous year, the Court identified weaknesses regarding staff recruitment procedures. There was no evidence that the questions for the written tests and interviews and their weightings had been set before the examination of applications. Selection criteria had partly not been checked and eligibility requirements were changed at the assessment stage.

<sup>(13)</sup> The Implementing Rules to the Centre's Financial Regulation specify a maximum of 4 years in Article 72.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---

## ANNEX

**European Centre for Disease Prevention and Control (Stockholm)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 168 of the Treaty on the Functioning of the European Union)</i></p>	<ul style="list-style-type: none"> <li>— A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.</li> <li>— Union action, which shall complement national policies, shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental 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, and monitoring, early warning of and combating serious cross-border threats to health.</li> </ul>
<p><b>Competences of the Centre</b></p> <p><i>(Regulation (EC) No 851/2004 of the European Parliament and of the Council)</i></p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>— Strengthen Europe's defenses against infectious diseases; specifically, to identify, assess and communicate current and emerging threats to human health from communicable diseases.</li> <li>— Therefore the Centre shall operate dedicated surveillance networks, provide scientific opinions, operate the early warning and response system (EWRS) and provide scientific and technical assistance and training.</li> </ul> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— Operate dedicated disease surveillance networks and enhance networking activities. The Centre has a specific role in data collection, validation, analysis and dissemination.</li> <li>— Provide authoritative expert advice and scientific opinions and studies on communicable diseases.</li> <li>— Operate the Early Warning and Response System. Develop procedures for identifying emerging health threats.</li> <li>— Strengthen Member States' capacity in preparedness planning and in training.</li> <li>— Inform the general public and interested parties of its work.</li> </ul>
<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p><i>Composition</i></p> <p>One member designated by each Member State, two members designated by the European Parliament and three representatives of the Commission.</p> <p><i>Tasks</i></p> <p>The Board adopts the Centre's annual programme and budget and monitors their implementation.</p> <p><b>Director</b></p> <p>Appointed by the Management Board on the basis of a list of candidates proposed by the Commission.</p> <p><b>Advisory Forum</b></p> <p><i>Composition</i></p> <p>A representative of each Member State and three non-voting representatives of the Commission.</p>

	<p>Tasks</p> <p>The Forum is to assure the scientific excellence of the work and the independence of the activities and opinions of the Centre.</p> <p><b>External audit</b></p> <p>The Court of Auditors.</p> <p><b>Internal control</b></p> <p>The Commission's Internal Audit Service.</p> <p><b>Discharge Authority</b></p> <p>Parliament, acting on recommendation from the Council.</p>
<p><b>Resources made available to the Centre in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>56,6 (57,8) million euro</p> <p><b>Staff as at 31 December 2011</b></p> <p>Authorized: 200 (200)</p> <p>Occupied: 177 (175)</p> <p>Other posts: 88 (79)</p> <p>TOTAL: 265 (254), assigned to the following duties:</p> <p>— operational tasks: 174 (169)</p> <p>— administrative and support tasks: 91 (85)</p>
<p><b>Products and services in 2011 (2010)</b></p>	<p>64 <sup>(1)</sup> (93) health threats identified and monitored using the Threat Tracking Tool (TTT);</p> <p>52 weekly threat reports on communicable diseases sent to 331 (52) recipients;</p> <p>Provision of support to epidemic intelligence for 3 (5) large mass-gathering events;</p> <p>In addition, 5 (5) events of exceptional nature/public importance were also monitored;</p> <p>Preparation of 17 (32) original threat assessments and 11 (10) threat updates;</p> <p>2 (3) simulation exercise workshops conducted for testing and improving preparedness and response to communicable diseases;</p> <p>98 (80) fellows coached in the European Programme for Intervention Epidemiology Training (EPIET);</p> <p>8 (6) fellows coached in the European Public Health Microbiology Training (EUPHEM);</p> <p>181 (106) public health experts from 30 EU-EEA countries participated in the Centre's short training modules;</p> <p>500 000 visitors to the Centre's web portal (495 000, new statistic system in place);</p> <p>122 (35) scientific publications published;</p> <p>Fourth European Antibiotic Awareness Day organised, with the participation of 37 (36) countries;</p> <p>11,2 (9,8) million unique records in the TESSy databases; 845 (628) active users from 53; countries</p>



---

	<p>Enhanced surveillance; integration into the Centre of 15 (11) of the 17 dedicated surveillance networks at the end of 2011;</p> <p>Annual Epidemiological Report published;</p> <p>Tuberculosis, HIV/AIDS and anti-microbioresistance annual reports published;</p> <p>32 (38) weekly influenza bulletins/weekly influenza surveillance overviews for 2011;</p> <p>27 (20) scientific opinions produced, based on stakeholders requests;</p> <p>Organisation of the fifth European Scientific Conference on Applied Infectious Disease Epidemiology (ESCAIDE) on 6-8th November 2011 in Stockholm, with 500 (562) participants;</p> <p>Organisation of the third Eurovaccine conference with 1 000 (600) participants;</p> <p>Weekly publication of the Eurosurveillance scientific journal, with 13 302 (1 665) online subscribers.</p>
--	---

---

(<sup>1</sup>) This decline is partly related to a change in procedures relating to monitoring of travel-associated legionellis clusters  
*Source:* Information supplied by the Centre.

---

### THE CENTRE'S REPLIES

10. The Centre became aware of this case in September 2011 and brought it to the attention of the Court of Auditors during their audit in October 2011. The Centre exercised full transparency on this matter with the Court of Auditors. Following the discussions at that time, the Centre had put all necessary measures in place: immediate launch of a new tender procedure to establish a new Framework Contract (FWC) and a recording of the case in the register of exceptions. In December 2011, the Centre communicated detailed information to the Court related to the contract volumes that would still be signed under the current FWC in order to insure its business continuity, a schedule with the timeline for the new FWC and the measures put in place to avoid this in the future like managing the new FWC by one Authorising Officer and its consumption by one Resource Officer. Other measures, which are currently under pursuit, are the creation of a separate ICT Unit, the implementation of a contract management tool, to provide external training to staff to become internal trainers to the Centre and the revision of the internal procedure on procurement. The Centre emphasises that no funds were lost and no parties have been disadvantaged.

13. The Centre successfully reduced the carry-over of its operational expenditure in 2011 by 10 % compared to 2010, representing a second successive year of improvement. The Centre will continue this effort in order to reduce the carry-over to an acceptable level. The level of accrued expenditure proportional to the carry-over has also improved from 35 % to 49 %, in comparison to last year.

14. The Centre is reviewing its internal procedures in relation to procurement and is currently assessing which contract management application most suits its needs in order to strengthen the Centre's management of contracts. The Centre also plans to provide external training to staff to become internal trainers to the Centre on the subject.

- The Centre will apply reopening of competitions more rigorously and in compliance with the Centre's Implementing Rules to its Financial Regulation.
- In the field of telecommunication it is common practice to use the contract templates of the supplier. The Centre had little defence against this practice as the number of providers on the market is very limited.

The duration of the contract was discussed in the CPCG meeting. The longer duration was justified by analogy and with the same arguments as the tender call of DIGIT/R2/PO/2007/033 "services for voice communication" on the basis of the complexity and high setup costs that the operator would need to recover over the duration of the contract. It was intended that this would have a positive effect on the number of bidders. Article 72 of the implementing rules of ECDC stipulated: The term of a framework contract may not exceed 4 years, save in exceptional cases duly justified in particular by subject of the framework contract. The justification provided for in the Centre's tender was considered by the Centre as duly justified as it was copied from the tender specifications used by the European Commission (DG Digit).

15. The Centre acknowledges that the applied chronology for establishing a specific agreement on the EPIET Coordination is discordant with the process stipulated in the Framework Partnership Agreement. However, a decision to discontinue the EPIET coordination due to absence of signed specific agreements would have caused significant damage to the EPIET programme. The Centre has improved its contract management procedures, aiming to start the process of request for proposals earlier and to monitor critical milestones closely.

16. The Centre notes the Court's comment, which largely relates to practices ECDC has already changed in the course of 2011 and with the introduction of the revised Internal Procedure on recruitment in January 2012. Since mid 2011 it is practice that the Selection Committee agrees on written tests and interview questions before receiving applications. The new Internal Procedure includes detailed rules on the pass rates and weightings of interview and tests. This is now strictly applied. Some selection criteria relating to interpersonal and language skills are not assessed directly, but indirectly during the interview and in the written test as a sum of particular abilities. Eligibility requirements were changed in only one case due to an administrative error. However, none of the candidates was assessed as ineligible as a consequence of the changed formulation of the eligibility criteria.

## REPORT

**on the annual accounts of the European Chemicals Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/13)

## INTRODUCTION

1. The European Chemicals Agency (hereinafter "the Agency" or "ECHA"), which is located in Helsinki, was set up by Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>(1)</sup>. Its main tasks are to ensure a high level of protection of human health and the environment as well as the free movement of substances, on their own, in preparations and in articles, while enhancing competitiveness and innovation. The Agency also promotes the development of alternative methods for the assessment of hazards relating to substances<sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Agency, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting

in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure the legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

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

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Agency's 2011 budget amounted to 93,2 million euro, of which 14,9 million euro (16 %) were carried over to

2012. Carryovers related to Title III (operational expenditure) amounted to 11,5 million euro (55 %). The level of carryovers is excessive and at odds with the budgetary principle of annuality.

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

13. The results of the latest physical inventory carried out in 2011 show several shortcomings, notably as regards the low proportion of ICT assets checked in terms of value. No formal policy on the inventory of fixed assets is in place.

14. The Agency records costs related to ICT projects that are already in use as expenditure instead of recognising them as fixed assets.

**OTHER COMMENTS**

15. The Court identified shortcomings in the recruitment procedures. There is no evidence that thresholds for passing the various stages of the procedures or questions for interviews or written tests were set before the examination of applications. Declarations of interests were inadequate to detect and prevent conflict of interests of members of the selection board. In one case the selection procedure was irregular since the agent was recruited for a post different from the one published.

16. The Court carried out an audit aimed at evaluating the policies and procedures for the management of conflict of interest situations for four European Agencies, including ECHA. The results of the audit are presented in a separate document (Special Report 15/2012).

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 19 June 2012 and received by the Court on 28 June 2012. 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://echa.europa.eu>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Chemicals Agency (Helsinki)**  
**Competencies and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p>	<p><b>Collection of information</b></p> <ul style="list-style-type: none"> <li>— The legal base of ECHA's founding regulation, the REACH Regulation (EC) No 1907/2006, is Article 114 of the Treaty on the Functioning of the EU.</li> </ul>
<p><b>Competences of the Agency</b></p> <p><i>(as defined in Regulation (EC) No 1907/2006 (REACH Regulation) and Regulation (EC) No 1272/2008 (Classification, labelling and packaging of substances and mixtures))</i></p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>— The purpose of the REACH and CLP Regulations is to ensure a high level of protection of human health and the environment, including the promotion of alternative methods for the assessment of hazards of substances, as well as the free circulation of substances on the internal market while enhancing competitiveness and innovation (Article 1(1) of the REACH Regulation, Article 1 of CLP Regulation).</li> <li>— ECHA is established for the purposes of managing and, in some cases, carrying out the technical, scientific and administrative aspects of the REACH Regulation and to ensure consistency at Union level in relation to these aspects (Art 75 of the REACH Regulation) and to manage tasks related to the classification and labelling of chemical substances deriving from the CLP Regulation.</li> </ul> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— Receive registrations and other dossiers of chemical substances and undertake a completeness check thereof (Title II of the REACH Regulation).</li> <li>— Process inquiries regarding the registrations and take decisions on data sharing disputes (Title III of the REACH Regulation).</li> <li>— Examine registration dossiers for compliance with the REACH Regulation and the testing proposals therein, and coordinate the substance evaluation process (Title VI of the REACH Regulation).</li> <li>— Process proposals of substances of very high concern for the Candidate List and make recommendations for some of these substances to be included on the Authorisation List and handle authorisation applications (Title VII of the REACH Regulation).</li> <li>— Process restriction dossiers (Title VIII of the REACH Regulation).</li> <li>— Establish and maintain public database(s) with information on all registered substances and make certain information publicly available over the Internet (Art 77, 119 of the REACH Regulation).</li> <li>— Provide technical and scientific guidance and tools where appropriate (Art 77 of the REACH Regulation, Article 50(2) of CLP Regulation).</li> <li>— Provide the Member States and the EU institutions with the best possible scientific and technical advice on questions relating to chemicals which fall within its remit and which are referred to it in accordance with the provisions of the REACH and CLP Regulations. (Article 77(1) of the REACH Regulation, Article 50(1) of CLP Regulation).</li> <li>— Receive C&amp;L notifications, maintain a public C&amp;L inventory, handle requests for alternative names and process proposals for the harmonised classification and labelling of substances (CLP).</li> </ul>

<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p>One representative of each Member State appointed by the Council and a maximum of six representatives appointed by the Commission, including three individuals from interested parties without voting rights and, in addition, two independent persons appointed by the European Parliament. (Art 79 of the REACH Regulation)</p> <p>Tasks: Article 78 of the REACH Regulation and framework financial regulation for agencies, mainly adopting annual and multi-annual work programmes, the final budget, a general report, internal rules of procedures and the appointment of and disciplinary authority over of the Executive Director. In addition, the appointment of the Board of Appeal and Committee members.</p> <p><b>Executive Director</b></p> <p>Tasks: Art 83 of the REACH Regulation.</p> <p><b>Committees</b> ECHA comprises three Scientific Committees (Risk Assessment, Member States and Socio-Economic Analysis)</p> <p>Tasks: Article 76(1) (c-e) of the REACH Regulation.</p> <p><b>Forum for Exchange of Information on Enforcement</b></p> <p>Tasks: Article 76(1) (f) of the REACH Regulation.</p> <p><b>Secretariat</b></p> <p>Tasks: Article 76(1) (g) of the REACH Regulation.</p> <p><b>Board of Appeal</b></p> <p>Tasks: Article 76(1) (h) of the REACH Regulation.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Internal Audit</b></p> <p>Internal Audit Service of the Commission (IAS).</p> <p><b>Discharge authority</b></p> <p>European Parliament upon recommendation from the Council (Art. 97(10) of REACH Regulation.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Budget (including amending budgets)</b></p> <p>— 93,2 (75,5) million euro, including:</p> <ul style="list-style-type: none"> <li>— Revenue from fees: 33,5 (35,0) million euro</li> <li>— Union contribution: 0,0 (36,0) million euro</li> </ul> <p><b>Staff at 31 December 2011</b></p> <ul style="list-style-type: none"> <li>— No. of posts in the establishment plan: 456 (426)</li> <li>— No. of posts occupied: 441 (382)</li> <li>— Other staff: 101 (90) (Contract agents and seconded national experts)</li> <li>— Total staff number: 542 (472) assigned to the following: <ul style="list-style-type: none"> <li>— Operational tasks: 443 (341);</li> <li>— Administrative and support tasks: 99 (131)</li> </ul> </li> </ul>

**Activities and services provided 2011 (2010) <sup>(1)</sup>**

ECHA's Work Programme was divided into the following 15 Activities:

**Registration, Pre-registration and Data-sharing**

- No of registration dossiers (exc. PPORDs) processed, inc. 2010 carry over: 6 100 (24 000)
- No of confidentiality requests assessments completed: 630
- No of inquiries received: 1970 (1 600)
- No of decisions issued on data sharing disputes: 3 (6)
- No of substances on which info made public (exc. confidential info): 4 100 (400) 24 000 dossiers

**Evaluation**

- No of compliance checks completed: 146 (70)
- No of final decisions on testing proposals: 22 (4)

**Authorisation and restrictions**

- No of substances identified for inclusion in the Candidate List: 28 (16)
- No of recommendations of substances for inclusion in Authorisation List: 1 (1)
- No of restriction dossiers submitted for Commission decision: 4 (0)
- No of authorisation applications received: 0 (0)
- No of notifications of Candidate List substances in articles: 203 (0)

**Classification and Labelling (C&L)**

- No of C&L notifications received: 3,4 million for over 110 000 substances
- No of proposals for harmonised classification and labeling received: 56 (81)
- No of requests for alternative names for substances in mixtures: 0 (0)

**Advice and assistance**

- No of questions answered by helpdesk: 5 400 (10 000)
- No of new guidance documents issued: 3 (2) and no. of guidance updates issued: 14 (12)

**IT Support to operations**

- Further development of REACH-IT and other scientific IT systems

**Scientific and Practical Advice for the further development of legislation**

- At the request of the European Commission, contributions on nanomaterials and to OECD program on test guidelines and to the proposal on Biocides Regulation
- Delivery of first reports under REACH Arts. 117(2) and (3)

**Committees and Forum**

- No of unanimous MSC agreements: 70 (26)
- No of RAC opinions: 36 (16)
- No of SEAC opinions: 4 (0)

---

**Board of Appeal**

- No of appeals lodged: 6 (1)
- No of decisions on appeals: 2 (0) and No of procedural decisions: 10 (1)

**Communication**

- 1 (2) Stakeholder Day with 430 (700) participants
- 135 (3 000) participants in lead registrant webinars
- 70 (60) publications; 1 500 (2 300) pages translated into EU 21 languages
- 2,9 million (2,5 million) website visits from 200 (200) countries

**Relations with EU Institutions and International Cooperation**

- Scientific and technical cooperation with OECD e.g. eChemPortal; QSAR Toolbox)

**Management**

- Continued development and improvement of administrative and management systems, inc. IQMS

**Finance, Procurement and Accounting**

- Rigorous budget and cash reserve management including repayment of EU subsidy received in 2010
- Total number of companies verified regarding SME status: 245

**Human resources and infrastructure**

- 24 (35) selection procedures finalized; 93 (121) staff members recruited (TA and CA)

**Informatics and Communication Technology**

- Maintenance of ICT; provision of new workspaces to new staff
- 

(<sup>1</sup>) Where appropriate, figures have been rounded up/down to the nearest 10, 100, or 1 000.

Source: Information supplied by the Agency.

---



### THE AGENCY'S REPLIES

12. ECHA achieved its work programme objective on carryover in 2011. The Agency will re-assess its carryover policy in 2012 and establish a more rigorous motivation and limitation on possible carryovers to the financial year 2013.

13. ECHA fully acknowledges the importance of the accuracy of the physical inventory. The Agency will formalise its fixed asset management policy in 2012, while due attention will be given to the physical check at year end.

14. ECHA will further develop the method to capitalise the costs for internally developed software, and capitalise them at the level of the different software versions. The approach will be closely linked and integrated with the ongoing cost accounting project.

15. ECHA is fully committed to the principles of transparency and equal opportunity in its recruitment and selection procedures. ECHA has conducted a review of its recruitment procedure, including the declarations of interests, with the aim to further improve them and to ensure adherence to best practice. The resulting update of the procedures took into account the points raised by the Court of Auditors. In the meantime, the referred agent has been moved to a post equivalent to one published.

16. The Agency's replies will be published together with the Court's Special Report (15/2012).

---

## REPORT

**on the annual accounts of the European Environment Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/14)

## INTRODUCTION

1. The European Environment Agency (hereinafter "the Agency"), which is located in Copenhagen, was established by Council Regulation (EEC) No 1210/90 <sup>(1)</sup>. It is responsible for setting up an observation network to provide the Commission, the Parliament, the Member States and, more generally, the public with reliable information on the state of the environment. This information should, in particular, enable the European Union and the Member States to take action to safeguard the environment and assess the effectiveness of such action <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Agency, which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 120, 11.5.1990, p. 1.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

12. A payment was made to an international environmental organisation amounting to 6 061 euro which was related to the participation of Agency staff in expeditions organised by this organisation which took place in February and May 2011. No procurement procedure had taken place and no contract was drawn up for these expeditions. Related additional travel costs borne by the Agency were 11 625 euro. The Executive Director was a member of the organisation's board of trustees until April 2011. This constitutes an apparent conflict of interest.

**OTHER COMMENTS**

13. The Agency improved the transparency of recruitment procedures considerably over the years. However, the audit still found confusion between eligibility and selection criteria as regards the relevant years of professional experience. There was also no evidence that the content of, and thresholds for, written tests were determined before applications were examined.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 31 May 2012 and received by the Court on 29 June 2012. 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. They can be found on the following website <http://eca.europa.eu> or [www.eea.europa.eu](http://www.eea.europa.eu).

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Environment Agency (Copenhagen)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 191 of the Treaty on the Functioning of the European Union)</i></p>	<p><b>Environment policy</b></p> <p>Union policy on the environment shall contribute to pursuit [...] the objectives of preserving, protecting and improving the quality of the environment, protecting human health, prudent and rational utilisation of natural resources, promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.</p> <p>Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay. [...] In preparing its policy [...], the Union shall take account of available scientific and technical data, environmental conditions in the various regions of the Union, the potential benefits and costs of action or lack of action, the economic and social development of the Union as a whole and the balanced development of its regions [...].</p>
<p><b>Competences of the Agency</b></p> <p><i>(Council Regulation (EEC) No 1210/1990)</i></p>	<p><b>Objectives</b></p> <p>To set up a European environment information and observation network to provide the Union and the Member States with:</p> <ol style="list-style-type: none"> <li>1. Objective, reliable and comparable information at European level enabling them to:             <ol style="list-style-type: none"> <li>(a) take the requisite measures to protect the environment;</li> <li>(b) assess the results of such measures;</li> <li>(c) ensure that the public is properly informed about the state of the environment.</li> </ol> </li> <li>2. The necessary technical and scientific support</li> </ol> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To establish, in cooperation with the Member States, and coordinate the European Environment Information and Observation Network.</li> <li>— To provide the Union and the Member States with the objective information necessary for framing and implementing sound and effective environmental policies.</li> <li>— To assist the monitoring of environmental measures through appropriate support for reporting requirements.</li> <li>— To advise individual Member States on the development, establishment and expansion of their systems for the monitoring of environmental measures.</li> <li>— To record, collate and assess data on the state of the environment, to report on the quality of and pressures on the environment within the territory of the Union, to provide uniform assessment criteria for environmental data to be applied in all Member States and to develop further and maintain a reference centre of information on the environment.</li> <li>— To help ensure that environmental data at European level are comparable and, if necessary, to encourage by appropriate means improved harmonisation of methods of measurement.</li> <li>— To promote the incorporation of European environmental data into international environment monitoring programmes.</li> <li>— To publish a report on the state of, trends in and prospects for the environment every five years, supplemented by indicator reports focussing upon specific issues.</li> </ul>

	<ul style="list-style-type: none"> <li>— To stimulate the development of environmental forecasting techniques, exchanges of information on technologies for preventing or reducing damage to the environment, methods of assessing the costs of damage to the environment and the costs of environmental preventive, protection and restoration policies.</li> <li>— To ensure the broad dissemination of reliable and comparable environmental information, in particular on the state of the environment, to the general public and, to this end, to promote use of new telematics technology for this purpose.</li> <li>— To cooperate actively with other union bodies and programmes and other international bodies and in areas of common interest with those institutions in countries which are not members of the Union, taking account of the need to avoid duplication of effort.</li> <li>— To support the Commission in the process of exchange of information on the development of environmental assessment methodologies and best practice and in the diffusion of information on the results of relevant environmental research and in a form which can best assist policy development.</li> </ul>
<b>Governance</b>	<p><b>Management Board</b></p> <p><i>Composition</i></p> <p>One representative of each Member State, one of each EEA member country, two representatives of the Commission, and two scientists appointed by the European Parliament.</p> <p><i>Tasks</i></p> <p>To adopt the multiannual and annual work programmes and to ensure their implementation and to adopt the annual report on the Agency's activities.</p> <p><b>Executive Director</b></p> <p>Appointed by the Management Board on a proposal from the Commission.</p> <p><b>Scientific Committee</b></p> <p>Consisting of qualified persons in the field of the environment, designated by the Management Board.</p> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>European Parliament, acting on a recommendation from the Council.</p>
<b>Resources made available to the Agency in 2011 (2010)</b>	<p><b>Final Budget</b></p> <p>62,2 million euro (50,6 million euro)</p> <p>Union subsidy: 66 % (80 %)</p> <p><b>Staff as of 31 December 2011</b></p> <p>Number of posts in the Establishment plan: 134 (133)</p> <p>Posts occupied: 132 (125) plus 82 (76) other posts (contract staff and seconded national experts).</p> <p>Total staff numbers: 214 (201) posts assigned to the following tasks:</p> <ul style="list-style-type: none"> <li>— operational 90 (89)</li> <li>— administrative 43 (43)</li> <li>— mixed 1 (1)</li> </ul>

---

<b>Products and services in 2011 (2010)</b>	Articles	13
	Highlights	46
	Press releases	9
	Speeches	1
	Web articles	3
	Data sets	30
	Indicators	12
	Maps, graphs,	271
	Promotional matr	5
	Corporate docs	2
	Reports	7
	Technical reports	30
	Pan-European assessments	1
	SOER2010	1

---

Source: Information supplied by the Agency.

---

**THE AGENCY'S REPLIES**

12. The payment made was for food and accommodation for staff whilst on the research stations. On being informed in April 2011 of a potential perception of a conflict of interest by the European Court of Auditors, the Executive Director immediately resigned from the board of trustees, to safeguard the agency and ensure that the final scientific outcomes would not be jeopardized. In light of the discharge process for 2010, the Management Board and the EEA administration have strengthened the conflict of interest policy of the EEA to avoid any potential problems in the future.

13. The agency takes note of the Court's comments and has already initiated the process to implement the recommendations.

---

## REPORT

**on the annual accounts of the European Fisheries Control Agency for the financial year 2011,  
together with the Agency's replies**

(2012/C 388/15)

## INTRODUCTION

1. The European Fisheries Control Agency (hereinafter "the Agency"), which is located in Vigo, was established by Council Regulation (EC) No 768/2005 of 26 April 2005 <sup>(1)</sup>. The Agency's main task is to organise the operational coordination of fisheries control and inspection activities by the Member States in order to ensure an effective and uniform application of the rules of the Common Fisheries Policy <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Agency, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 128, 21.5.2005, p. 1.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).



8. The Court considers 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**

9. In the Court's opinion, the Agency's Annual Accounts <sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer <sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

12. The Court identified a need to improve procurement procedures. The Agency did not adequately document the estimation of contract values in the procurement files. Some selection criteria for tenderers need to be more specific to further improve the transparency of procedures.

13. The Agency does not yet have adequate procedures in place to record and account for costs related to the generation of internal intangible assets.

**OTHER COMMENTS**

14. In the course of the appointment procedure of the executive Director, a member of the Administrative Board contravened the regulations governing appointments to key posts by announcing the candidate the Commission intended to vote for.

15. The Court identified a need to further improve staff selection procedures. Vacancy notices did not provide information on complaint and appeal procedures. Meetings of the Selection Board were insufficiently documented and in one recruitment case the Appointing Authority did not follow the order of the Selection Board's list without providing a reason.

This Report was adopted by Chamber IV, headed by Mr. Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

For the Court of Auditors  
Vitor Manuel da SILVA CALDEIRA  
President

<sup>(10)</sup> The Final Annual Accounts were drawn up on 29 June 2012 and received by the Court on 5 July 2012. 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://cfca.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Fisheries Control Agency<sup>(1)</sup> (Vigo)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p>(Art. 43 TFEU)</p>	<p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article 40(1) and the other provisions necessary for the pursuit of the objectives of the common fisheries policy.</p>
<p><b>Competences of the Agency</b></p> <p>(Council Regulation (EC) No 768/2005 of 26 April 2005 amended by Regulation (EC) No 1224/2009)</p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>— The Regulation establishes a European Fisheries Control Agency (EFCA), the objective of which is to organise operational coordination of fisheries control and inspection activities by the Member States and to help them cooperate so as to comply with the rules of the Common Fisheries Policy in order to ensure its effective and uniform application.</li> </ul> <p><b>Tasks / Mission</b></p> <ul style="list-style-type: none"> <li>— to coordinate control and inspection by Member States relating to the control and inspection obligations of the EU;</li> <li>— to coordinate the deployment of the national means of control and inspection pooled by the Member States concerned in accordance with this Regulation;</li> <li>— to assist Member States in reporting information on fishing activities and control and inspection activities to the Commission and third parties;</li> <li>— in the field of its competences, to assist Member States to fulfil their tasks and obligations under the rules of the Common Fisheries Policy;</li> <li>— to assist Member States and the Commission in harmonising the application of the Common Fisheries Policy throughout the EU;</li> <li>— to contribute to the work of Member States and the Commission on research into and development of control and inspection techniques;</li> <li>— to contribute to the coordination of inspector training and the exchange of experience between Member States;</li> <li>— to coordinate the operations to combat illegal, unreported and unregulated fishing in conformity with EU rules;</li> <li>— to assist in the uniform implementation of the control system of the common fisheries policy, including in particular:             <ol style="list-style-type: none"> <li>1) Organisation of operational coordination of control activities by Member States for the implementation of specific control and inspection programmes, control programmes related to illegal, unreported and unregulated (IUU) fishing and international control and inspection programmes;</li> <li>2) Inspections as necessary to fulfill the Agency's tasks.</li> </ol> </li> </ul> <p>Please note that, among other competences, after the amendment of the Agency's establishing Regulation by Council Regulation (EC) No 1224/2009:</p> <ol style="list-style-type: none"> <li>1) Officials of the Agency may be assigned in international waters as Union inspectors;</li> <li>2) The Agency may acquire, rent or charter the equipment as necessary for the implementation of the joint deployment plans;</li> <li>3) And the Agency shall, upon a notification by the Commission or on its own initiative, set up an Emergency Unit, where a serious risk to the common fisheries policy is identified.</li> </ol>

<sup>(1)</sup> Please note that the name of the Agency has changed from "Community Fisheries Control Agency" to "European Fisheries Control Agency" as of the 1 January 2012.

<p><b>Governance</b></p>	<p><b>Administrative Board</b></p> <p><i>Composition</i></p> <p>Comprises one representative from each Member State and six representatives of the Commission.</p> <p><i>Duties</i></p> <p>To adopt the budget, work programme and annual report. To adopt the final budget and the establishment Plan. To give an opinion on the final accounts.</p> <p><b>Executive Director</b></p> <p>Appointed by the Administrative Board from a list of at least two candidates proposed by the Commission.</p> <p><b>External Audit</b></p> <p>Court of Auditors</p> <p><b>Internal control</b></p> <p>The Commission's internal audit service.</p> <p><b>Discharge Authority</b></p> <p>Parliament acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p><i>Total Budget 2011: 12,85 (11,01) million euro</i></p> <p>— Title I – 6,04 (6,03) million euro</p> <p>— Title II – 1,23 (0,96) million euro</p> <p>— Title III – 5,57 (4,01 including assigned revenue of 2,60) million euro</p> <p><b>Staff as at 31 December 2011</b></p> <p>53 (53) Temporary Agents foreseen in the establishment plan, of which occupied: 52 (52)</p> <p>+ 5 (5) Contract Agents foreseen of which occupied 4 (2)</p> <p>Total staff foreseen: 58 (58), of which occupied 56 (54)</p>
<p><b>Products and services 2011 (2010)</b></p>	<p><b>Operational Coordination</b></p> <ul style="list-style-type: none"> <li>— Implementation of JDP (Joint Deployment Plan) Cod fishery in the North Sea, Skagerrak, Kattegat and the Eastern Channel and Western Waters (West of Scotland and the Irish Sea);</li> <li>— JDP cod fishery in the Baltic Sea;</li> <li>— JDP Bluefin tuna fishery in the Mediterranean Sea and Eastern Atlantic;</li> <li>— Implementation of JDP in Northwest Atlantic Fisheries organisation area and North East Atlantic Fisheries Organisation area;</li> <li>— JDP pelagic species in Western waters of the European Union;</li> <li>— Support activities to fight Illegal unreported and unregulated fisheries;</li> <li>— Consolidation of the JDPs through promoting a regional approach;</li> <li>— Formation of Member State inspectors participating in JDPs and fight against IUU fishing.</li> </ul>

---

**Capacity Building**

- Mapping study on information systems supporting fisheries controls in the European Union;
- Drafting of an indicative structure and content of Core Curriculum for training;
- Development of the web-based collaboration platform for training;
- Assistance to the Member States' national training programmes;
- Operation, maintenance, enhancement and development of ICT monitoring capabilities: Vessel Monitoring System (VMS), Electronic Reporting System (ERS), Fishnet;
- Maintenance of the Agency's coordination room for the JDPs;
- Provision of contractual services to charter an EFCA Fisheries Patrol Vessel.

*(see Annual Work Program 2011 of the Agency for details.)*

---

Source: Information supplied by the Agency.

---

### THE AGENCY'S REPLIES

12. The Agency has established a set of internal procedures to ensure a firm basis for contract value estimation and documents this process. However, the Agency takes note of the Court's observation and will improve the documentation in the procurement files. The Agency has also taken on board the Court's observation on selection criteria.

13. The Agency points out that internal cost to be recorded and accounted for, is quite limited. However, the Agency is currently reviewing its administrative and operational activities and will take the comments of the Court on board during this process.

14. The acting of Members of the Administrative Board is not under the control of the agency, thus the Executive Director is not responsible for the proceedings.

15. The Agency will add this information to its vacancy notices, and will adapt the standard template of the minutes to the suggestions of the Court. It is the Agency's understanding that all candidates on the list put forward by the Selection Board are eligible to be hired. In the specific case cited, there were two candidates with significantly higher marks than the others. Given the minimal difference between the marks of the two candidates, the Appointing authority chose one of the two candidates who was finally deemed to be the most appropriate one.

---

## REPORT

**on the annual accounts of the European Food Safety Authority for the financial year 2011, together with the Authority's replies**

(2012/C 388/16)

## INTRODUCTION

1. The European Food Safety Authority (hereinafter "the Authority" or "EFSA"), which is located in Parma, was established by Regulation (EC) No 178/2002 of the European Parliament and of the Council <sup>(1)</sup>. The Authority's main tasks are to supply the scientific information needed for Union legislation to be drawn up, to collect and analyse data that allow risks to be identified and monitored and to provide independent information on these risks <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Authority, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Authority, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Authority and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Authority are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1.

<sup>(2)</sup> The *Annex* summarises the Authority's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Authority.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Authority's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Authority for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. In 2011, 13 budgetary transfers were made, considerably increasing appropriations for IT expenditure<sup>(12)</sup>. In total, 2,5 million euro was transferred from Title I (staff expenditure) to

Title II (administrative expenditure), representing 21 % of the initial Title II appropriations. For Title III (operational expenditure), an amount of 1,8 million euro of differentiated payment appropriations was cancelled representing 25 % of the initial differentiated appropriations. This situation indicates weaknesses in budget planning and implementation and is at odds with the principle of specification.

13. The Authority purchased a new headquarters building in December 2011 for 36,8 million euro which will be paid by quarterly instalments over 25 years, resulting in interest payments of 18,5 million euro. The Court questions whether a more economic alternative could have been sought from the budgetary authorities in accordance with the principle of sound financial management and ensuring full respect of the Financial Regulation.

**OTHER COMMENTS**

14. There is room for improving the transparency of recruitment procedure. Questions for written tests and interviews were set after the examination of the applications by the selection board and declarations on confidentiality and absence of conflict of interest were signed by the selection board members only during, not before the evaluation of candidates' applications.

15. The Court carried out an audit aimed at evaluating the policies and procedures for the management of conflict of interest situations for four European Agencies, including EFSA. The results of the audit are presented in a separate document (Special Report 15/2012).

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 18 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 14 June 2012 and received by the Court on 28 June 2012. 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://www.efsa.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> The 13 transfers involved a high number of budget lines. For example, the transfer from May 2011 involved 63 budget lines and the three transfers from December 2011 involved 87 budget lines. Certain budget lines decreased and increased within a short time span. Appropriations for IT data collection and networking increased by 116 % to 5,2 million euro and 90 % of them were carried forward.

## ANNEX

**European Food Safety Authority (Parma)****Competences and activities**

<b>Areas of Union competence deriving from the Treaty</b>	<b>Collection of information</b> <ul style="list-style-type: none"> <li>— Common Agricultural Policy (Article 38 of the Treaty)</li> <li>— Functioning of the Internal Market (Article 114 of the Treaty)</li> <li>— Public Health (Article 168 of the Treaty)</li> <li>— Common Trade Policy (Article 206 of the Treaty)</li> </ul>
<b>Competences of the Authority</b>  <i>(Regulation (EC) No 178/2002 of the European Parliament and of the Council)</i>	<b>Objectives</b> <ul style="list-style-type: none"> <li>— To provide scientific opinions and scientific and technical support for the legislation and policies which have a direct or indirect impact on food and feed safety.</li> <li>— To provide independent information on risks relating to food safety.</li> <li>— To contribute to the achievement of a high level of protection of human life and health.</li> <li>— To collect and analyse data needed to allow characterisation and monitoring of risks.</li> </ul> <b>Tasks</b> <ul style="list-style-type: none"> <li>— To issue scientific opinions and studies.</li> <li>— To promote uniform risk-assessment methodologies.</li> <li>— To assist the Commission.</li> <li>— To search analyse and summarise the requisite scientific and technical data.</li> <li>— To identify and characterise emerging risks.</li> <li>— To establish a network of organisations operating in similar fields.</li> <li>— To provide scientific and technical assistance in crisis management.</li> <li>— To improve international cooperation.</li> <li>— To provide the public and interested parties with reliable, objective and easily comprehensible information.</li> <li>— To take part in the Commission's rapid alert system.</li> </ul>
<b>Governance</b>	<b>Management Board</b>  <i>Composition</i>  14 members appointed by the Council (in cooperation with the European Parliament and the Commission) and 1 representative of the Commission.  <i>Task</i>  To adopt the work programme and the budget and ensure that they are implemented.  <b>Executive Director</b>  Appointed by the Management Board on the basis of a list of candidates proposed by the Commission, following a hearing before the European Parliament.



	<p><b>Advisory Forum</b></p> <p><i>Composition</i></p> <p>One representative per Member State.</p> <p><i>Task</i></p> <p>To advise the Executive Director.</p> <p><b>Scientific Committee and scientific panels</b></p> <p>To draw up the Authority's scientific opinions.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Internal audit</b></p> <p>Internal Audit unit of EFSA.</p> <p>Internal Audit Service of the European Commission.</p> <p><b>Discharge authority</b></p> <p>Parliament, acting on recommendation by the Council.</p>
<p><b>Resources made available to the Authority in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>78,8 (74,7) million euro of which 100 % (100 %) is a European Union subvention.</p> <p><b>Staff as at 31 December 2011</b></p> <p>posts foreseen in the establishment plan: 355 (355), of which occupied:</p> <p>staff (temporary agent and officials): 334 (330)</p> <p>other staff (contractual, seconded national experts): 109 (103)</p> <p>total staff <sup>(1)</sup>: 443 (433), of which for:</p> <p>Operational duties: 326 (323)</p> <p>Administrative duties: 117 (110)</p>
<p><b>Products and services 2011 (2010)</b></p>	<p><b>Scientific Outputs and Supporting Publications 2011 (2010)</b></p> <p><i>Activity 1: Provision of scientific opinions and advice &amp; risk assessment approaches</i></p> <ul style="list-style-type: none"> <li>— Guidance of the Scientific Committee/Scientific Panel 9 (2)</li> <li>— Opinion of the Scientific Committee/Scientific Panel 38 (48)</li> <li>— Scientific Report of EFSA 3 (5)</li> <li>— Statement of EFSA 3 (4)</li> <li>— Statement of the Scientific Committee/Scientific Panel 4 (7)</li> </ul> <p><i>Total scientific outputs activity 1 = 57 (66)</i></p> <p><i>Activity 2: Evaluation of products, substances and claims subject to authorisation</i></p> <ul style="list-style-type: none"> <li>— Conclusion on Pesticides Peer Review 54 (73)</li> <li>— Guidance of EFSA 2 (1)</li> </ul>

---

<ul style="list-style-type: none"> <li>— Guidance of the Scientific Committee/Scientific Panel 17 (6)</li> <li>— Opinion of the Scientific Committee/Scientific Panel 298 (244)</li> <li>— Scientific Report of EFSA 1 (2)</li> <li>— Statement of the Scientific Committee/Scientific Panel 9 (5)</li> <li>— Statement of EFSA 3 (0)</li> </ul> <p><i>Total scientific outputs activity 2 = 384 (331)</i></p> <p><i>Activity 3: Data Collection, scientific cooperation and networking</i></p> <ul style="list-style-type: none"> <li>— Guidance of EFSA 3 (3)</li> <li>— Statement of EFSA 0 (2)</li> <li>— Reasoned Opinion 88 (68)</li> <li>— Scientific Report of EFSA 16 (38)</li> </ul> <p><i>Total scientific outputs activity 3 = 107 (111)</i></p> <p><i>Supporting Publications</i></p> <ul style="list-style-type: none"> <li>— Event report 8 (7)</li> <li>— External Scientific Report 37 (33)</li> <li>— Technical report 65 (17)</li> </ul> <p><i>Total Supporting Publications = 110 (57)</i></p> <p><i>Total outputs = 658 (565)</i></p> <ul style="list-style-type: none"> <li>— Scientific outputs supported by communication activities: 35 % (34 %).</li> <li>— Public consultations: 78 (78)</li> <li>— Web visits: 3,5 million (3,0)</li> <li>— Highlights subscribers: 27 933 (26 934).</li> <li>— Media coverage: 9 397 (8 330)</li> <li>— Media queries: 1 086 (857)</li> <li>— Press releases: 15 (16)</li> <li>— Web News stories: 63 (59)</li> <li>— Interviews: 126 (116)</li> </ul>
---

---

(<sup>1</sup>) Including 7 offer letters sent as per 31.12.2011

Source: Information supplied by the Authority.

---

### THE AUTHORITY'S REPLIES

12. A change of organisational model and the purchase and move to new premises required adaptation (of IT systems in particular) while some recruitments were voluntarily postponed by a few month and created a less predictable environment leading to an increased need to execute budget transfers (6 % in 2011 compared to 4 % in 2010).

EFSA will consider adapting its budget structure within the overall budgetary framework to reduce fragmentation and needs for transfers in the future.

The under-consumption of differentiated payment appropriations results from difficulties to forecast precise payment pattern of pluri-annual scientific cooperation projects introduced in 2009.

13. EFSA acquired its headquarters following modalities cleared by the Budgetary Authority foreseeing payment spread over 25 years. EFSA has asked recently the European Commission to consider requesting additional resources to the Budgetary authority to shorten the purchase calendar. Such anticipated purchase is possible at no costs for EFSA.

14. EFSA recruitment procedures are fully compliant with regulatory requirements.

To increase the attention to the specific transparency dimension, EFSA adapted in January 2012 its relevant processes to ensure that:

Competences assessment instruments are designed before the assessment of applications.

Selection board Members' declaration of confidentiality and declaration of eventual interests are signed and assessed systematically earlier in the process.

15. [The replies of EFSA are presented in the separate document (Special Report 15/2012)]

---

## REPORT

**on the annual accounts of the European Institute for Gender Equality for the financial year 2011,  
together with the Institute's replies**

(2012/C 388/17)

## INTRODUCTION

1. The European Institute for Gender Equality (hereinafter "the Institute"), which is located in Vilnius, was established by Regulation (EC) No 1922/2006 of the European Parliament and of the Council of 20 December 2006 <sup>(1)</sup>. The Institute's task is to collect, analyse and disseminate information as regards gender equality and to develop, analyse, evaluate and disseminate methodological tools in order to support the integration of gender equality into all Union policies and the resulting national policies <sup>(2)</sup>. The Institute became fully autonomous in 2010.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Institute's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Institute, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Institute, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Institute and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Institute are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 403, 30.12.2006, p. 9.

<sup>(2)</sup> The *Annex* summarises the Institute's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Institute.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Institute's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Institute for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. Total budgetary appropriations amounted to 7,5 million euro compared with 5,9 million euro the previous year. Budgetary commitments were made for an amount of 6,7 million euro. Appropriations carried over to 2012 amount to 3,3 million euro, 50 % of total commitments. This high level of carryover is at odds with the budgetary principle of annuality.

**COMMENTS ON KEY CONTROLS OF THE INSTITUTE'S SUPERVISORY AND CONTROL SYSTEMS**

13. The Court identified the need to improve the documentation of physical inventory taking for fixed assets and of the estimation of accrued charges.

14. The European Commission's Internal Audit Service carried out a "Limited review of the implementation of Internal Control Standards" at the Institute in December 2011. The Institute accepted the recommendations to finalise the procedure for the implementation of the Internal Control Standards and management adopted an action plan to be implemented in 2012.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 6 June 2012 and received by the Court on 13 June 2012. 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://www.eige.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Institute for Gender Equality (Vilnius)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Articles 2 and 3 of the Treaty of the European Union)</i></p>	<p>The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and <b>equality between women and men</b> prevail.</p> <p>It shall combat social exclusion and discrimination, and shall promote social justice and protection, <b>equality between women and men</b>, solidarity between generations and protection of the rights of the child.</p>
<p><b>Competences of the Institute</b></p> <p><i>(Regulation (EC) No 1922/2006 of the European Parliament and of the Council)</i></p>	<p><b>Objectives</b></p> <p>To contribute to and strengthen the promotion of gender equality including gender mainstreaming in all Union policies and the resulting national policies, and the fight against discrimination based on sex, and to raise EU citizens' awareness of gender equality.</p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— Collect, analyse and disseminate relevant comparable and reliable information as regards gender equality;</li> <li>— develop methods to improve the objectivity, comparability and reliability of data at European level;</li> <li>— develop, analyse, evaluate and disseminate methodological tools in order to support the integration of gender equality into all Union policies and the resulting national policies and to support gender mainstreaming in all Union institutions and bodies;</li> <li>— carry out surveys on the situation in Europe as regards gender equality;</li> <li>— set up and coordinate a European Network on Gender Equality;</li> <li>— organise ad-hoc meetings of experts to support the Institute's research work;</li> <li>— in order to raise EU citizens' awareness of gender equality, organise, with relevant stakeholders, conferences, campaigns, meetings at EU-level, and present the findings and conclusions to the Commission;</li> <li>— disseminate information regarding positive examples of non-stereotypical roles for women and men in every walk of life, present its findings and initiatives designed to publicise and build on such success stories;</li> <li>— develop dialogue and cooperation with non-governmental and equal opportunities organisations, universities and experts, research centres, social partners;</li> <li>— set up documentation resources accessible to the public;</li> <li>— make information on gender mainstreaming available to public and private organisations;</li> <li>— provide information to the Union institutions on gender equality and gender mainstreaming as well as to accession and candidate countries.</li> </ul>
<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p><i>Composition</i></p> <p>Eighteen representatives appointed by the Council, on a proposal from each Member State and one member representing the Commission, appointed by the Commission on the basis of the highest standards of competence and a broad range of relevant</p>

	<p>and trans-disciplinary expertise in the area of gender equality. A balanced representation between men and women on the Management Board is strived for. The members appointed by the Council shall represent eighteen Member States in the order of the rotating Presidencies.</p> <p><i>Duties</i></p> <p>To adopt the annual and mid-term work programmes the budget and annual report. To adopt the internal rules of the Institute and rules of procedure of the Management Board.</p>
	<p><b>Experts' Forum</b></p> <p><i>Composition</i></p> <p>Members from competent bodies specialised in gender equality issues, one representative designated by each Member State, two members representing other relevant organisations specialised in gender equality issues designated by the European Parliament, three members designated by the Commission.</p> <p><i>Duties</i></p> <p>Supports the Director in ensuring the excellence and independence of activities of the Institute, constitutes a mechanism for an exchange of information in relation to gender equality issues and the pooling of knowledge, and ensures close cooperation between the Institute and competent bodies in the Member States.</p> <p><b>The Director</b> is appointed by the Management Board on the basis of a list of candidates proposed by the Commission after an open competition.</p> <p><i>Duties</i></p> <p>Responsible for performance of the tasks referred to in Regulation (EC) No 1922/2006, preparing and implementing the Institute's annual and medium-term programmes of activities; preparing the meetings of the Management Board and the Experts' Forum; preparing and publishing the annual report; all staff-related matters, matters of day-to-day administration; and the implementation of effective monitoring and evaluation procedures relating to the performance of the Institute.</p> <p><b>External audit</b></p> <p>The Court of Auditors.</p> <p><b>Internal control</b></p> <p>The Commission's Internal Audit Service.</p> <p><b>Discharge authority</b></p> <p>The European Parliament on a recommendation from the Council.</p>
<p><b>Resources made available to the Institute in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>7,5 (5,9) million euro of which the Union subsidy is 100 % (100 %)</p> <p><b>Staff as at 31 December 2011</b></p> <p>27 (25) foreseen in the establishment plan, of which occupied: 26 (23),</p> <p>8 (4) other staff (contract agents, seconded national experts, trainee).</p> <p><b>Total staff</b></p> <p>35 (29), undertaking the following tasks</p> <ul style="list-style-type: none"> <li>— Operational: 24 (18)</li> <li>— Administrative: 8 (8)</li> <li>— Mixed: 3 (3)</li> </ul>

---

<b>Products and services in 2011 (2010)</b>	<b>Focal Areas: Comparable and reliable data and indicators on Gender equality; collecting and processing methods and practices for Gender equality work; Resource and Documentation Centre; Awareness-raising, Networking and Communication.</b>  Number of studies launched 6 (8)  Number of contributions to Presidency countries 2 (2)  Number of experts meetings and working group 19 (12)  International Conference 1 (0)  Number of Research reports: 2 (0)  Annual Reports: 1 (1)
---	--

---

Source: Information supplied by the Institute.

---



**THE INSTITUTE'S REPLIES**

12. Agreed. As of 2011 EIGE has introduced adequate budget implementation reporting and monitoring. As discussed already with the Court in 2011, for carry forward EIGE has introduced acceptable ceilings by Title, e.g.: Title I up to 10 %; Title II up to 20 %; Title III up to 35 %. Being in the start-up phase, in 2011 we expected and still expect in 2012 to have a higher % of carry forward, in particular for Title III – operational activities. From 2013 onwards EIGE will operate within the ceilings.

13. Agreed. All EIGE assets will be duly documented, labelled and recorded. In addition, EIGE will develop and implement "EIGE's Inventory Procedure" in order to assure proper management of our assets. The documented procedure will take effect upon signature of a Director's decision during last quarter of 2012. The estimation of the accrual charges will be improved.

14. Agreed. EIGE action plan adopted and under implementation. The Court will be informed on the progress prior to their next mission to Vilnius.

---

## REPORT

**on the annual accounts of the European Insurance and Occupational Pensions Authority for the financial year 2011, together with the Authority's replies**

(2012/C 388/18)

## INTRODUCTION

1. The European Insurance and Occupational Pensions Authority (hereinafter "the Authority"), which is located in Frankfurt, was established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 <sup>(1)</sup>. The Authority's task is to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, to contribute to the consistent application of legally binding Union acts, to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities, to monitor and assess market developments in the area of its competence and to foster the protection of policyholders, pension scheme members and beneficiaries <sup>(2)</sup>. The Authority was set up on 1 January 2011.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Authority, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Authority, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Authority and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Authority are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 331, 15.12.2010, p. 48.

<sup>(2)</sup> The *Annex* summarises the Authority's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Authority.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Authority's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Authority for the financial year ended 31 December 2011 are legal and regular in all material respects.

11. The comments which follow do not call the Court's opinions into question. They should be considered in the context of the Authority's transition from its predecessor Committee of European Insurance and Occupational Pensions Supervisors to a European Authority.

#### **COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Authority's commitments amounted to 6 579 663 euro or 62 % of the 2011 budget. The commitment rates were low especially for Title II "Administrative expenditure" (60 %) and Title III "Operational expenditure" (12 %). This impacted on the Authority's IT objectives which were not entirely achieved.

13. The Authority's budget for the financial year 2011 amounted to 10,7 million euro. In accordance with Article 62(1) of its Founding Regulation, 55 % of the 2011 budget was financed from Member States' and EFTA countries' contributions and 45 % from the Union budget. At the end of 2011 the Authority recorded a positive budget outturn of 2,8 million euro. In compliance with its Financial Regulation the full amount was then recorded in the accounts as a liability towards the European Commission.

#### **COMMENTS ON KEY CONTROLS OF THE AUTHORITY'S SUPERVISORY AND CONTROL SYSTEMS**

14. The Authority's accounting system has yet to be validated by the Accounting Officer, as required by the Financial Regulation.

#### **OTHER COMMENTS**

15. The audited procurement procedures were not fully consistent with the provisions of the general Financial Regulation. For five purchases of IT equipment (total amount of 160 117 euro) the award criteria applied were not set in advance and no written contracts were signed. In another case related to recruitment services (55 000 euro), the award criteria were incorrectly applied. The Authority should ensure that all new contracts are awarded in full compliance with the EU procurement rules.

16. The Authority needs to improve the transparency of recruitment procedures: threshold scores for admission to written tests and interviews or for inclusion in the list of suitable candidates, and questions for oral and written tests, were not set before the examination of applications, and there was no decision of the Appointing Authority to appoint the selection boards.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 28 June 2012 and received by the Court on 2 July 2012. 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://www.eiopa.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Insurance and Occupational Pensions Authority (Frankfurt am Main)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p>(Articles 26, 114, 290, 291 of the Treaty on the Functioning of the European Union)</p>	<ul style="list-style-type: none"> <li>— Establish or ensure the functioning of the internal market, in accordance with the relevant provisions of the Treaties.</li> <li>— Prepare draft technical standards as preparatory work for non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act or where uniform conditions for implementing legally binding Union acts are needed.</li> </ul>
<p><b>Competences of the Authority</b></p> <p>(Regulation (EU) No 1094/2010 establishing the Authority, Articles 1(6) and 8 tasks and powers)</p>	<p><b>Objectives</b></p> <p>Protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses.</p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— to contribute to the establishment of high-quality common regulatory and supervisory standards and practices;</li> <li>— to contribute to the consistent application of legally binding Union acts, to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities;</li> <li>— to cooperate closely with the ESRB;</li> <li>— to organise and conduct peer review analyses of competent authorities;</li> <li>— to monitor and assess market developments in the area of its competences;</li> <li>— to undertake economic analyses of markets to inform the discharge of the Authority's functions;</li> <li>— to foster the protection of policyholders, pension scheme members and beneficiaries;</li> <li>— to contribute to the consistent and coherent functioning of colleges of supervisors, the monitoring, assessment and measurement of systemic risk, the development and coordination of recovery and resolution plans, providing a high level of protection to policy holders, to beneficiaries and throughout the Union;</li> <li>— to fulfil any other specific tasks set out in this Regulation or in other legislative acts;</li> <li>— to publish on its website, and to update regularly, information relating to its field of activities;</li> <li>— to take over, as appropriate, all existing and ongoing tasks from the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).</li> </ul>
<p><b>Governance</b></p> <p>(Regulation (EU) No 1094/2010 establishing the Authority: articles 40 - 44: Board of Supervisors; articles 45 - 47: Management Board; articles 48 - 50: Chair; articles 51 - 53: Executive Director)</p>	<p><b>Board of Supervisors</b></p> <p><i>Composition:</i> Heads of the relevant supervisory authority in each European Member State, the Authority's Chairperson, representatives of the European Commission, the European Systemic Risk Board, the European Banking Authority, the European Securities Markets Authority and Observers.</p> <p><i>Tasks:</i> the Authority main decision-making body.</p> <p><b>Management Board</b></p> <p><i>Composition:</i> Chairperson of the Authority, six representatives of national supervisory authorities and a representative of the European Commission.</p> <p><i>Tasks:</i> Guardian of the Authority mission and execution of tasks, budgetary powers, staff policy plan and Staff implementing measures.</p> <p><b>The Authority's Chairperson</b></p> <p>Represents the Authority, prepares the work of the Board of Supervisors, chairs the Boards' meetings.</p>

	<p><b>The Authority's Executive Director</b></p> <p>Ensures the management of the Authority and the implementation of the annual work programme and the budget; prepares the work of the Management Board, the budget, the work programme.</p> <p><b>Quality Control Committee</b></p> <p><i>Composition:</i> the Authority's Alternate Chairperson, 2 Members of the Management Board, Executive Director</p> <p><i>Tasks:</i> to oversee and assess the appropriate implementation of the internal procedures and decisions.</p> <p><b>External audit</b></p> <p>Court of auditors.</p> <p><b>Discharge Authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Authority in 2011</b></p>	<p><b>Final Budget</b></p> <p>Final Budget Appropriations: 10,66 million euro</p> <p><b>Establishment Plan</b></p> <p><i>Statutory Staff</i></p> <p>46 authorized in the establishment plan of which occupied 46</p> <p>Establishment plan 100 % accomplished</p> <p><i>Contract agents</i></p> <p>7 planned in the budget of which occupied 6</p> <p><i>Seconded National Experts</i></p> <p>6 planned in the budget of which occupied 4</p> <p>Total: 56 staff</p>
<p><b>Products and services in 2011</b></p>	<p><b>Regulatory tasks</b></p> <ul style="list-style-type: none"> <li>— Fifth Quantitative Impact Study;</li> <li>— 11 public consultations related to different areas of the Authority activities (Insurance and Pensions).</li> </ul> <p><b>Supervisory tasks</b></p> <ul style="list-style-type: none"> <li>— the Authority's participation in Colleges of Supervisors;</li> <li>— Action Plan for Colleges 2011.</li> </ul> <p><b>Consumer protection and financial innovation</b></p> <ul style="list-style-type: none"> <li>— Report on Financial Literacy and Education Initiatives by competent authorities.</li> <li>— Input to the Commission's revision of the Insurance Mediation Directive (IMD).</li> </ul> <p><b>Common supervisory culture</b></p> <ul style="list-style-type: none"> <li>— 3 cross-sector seminars;</li> <li>— 15 seminars for national competent authorities;</li> <li>— Development of methodology for 3 peer reviews.</li> </ul> <p><b>Financial stability</b></p> <ul style="list-style-type: none"> <li>— 2 bi-annual Financial Stability Reports;</li> <li>— 1 Europe-wide stress test for the insurance sector;</li> </ul>

- 
- 1 satellite exercise assessing the effects of the materialisation of a prolonged period of low interest rates;
  - Setting up of a Pilot Risk Dashboard.

**Crisis management**

- A set of interim procedures for dealing with emergency situations developed by the Authority in conjunction with the other ESAs developed.
- A comprehensive, decision-making framework setting in detail the processes that the Authority will follow in discharging its crisis pre-emption and management responsibilities.

**External relations**

- Setting up of 2 Stakeholder Groups, for Insurance and Occupational Pensions.
- Regulatory and Supervisory Dialogues with US National Association of Insurance Commissioners (NAIC), the China Insurance Regulatory Commission (CIRC), the Japanese Financial Services Authority (Japanese FSA), the Latin American Association of Insurance Supervisors (ASSAL), the Brazilian competent supervisory authority for the private insurance sector (SUSEP) and the US Federal Insurance Office (FIO).
- Member of the International Association of Insurance Supervisors, including membership of each Executive Committee.
- 3 equivalence reports (Switzerland, Bermuda, Japan).

**Conferences / other public events 2011**

- 3 conferences and events (TIGS, EIOPA Annual Conference, Consumer Strategy Day).

---

Source: Information supplied by the Authority

---

### THE AUTHORITY'S REPLIES

12. During the first year of EIOPA the execution rate for Title II and Title III indeed was low. The rationale for this was triggered by a conscious decision from the Executive Director of not committing (and not spending) the budgeted amount for IT (30 % of the total EIOPA budget), following a lack of a strategic orientation from EIOPA's Board of Supervisors during 2011. The complexity of the decisions to be taken as well as their large implications did not allow committing and spending the related appropriations. The needed strategic decision has been taken by EIOPA's Board of Supervisors in February 2012. The project is now up and running, designed in a way that allows full and timely compliance with its aims and objectives.

13. EIOPA acknowledges that the Financial Regulation requires the full surplus to be accounted as a liability towards the European Commission whilst the Founding Regulation provides for budget contributions also from Member States and EFTA countries. EIOPA, together with its sister ESAs, has reached an agreement with the European Commission to align the distribution of surplus with the Founding Regulation.

14. The Court's comment is noted and the Accounting Officer will take the necessary steps in order to perform the validation process in 2012.

15. EIOPA has taken all necessary steps in 2011 to reach an agreement with OLAF. The Court's comment should be removed.

16. The Authority is taking all the measures needed to ensure that in the future all contracts are awarded in full compliance with the Financial Regulation. A procurement officer was recruited.

17. The Court's comment is noted and recruitment procedures will be further improved.

---

## REPORT

**on the annual accounts of the European Institute of Innovation and Technology for the financial year 2011, together with the Institute's replies**

(2012/C 388/19)

## INTRODUCTION

1. The European Institute of Innovation and Technology (hereinafter "the Institute"), which is located in Budapest, was created by Regulation (EC) No 294/2008 of the European Parliament and of the Council<sup>(1)</sup>. The Institute's objective is to contribute to sustainable European economic growth and competitiveness by reinforcing the innovation capacity of the Member States and the European Union. The Institute awards grants to "Knowledge and Innovation Communities", which link the higher education, research and business sectors with one another thereby boosting innovation and entrepreneurship<sup>(2)</sup>.

2. The Commission granted financial autonomy to the Institute on 8 June 2011. Therefore the audited period for the 2011 financial year runs from 8 June to 31 December 2011.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Institute's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

4. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Institute, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

5. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Institute, under his own responsibility and within the limits of the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

6. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Institute and the legality and regularity of the transactions underlying them.

7. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Institute are free of material misstatement and the transactions underlying them are legal and regular.

8. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to

<sup>(1)</sup> OJ L 97, 9.4.2008, p. 1.

<sup>(2)</sup> The *Annex* summarises the Institute's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002, as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23), and are integrated as such in the Financial Regulation of the Institute.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).



the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

9. The Court considers 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 Institute's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

#### **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 Institute for the financial year

ended 31 December 2011 are legal and regular in all material respects.

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

#### **COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

13. The rate of execution of the Institute's budget for the audited period of financial autonomy (see paragraph 2) was low. Comparing payments with appropriations committed, the rate was 56 % for Title I (staff expenditure), 30 % for Title II (administrative expenditure) and 11 % for Title III (operational expenditure).

14. Grant agreements resulting in payments in 2011 were systematically signed by the European Commission (Directorate General for Education and Culture) and the Institute after most of the activities had already been implemented. Between September and December 2011, the Institute made final payments<sup>(12)</sup>, amounting to 4,2 million euro, related to three grant agreements that were signed well after the start of activities<sup>(13)</sup>. This is an issue in terms of good financial management.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 28 June 2012 and received by the Court on 10 July 2012. 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://eit.europa.eu>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Advance payments had been made by the European Commission.

<sup>(13)</sup> In one case, the contract was signed 14 days before the end of the 13 month implementation period.

## ANNEX

**European Institute of Innovation and Technology (Budapest)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 173 of the Treaty on the Functioning of the European Union)</i></p>	<p>The Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.</p> <p>For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:</p> <ul style="list-style-type: none"> <li>— speeding up the adjustment of industry to structural changes,</li> <li>— encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings,</li> <li>— encouraging an environment favourable to cooperation between undertakings,</li> <li>— fostering better exploitation of the industrial potential of policies of innovation, research and technological development.</li> </ul>
<p><b>Competences of the Institute</b></p> <p><i>(Council Regulation (EC) No 294/2008)</i></p>	<p><b>Objectives</b></p> <p>The Institute's objective is to contribute to sustainable European economic growth and competitiveness by reinforcing the innovation capacity of the Member States and the Community. It shall do this by promoting and integrating higher education, research and innovation of the highest standards.</p> <p><b>Tasks</b></p> <p>In order to achieve its objective, the Institute shall:</p> <ul style="list-style-type: none"> <li>(a) identify its priority fields;</li> <li>(b) raise awareness among potential partner organisations and encourage their participation in its activities;</li> <li>(c) select and designate KICs in the priority fields and define their rights and obligations by agreement; provide them with appropriate support; apply appropriate quality control measures; continuously monitor and periodically evaluate their activities; and ensure an appropriate level of coordination between them;</li> <li>(d) mobilise funds from public and private sources and use its resources in accordance with this Regulation. It shall in particular seek to raise a significant and increasing proportion of its budget from private sources and from income generated by its own activities;</li> <li>(e) encourage the recognition in the Member States of degrees and diplomas which are awarded by higher education institutions that are partner organisations and which may be labelled EIT degrees and diplomas;</li> <li>(f) promote the dissemination of good practices for the integration of the knowledge triangle in order to develop a common innovation and knowledge transfer culture;</li> <li>(g) seek to become a world class body for excellence in higher education, research and innovation;</li> <li>(h) ensure complementarity and synergy between the Institute's activities and other Community programmes.</li> </ul>
<p><b>Governance</b></p>	<p><b>Governing Board</b></p> <p><i>Composition:</i></p> <p>The Institute's Governing Board (GB) consists of 18 appointed members providing a balance between experience and excellence in business, higher education and research, and four representative members proposed by the Knowledge and Innovation Communities (KICs). As foreseen in the Regulation, the four representative members identified by KICs joined the Board in 2011. The European Commission is observer.</p>

	<p><i>Tasks:</i></p> <p>The Governing Board is responsible for steering the activities of the Institute, for the selection, designation and evaluation of the KICs, and for all other strategic decisions.</p> <p><b>Executive Committee</b></p> <p><i>Composition:</i></p> <p>The Executive Committee consists of five GB members, including the Chairperson and Vice-Chairperson. It is chaired by the Chairperson of the Governing Board.</p> <p><i>Tasks:</i></p> <p>The Executive Committee oversees the running of the Institute and takes such decisions as are necessary between meetings of the Governing Board.</p> <p><b>Director</b></p> <p>Appointed by and responsible to the Governing Board for the administrative and financial management of the Institute; the Institute's legal representative.</p> <p>Mr Jose Manuel Leceta was appointed on 19 May 2011.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Institute in 2011</b></p>	<p><b>Final Budget</b></p> <p>65,85 million euro (The Institute was granted financial autonomy on 8 June 2011, the budget having been implemented by the European Commission until that date.)</p> <p><b>Staff as at 31 December 2011</b></p> <p>Authorised: 52 (35)  Occupied: 40 (24)  Other posts: 0 (0)</p> <p>Total: 40 (24), assigned to the following duties:</p> <ul style="list-style-type: none"> <li>— operational tasks: 19 (10)</li> <li>— administrative and support tasks: 21 (14)</li> </ul>
<p><b>Products and services in 2011</b></p>	<ul style="list-style-type: none"> <li>— Participation of the Chairman of the Governing Board in the Informal Competitiveness Council meeting of 12 April 2011.</li> <li>— Organisation of the first "EIT's Vision for the Future" stakeholder conference in Budapest (HU) on 14 April 2011.</li> <li>— Submission of the Institute's Draft Strategic Innovation Agenda (SIA) to the European Commission on 15 June 2011.</li> <li>— Participation of the Director of the Institute in the 'Friends of EIT' event hosted by the European Parliament with Commissioner Vassiliou and KIC CEOs on 21 September 2011.</li> <li>— Organisation of the first "Youth and Entrepreneurship" conference in Kraków (PL) on 20-21 October 2011, with 200 participants.</li> <li>— Launch of the EIT Forum with KICs (a platform created to establish regular dialogue between the Director of the Institute and the KIC CEOs). First Forum held in Budapest on 11 November 2011.</li> </ul>

— Joint contribution by the Chairman of the Institute's Governing Board, the Institute's Director and KIC CEOs at the 1st Innovation Convention organised by the European Commission, 5-6 December 2011. The number of KIC partners has increased steadily, from 75 in 2010 to around 400 in 2012. The Institute's total contribution is around 160 million euro (slightly less than 25 % of the KICs' total budget) for the period 2010-2012. Some key results achieved by the KICs in 2010 and 2011 comprise the following:

Climate KIC: a legal entity, financially structured, with a management team led by a CEO, and five co-locations and six regional innovation centres established. Among other activities, the KIC has also launched the Contextual Learning Journey Summer School, with 50 participants in 2010 and 70 participants in 2011; a portfolio of 12 Innovation and 4 pathfinder projects; the 'Pioneers into Practice' programme.

EIT ICT Labs: a legal entity, financially structured, with a management team led by a CEO, and five co-locations. Among other activities, it has launched a Master School based on 7 technical majors and 1 minor in Innovation & Entrepreneurship; Summer Schools attended by 368 students; an Entrepreneurship Support System at each node; 19 companies coached, including 4 new start-ups catalysed by the KIC; 5 new potential products and services.

KIC InnoEnergy: a legal entity, financially structured, with a management team led by a CEO, and six co-locations. Among other activities, it has launched 4 Master of Sciences and 3 Executive programs with 155 students; awarded 120 scholarships; launched a portfolio of 35 innovation projects in six thematic fields, with 45 industries involved; presented 82 Business Plans for new ventures; nurtured 27 companies; pre-identified 56 patents; registered 7 new patents; implemented 45 processes related to KIC technologies in 29 SMEs; 20 potential products and services.

— First success stories derived from the implementation of KIC activities.

— 129 332 unique visits to the website (138 072)

Source: Information supplied by the Institute.

### THE INSTITUTE'S REPLIES

14. There is a seasonal distribution of expenditures particularly as regards grants. Grant agreements were concluded at the beginning of the year, and consequently the pre-financing payments were executed prior to the Institute's financial autonomy. As grants represent about 90 % of the Institute's budget, their impact on budget execution is significant. Execution rates are considerably higher for the entire calendar year than for the audited period of financial autonomy. However, in order to improve budget execution, the Institute has introduced a monthly reporting on budget implementation and a review process for assessing in detail the implementation of the budget and the EIT work programme, thereby formulating corrective and reorientation actions in due course if needed, through the year.

#### **Other comments**

EIT acknowledges the Court' comment and is committed to decrease the gap between the starting date of the grant agreements and the date of signature. The gap was reduced from 2010 to 2012 (i.e. the grant agreement 2012 was signed in March and April with the KICs). Meanwhile, the EIT, in cooperation with the KICs, has established a roadmap, including the issuance of templates for business plan and reports, which will lead to the signature of the grant agreements 2013 in early 2013 (i.e. January).

---

## REPORT

**on the annual accounts of the European Medicines Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/20)

## INTRODUCTION

1. The European Medicines Agency (hereinafter "the Agency" or "EMA"), which is located in London, was established by Council Regulation (EEC) No 2309/93, which was replaced by Regulation (EC) No 726/2004 of the European Parliament and of the Council <sup>(1)</sup>. The Agency operates through a network and coordinates the scientific resources made available by the national authorities in order to ensure the evaluation and supervision of medicinal products for human or veterinary use <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Agency, which comprise the financial statements <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and

<sup>(1)</sup> OJ L 214, 24.8.1993, p. 1 and OJ L 136, 30.4.2004, p. 1. In accordance with the latter Regulation, the Agency's original name, the European Agency for the Evaluation of Medicinal Products, was changed to the European Medicines Agency.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002, (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

supervisory and control systems implemented to ensure the legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

8. The Court considers 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**

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

### **COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. Payment appropriations amounting to 9,6 million euro have been carried over to 2012 for Title II (administrative expenditure), representing 29 % of the Title II budget. Payment appropriations amounting to 10,3 million euro have been carried over to 2012 for Title III (operational expenditure),

<sup>(10)</sup> The Final Annual Accounts were drawn up on 29.6.2012 and received by the Court on 2.7.2012. 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. They can be found on the following website <http://eca.europa.eu> or <http://www.ema.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

representing 34 % of the Title III budget<sup>(12)</sup>. This level of carry-over is excessive and at odds with the principle of annuality.

### **COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

13. The Agency increased in 2011 the financial envelope of an irregular framework contract for IT services concluded in 2009 for which the Court had qualified its opinion on the legality and regularity of the transactions underlying the Agency's 2009 accounts. The original contract ceiling was 30 million euro. This was irregularly increased in 2011 by 8 million euro and specific contracts were signed for an amount of 8,1 million euro, leading to irregular payments and accrued charges in 2011 amounting to 3,6 million euro. The IT project is ongoing and the Agency has started preparing in 2011 a new framework contract.

14. There is scope for improving the transparency of procurement procedures as regards the justification of the estimated contract volumes and the definition, publication and application of selection criteria.

### **OTHER COMMENTS**

15. The Court identified a need to improve the transparency of staff selection procedures. Selection Board members did not always complete their conflict of interest declarations, or did not do so in a timely manner, and there was no evidence of any action taken to address the issues raised by these declarations. The documentation of the Selection Board's proceedings was not always adequate and there is no evidence as to how the method for the short-listing of candidates was established and that the questions for the written tests or interviews were set before the examinations.

16. As in previous reports, the Court has noted the need to introduce a system of remuneration for services provided by Member State authorities based on their real costs.

17. The Court carried out an audit aimed at evaluating the policies and procedures for the management of conflict of interest situations for four European Agencies, including EMA. The results of the audit are presented in a separate document (Special Report 15/2012).

<sup>(12)</sup> The figures presented for Title III exclude the carryover (18,3 million euro) of payment appropriations for the evaluation of medicinal products (71,9 million euro, budget line 3 0 1 0), for which the carry-over is justified because of the nature of the payments to the national authorities.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---



## ANNEX

**European Medicines Agency (London)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 168 of the Treaty on the Functioning of the European Union)</i></p>	<p><b>Collection of information</b></p> <p>A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.</p> <p>Union action, which shall complement national policies, shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental 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, and monitoring, early warning of and combating serious cross-border threats to health.</p>
<p><b>Competences of the Agency</b></p> <p><i>(Regulation (EC) No 726/2004 of the European Parliament and of the Council)</i></p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>— To coordinate the scientific resources that the Member States' authorities make available to the Agency for the authorisation and supervision of medicinal products for human and veterinary use.</li> <li>— To provide the Member States and the institutions of the European Union with scientific advice on medicinal products for human or veterinary use.</li> </ul> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To coordinate the scientific evaluation of medicinal products which are subject to Union marketing authorisation procedures.</li> <li>— To coordinate the supervision of medicinal products which have been authorised within the Union (<i>Pharmacovigilance</i>).</li> <li>— To advise on the maximum limits for residues of veterinary medicinal products which may be accepted in foodstuffs of animal origin.</li> <li>— To coordinate verification of compliance with the principles of good manufacturing practice, good laboratory practice and good clinical practice.</li> <li>— To record the status of marketing authorisations granted for medicinal products.</li> </ul>
<p><b>Governance</b></p>	<p><b>The Committee for Medicinal Products for Human Use (CHMP)</b>, consisting of one member and one alternate from each Member State and 5 co-opted members, advises on any question relating to the evaluation of medicinal products for human use.</p> <p><b>The Committee for Medicinal Products for Veterinary Use (CVMP)</b>, consisting of one member and one alternate from each Member State, advises on any question relating to the evaluation of veterinary medicinal products.</p> <p><b>The Committee for Orphan Medicinal Products (COMP)</b>, consisting of one member and one alternate from each Member State, advises on any question relating to the evaluation of orphan medicinal products.</p> <p><b>The Committee on Herbal Medicinal Products (HMPC)</b>, consisting of one member and one alternate from each Member State and 5 co-opted members, advises on any question relating to the evaluation of herbal medicinal products.</p> <p><b>The Paediatric Committee (PDCO)</b>, consisting of one member and one alternate from each Member State, six members and alternates representing healthcare professionals and patients' associations, is responsible for the scientific assessment and agreement of paediatric investigation plans and for the system of waivers and deferrals thereof.</p>

	<p><b>The Committee for Advanced Therapy (CAT)</b>, consisting of five members of CHMP and their <i>(five)</i> alternates, one member and one alternate from each Member State, two members and two alternates representing clinicians, two members and two alternates representing patients' associations, is responsible for any question relating to the assessment of advanced therapy medicinal products and ATMP certification and classification.</p> <p><b>The Management Board</b> consists of one member and one alternate from each Member State, two representatives of the Commission, two representatives appointed by the European Parliament, two representatives from patients' organisations, one representative from doctors' organisations and one representative from veterinarians' organisations. The Board adopts the work programme and the annual report.</p> <p><b>The Executive Director</b> is appointed by the Management Board on a proposal from the Commission.</p> <p><b>Internal audit</b>, Internal Audit Service of the Commission (<i>IAS</i>).</p> <p><b>Internal Audit Capability</b>, Internal Audit Service of the EMA (<i>IAC</i>).</p> <p><b>External audit</b>, European Court of Auditors (<i>ECA</i>).</p> <p><b>Discharge authority</b>, Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>208,863 million euro <sup>(1)</sup> (208,387); Union contribution: 13,4 % <sup>(2)</sup> (13,6 % <sup>(3)</sup>)</p> <p><b>Staff as at 31 December 2011</b></p> <p>567 (567) foreseen in the establishment plan, of which occupied: 552 (546)</p> <p>177 (152) other staff (contract agents, seconded national experts, employment agency staff)</p> <p>Total staff: 728 (698), undertaking the following tasks: operational: 584 (556), administrative 144 (142)</p>
<p><b>Products and services in 2011 (2010)</b></p>	<p><b>Medicinal Products for Human Use</b></p> <ul style="list-style-type: none"> <li>— Applications for marketing authorisations: 100 (91)</li> <li>— Favourable opinions: 87 (51)</li> <li>— Average evaluation time: 178 days (167)</li> <li>— Opinions after authorisation: 4 982 (3 154)</li> <li>— Pharmacovigilance (CAP EEA and non-EEA ADR reports): 362 231 reports (302 362)</li> <li>— Periodic safety update reports: 583 (559)</li> <li>— Scientific advice finalised: 430 (322)</li> <li>— Mutual Recognition Procedures and Decentralised Procedures: started 6 401 (21 433); ended 6 715 (11 100)</li> <li>— Applications for paediatric investigation plans: 187 (326) relating to 220 (403) indications</li> </ul> <p><b>Medicinal Products for Veterinary Use</b></p> <ul style="list-style-type: none"> <li>— Applications for marketing authorisations: 11 (18)</li> <li>— Applications in respect of variants: 287 (162)</li> </ul>

---

<b>Inspections</b>
Inspections: 449 (300)
<b>Herbal Medicinal Products</b>
Herbal monographs: 20 (19)
List of herbal substances, preparations and combination thereof: 0 (3)
<b>Orphan Medicinal Products</b>
— Applications: 166 (174)
— Favourable opinions: 111 (123)
<b>SMEs</b>
— Requests for SME status 433 (251)
— Applications for fee reduction or deferrals 350 (161)

---

(<sup>1</sup>) This is the final budget, not the actual outturn from the budgetary accounts.

(<sup>2</sup>) This is the percentage of the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgetary authority) in relation to the final budget.

(<sup>3</sup>) This is the percentage of the budgeted EU contribution (excluding special contribution for orphan fee reductions and excluding the use of surplus n-2 by the budgetary authority) in relation to the final budget.

Source: Information supplied by the Agency.

---

**THE AGENCY'S REPLIES**

12. Over the last years the Agency has made every effort to reduce its level of carry-over to an acceptable level, i.e. 30 % for Title II and III overall, and has in fact achieved a continuous reduction. As the operations of the Agency are of a multi-annual nature and not linked to the calendar year, a certain level of carry-overs is unavoidable.

13. As it was explained in detail in the Agency's replies to the 2009 discharge observations, the Agency considers that the IT framework contract was not irregular. As a consequence, the extension of the framework contract is considered not irregular as well.

14. The Agency has taken note of the Court's comments and updated its procedures with a view to transparency and documentation.

15. The Agency has taken note of the Court's comments and updated its procedures with a view to transparency and timely documentation.

16. In 2009 a proposal for a new payment system was presented to the Management Board but no agreement was reached. The Management Board will be asked to endorse a new action plan at the meeting to be held in October 2012. Since any new fee system will require a change of the legislation, the European Commission will be approached to integrate the subject issue in its planned review of the Agency's fee regulation.

17. The Agency's replies to the results of this audit will be published together with the Special Report.

---

## REPORT

**on the annual accounts of the European Monitoring Centre for Drugs and Drug Addiction for the financial year 2011, together with the Centre's replies**

(2012/C 388/21)

## INTRODUCTION

1. The European Monitoring Centre for Drugs and Drug Addiction (hereinafter "the Centre"), which is located in Lisbon, was established by Council Regulation (EEC) No 302/93 of 8 February 1993 <sup>(1)</sup>. Its main task is to collect, analyse and disseminate information as regards drugs and drug addiction in order to prepare and publish information at European level that is objective, reliable and comparable. The information is intended to provide a basis for analysing the demand for drugs and ways of reducing it, as well as, in general, phenomena associated with the drug market <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Centre's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Center, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Center, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Centre and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Centre are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 36, 12.2.1993, p. 1. This Regulation and its amendments were repealed by Regulation (EC) No 1920/2006 of the European Parliament and of the Council (OJ L 376, 27.12.2006, p. 1).

<sup>(2)</sup> The *Annex* summarises the Centre's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Centre.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Centre's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Centre for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Court identified 51 cases with a total value of 90 053 euro in which appropriations carried over to 2012

were not related to existing legal commitments and should have been decommitted and paid back to the Commission. However, the Centre initiated the process too late. As a consequence, due to restrictions imposed by the IT system, the funds will be blocked for one year and will only be decommitted and paid back at the end of 2012.

13. The Centre currently bears the annual cost of about 275 000 euro for unused office space in its former building and in the new Headquarters. The Centre should continue, in cooperation with the European Commission and National Authorities, to seek adequate solutions for the unused office space.

**COMMENTS ON KEY CONTROLS OF THE CENTRE'S SUPERVISORY AND CONTROL SYSTEMS**

14. The Centre has not yet adopted and implemented a treasury policy to minimise and spread financial risk while aiming at adequate returns.

15. The Centre has not yet adopted a comprehensive policy on exceptions and deviations from established processes and procedures<sup>(12)</sup>.

**OTHER COMMENTS**

16. There is room to further improve the recruitment procedures. The questions for oral and written tests were not set before the applications were examined by the selection board.

17. The Centre's procurement files were not always complete and adequately organised<sup>(13)</sup>.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 18 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 21 June 2012 and received by the Court on 17 July 2012. 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://www.emcdda.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Internal Control Standards No 8.

<sup>(13)</sup> Several relevant documents such as the estimation of contract values and letters to unsuccessful tenderers were missing.

## ANNEX

**European Monitoring Centre for Drugs and Drug Addiction (Lisbon)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Articles 168 and 114 of the Treaty on the Functioning of the European Union)</i></p>	<p>The Union shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.</p>
<p><b>Competences of the Centre</b></p> <p><i>(Regulation (EC) No 1920/2006 of the Parliament and of the Council of 12 December 2006)</i></p>	<p><b>Objectives</b></p> <p>To provide the Union and its Member States with factual, objective, reliable and comparable information at Union level concerning drugs, drug addiction and their consequences.</p> <p>The Monitoring Centre is to focus on the following priority areas:</p> <ol style="list-style-type: none"> <li>1) monitoring the state of the drugs problem, and emerging trends, in particular those involving multi-drug use;</li> <li>2) monitoring the solutions and providing information on best practices;</li> <li>3) assessing the risks of new psychoactive substances and maintaining a rapid information system;</li> <li>4) developing tools and instruments to help Member States to monitor and evaluate their national policies and the Commission to monitor and evaluate Union policies.</li> </ol> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To collect and analyse data;</li> <li>— To improve data-comparison methods;</li> <li>— To disseminate data;</li> <li>— To cooperate with European and international bodies and organisations and with countries outside the Union;</li> <li>— To identify new developments and changing trends.</li> </ul>
<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p>Comprises one representative from each Member State, two representatives from the Commission and two independent experts, designated by the European Parliament, who are particularly knowledgeable in the field of drugs.</p> <p>To adopt the work programme, the general activities report and the budget. To give an opinion on the final accounts.</p> <p><b>Executive Committee</b></p> <p><i>Composition</i></p> <p>Chairperson of the Management Board;</p> <p>Vice-Chairperson of the Management Board;</p> <p>Two other elected members from the Management Board representing the Member States;</p> <p>Two representatives from the Commission;</p> <p><b>Director</b></p> <p>Appointed by the Management Board at the Commission's proposal.</p>

	<p><b>Scientific Committee</b></p> <p>Delivers opinions. It consists of, at most, fifteen well-known scientists appointed in view of their excellence by the Management Board following a call for expressions of interest. The Management Board may also appoint a panel of experts to the extended Scientific Committee for the risk assessment of new psychoactive substances.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Internal audit</b></p> <p>The Commission's internal audit service.</p> <p><b>Discharge authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Centre in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>16,27 million euro (15,90 million euro). Union subsidy 94,63 % (94,34 %).</p> <p><b>Staff at 31 December 2011</b></p> <p>Number of posts in establishment plan: 84 (84)</p> <p>Posts occupied: 77 (78)</p> <p>+ 27 (27) other staff (seconded national experts, contract staff and temporary replacements)</p> <p>Total staff: 104 (105)</p> <p>Allocated to</p> <p>operational: 64 (63,5)</p> <p>administrative and IT support: 28,5 (29,5)</p> <p>mixed: 11,5 (12)</p>
<p><b>Products and services 2011 (2010)</b></p>	<p><b>Network</b></p> <p>The Centre runs a computerised network for the collection and exchange of information called the 'European Information Network on Drugs and Drug Addiction' (Reitox); this network connects national drug information networks, specialist centres in the Member States and the information systems of international organisations working with the Centre.</p> <p><b>Publications</b></p> <ul style="list-style-type: none"> <li>— Annual report on the state of the drug problem in Europe; 22 (23) language versions, publication and interactive website);</li> <li>— Selected issues 3 (3), EN;</li> <li>— Statistical bulletin and interactive website containing over 350 (350) tables and 100 (100) graphs;</li> <li>— General report of activities – annual, EN;</li> <li>— Drugnet Europe newsletter – 4 issues, EN (4);</li> <li>— Drugs in focus (policy briefings) – 2 (0) issues,</li> <li>— Centre Scientific Monograph – 0 (1), EN;</li> <li>— Centre Insights – 0 (0), EN;</li> <li>— Centre thematic papers – 1 (1);</li> <li>— Joint publications – 3: EN (1st); EN (2nd); AR, HR, RU (3rd), (3);</li> </ul>



- 
- Drug profiles – 1 new (3) and 17 updated (14), DE, EN, FR;
  - Technical and scientific studies, including Articles and scientific summaries 39 (26);
  - Scientific posters: 2 (1);
  - Data collection, validation, storage and retrieval system (Fonte).

**Other websites**

Reorganisation/updating/content development of public Centre website including:

- Country overviews,
- Drug treatment overviews, prevention profiles
- European legal database on drugs,
- Evaluation instruments bank,
- Best practice portal (exchange on drug demand reduction action, harm reduction and treatment modules),
- Topic pages,
- Publications database.

**Promotional material**

Conference materials 1 EN (0).

Media products: 13 (14) news releases (4 in 23 languages) and 7 (9) fact sheets, EN; 1 Power Point presentation, EN (23).

**Participation in international conferences, technical and scientific meetings 245 (266).**

---

Source: Information supplied by the Centre.

---

**THE CENTRE'S REPLIES**

12. The EMCDDA will review its internal process to ensure that, as soon and as much as is possible, outstanding commitments which do not relate to legal obligations are decommitted before the end of the year, on the basis of the information available and foreseeable at that time.

13. The EMCDDA is pursuing and increasing its efforts in this field, in line with the Court's observation and recommendation. For this purpose specific initiatives have been taken with both the European Commission and the relevant National Authorities.

14. In line with the Court's observation and further to the prudent measures already taken to reduce the risk at stake, the EMCDDA will put in place an appropriate policy aimed at periodically monitoring the possible evolution of this risk.

15. In line with the observation of the Court and further to the procedures already in place, the EMCDDA is going to review its policy on exceptions to explicitly cover any exception that reflects a deviation from any rule formally adopted and in force at the EMCDDA.

16. Further to the Court's recommendation the EMCDDA will assess the possibility of an earlier definition of the questions for oral and written tests, by evaluating the possible risks, costs and benefits of such a measure.

17. The documents that were not in the files audited were duly provided, as required. The EMCDDA has put in place specific checklists for procurement files, to further ensure that all required documents are included and appropriately organised.

---

## REPORT

**on the annual accounts of the European Maritime Safety Agency for the financial year 2011,  
together with the Agency's replies**

(2012/C 388/22)

## INTRODUCTION

1. The European Maritime Safety Agency (hereinafter "the Agency"), which is located in Lisbon, was set up by Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>(1)</sup>. The Agency's tasks are to ensure a high level of maritime safety and to prevent pollution by ships, provide the Commission and the Member States with technical assistance, and monitor the implementation of Union legislation, as well as to evaluate its effectiveness<sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Agency, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting

in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 208, 5.8.2002, p. 1.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Agency's 2011 budget<sup>(12)</sup> amounted to 56 million euro compared with 51 million euro the previous year. Budget

commitments amounting to 0,9 million euro were not related to existing legal commitments and the Agency should have decommitted and paid back the amount to the Commission at the beginning of 2012. However, the Agency initiated the process too late. As a consequence, due to restrictions imposed by the IT system, the funds will be blocked for one year and will only be decommitted and paid back at the end of 2012.

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

13. The Court identified the need to improve the Agency's asset management. There are unexplained differences between the recorded annual and cumulated depreciation. For internally created intangible assets, accounting procedures and information on costs are not reliable. Evidence of a physical inventory of administrative equipment within the required period is lacking.

14. In December 2011, the Agency sold two sets of sweeping arms systems for at-sea oil recovery services. It aimed to obtain at least the equipment's net book value amounting to 319 050 euro. However, since the minimum price was wrongly set below net book value, the equipment was sold realising a loss of 93 950 euro.

**OTHER COMMENTS**

15. There is room to improve the transparency of recruitment procedures. The thresholds candidates had to meet in order to be invited to interview, the questions for written tests and interviews and the corresponding weightings for the evaluation of candidates were not set before the applications were examined.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 20 June 2012 and received by the Court on 29 June 2012. 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 [www.emsa.europa.eu](http://www.emsa.europa.eu).

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> According to third budget amendment dated 3.12.2011, not yet published in the Official Journal; current year appropriations only.

## ANNEX

**European Maritime Safety Agency (Lisbon)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 100 of the Treaty on the Functioning of the European Union)</i></p>	<p><b>Common transport policy</b></p> <p>“The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport”.</p>
<p><b>Competences of the Agency</b></p> <p><i>(Regulation (EC) No 1406/2002 of the European Parliament and of the Council as amended by Regulations (EC) No 1644/2003 and (EC) No 724/2004)</i></p>	<p><b>Objectives</b></p> <p>The European Maritime Safety Agency has been established for the purpose of ensuring a high, uniform and effective level of maritime safety, maritime security and prevention and response of pollution by ships within the Union.</p> <p>The Agency provides the Member States and the Commission with the technical and scientific assistance needed with a high level of expertise, in order to assist them:</p> <ul style="list-style-type: none"> <li>— To verify that Union legislation is properly applied in the field of maritime safety, security and prevention of pollution by ships;</li> <li>— To monitor its implementation;</li> <li>— To evaluate the effectiveness of the measures in place.</li> </ul> <p>Operational services have been developed and offered to the Member States and the Commission in order to address ship-sourced pollution within the Union and in the field of traffic monitoring and maritime surveillance. Systems have been developed to support the implementation of relevant legislation (THETIS in the field of Port State Control, EMCIP in the field of Accident Investigation, STCW-IS in the field of training and certification of seafarers, etc.).</p> <p><b>Tasks</b></p> <p>The Agency's tasks are broadly divided into four key areas in line with its founding regulation and relevant EU legislation. Firstly, the Agency <b>assists the Commission in monitoring the implementation of EU legislation</b> relating, among others, to ship survey and certification, certification of marine equipment, ship security, the training of seafarers and Port State Control.</p> <p>Secondly, the Agency develops and operates <b>maritime information capabilities at EU level</b>. Significant examples are the SafeSeaNet (SSN) vessel tracking system, to enable the EU-wide tracking of vessels and their cargoes, and incidents on-board; and the EU LRIT Data Centre, to ensure the identification and tracking of EU flagged ships worldwide.</p> <p>In parallel, a <b>marine pollution preparedness, detection and response capability</b>, which includes a European Network of Stand-by Oil Spill Response Vessels as well as a European satellite oil spill monitoring and vessel detection service (CleanSeaNet), contributes to an effective chain for protecting EU coasts and waters from pollution by ships.</p> <p>Finally, the Agency provides <b>technical and scientific advice</b> to the Commission in the field of maritime safety and prevention of pollution by ships in the continuous process of evaluating the effectiveness of the measures in place, and in the updating and development of new legislation. It also provides support to, and facilitates co-operation between, the Member States and disseminates best practices.</p>
<p><b>Governance</b></p>	<p><b>Administrative Board</b></p> <p><i>Composition</i></p> <p>One representative per Member State, four representatives of the Commission and four representatives, without the right to vote from the professional sectors concerned.</p>

	<p><i>Tasks</i></p> <ul style="list-style-type: none"> <li>— To adopt the multi-annual staff policy plan, the annual budget, the work programme, the annual report and a detailed plan for the Agency's pollution preparedness and response activities.</li> <li>— To supervise the work undertaken by the Executive Director.</li> </ul> <p><b>Executive Director</b></p> <p>Appointed by the Administrative Board. The Commission may propose one or more candidates.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Internal Audit</b></p> <ul style="list-style-type: none"> <li>— Internal Audit Services of the European Commission.</li> <li>— Internal Audit Capability of the Agency.</li> </ul> <p><b>Discharge Authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p><i>Commitment Appropriations (C1)</i></p> <p>56,4 (54,4) million euro</p> <p><i>Payment Appropriations (C1)</i></p> <p>56,4 (50,6) million euro</p> <p>Amending budgets published in the <i>Official Journal of the European Union</i> cover a variety of fund sources, with C1 being almost the exclusive fund source. For the sake of clarity and transparency, only predominant and therefore relevant C1 budget appropriations are quoted.</p> <p><b>Staff as at 31 December 2011</b></p> <p><i>Statutory Staff</i></p> <p>208 (200) authorised in the establishment plan, of which occupied: 197 (196).</p> <p><i>Contract Agents</i></p> <p>29 (27) planned in the budget, of which occupied: 25 (23).</p> <p><i>Seconded National Experts</i></p> <p>15 (15) planned in the budget, of which occupied: 15 (10).</p>
<p><b>Products and services 2011</b></p>	<ul style="list-style-type: none"> <li>— 51 Workshops and other events (with 1 442 participants in workshops)</li> <li>— 27 different training sessions which resulted in 713 national experts trained</li> <li>— 90 inspections and visits</li> <li>— SSN was 99,28 % available throughout the year</li> <li>— 2 481 satellite images ordered and analysed through CleanSeaNet</li> <li>— EU LRIT Data Centre 99,36 % available throughout the year</li> </ul>

---

	<ul style="list-style-type: none"><li>— 16 anti-pollution vessels contracted</li><li>— 64 drills and 26 exercises with the anti-pollution vessels (13 operational exercises and 13 notification exercises)</li><li>— EMSA Maritime Support Services operating on a 24/7 basis</li><li>— THETIS 99,07 % available throughout the year</li></ul>
--	--

---

Source: Information supplied by the Agency.

---

### THE AGENCY'S REPLIES

12. The Agency will review its year end procedures in order to ensure outstanding balances on commitments not related to existing legal obligations are decommitted before the closing of the year. Authorising Officers are instructed to initiate the de-commitment procedure as soon as there is certainty that a measure is not or will not be fully implemented.

13. Differences between recorded annual and cumulated depreciation have been mainly triggered by impairment procedures and inclusion of assets transferred from third parties and already partly depreciated. Guidelines for internally generated intangible assets are being updated along with a proper cost allocation based on "formally accepted milestones" and their related percentage of completion. The Agency is performing a physical inventory of its assets including physical verification. It plans to conclude this in the third quarter of 2012.

14. Public sale of used APM equipment is a new concept for EMSA. The Agency indicated as target value the net book value (purchase cost minus depreciation) but the final price was to be determined by the market. Only one offer was received leading to a suboptimal sale. A procedure has been developed to calculate and verify the depreciated book value, based on this first sale experience.

15. EMSA endorses the Court's recommendations and has already updated its recruitment procedures accordingly.

---



## REPORT

**on the annual accounts of the European Network and Information Security Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/23)

## INTRODUCTION

1. The European Network and Information Security Agency (hereinafter "the Agency"), which is located in Heraklion, was created by Regulation (EC) No 460/2004 of the European Parliament and of the Council <sup>(1)</sup>, amended by Regulation (EC) No 1007/2008 of the European Parliament and of the Council <sup>(2)</sup> and by Regulation (EC) No 580/2011 <sup>(3)</sup>. The Agency's main task is to enhance the Union's capability to prevent and respond to network and information security problems by building on national and Union efforts <sup>(4)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(5)</sup> of the Agency, which comprise the "financial statements" <sup>(6)</sup> and the "reports on the implementation of the budget" <sup>(7)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the 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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(11)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 77, 13.3.2004, p. 1.

<sup>(2)</sup> OJ L 293, 31.10.2008, p. 1.

<sup>(3)</sup> OJ L 165, 24.6.2011, p. 3.

<sup>(4)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(5)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(6)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(7)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(8)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(9)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(10)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Institute.

<sup>(11)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. 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 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(13)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. As in 2010, the Agency's budget amounted to 8,1 million euro. Budget implementation improved as compared with the previous year. However, total appropriations carried over to 2012 amount to 1,1 million euro. For Title II (administrative expenditure) 0,2 million euro (34 %) and for Title III (operational expenditure) 0,8 million euro (33 %) of appropriations were carried forward. This high level of carry over is at odds with the budgetary principle of annuality.

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

13. The Court identified the need to improve the documentation of fixed assets. Purchases of fixed assets are recorded at invoice and not at item level. When several new assets are covered by one single invoice, there is only one entry for all the purchased assets and the total amount.

**OTHER COMMENTS**

14. The Agency needs to improve the transparency of recruitment procedures. No adequate measures were taken to address the lack of transparency reported by the Court in 2010. The thresholds candidates had to meet in order to be invited to interview, the questions for written tests and interviews and their weightings were not prepared before the examination of the applications. Threshold scores for being put on a list of suitable candidates were not established before the examination of applications.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(12)</sup> The Final Annual Accounts were drawn up on 25 June 2012 and received by the Court on 2 July 2012. 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://www.enisa.europa.eu/>.

<sup>(13)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Network and Information Security Agency (Heraklion)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p>(Article 114)</p>	<p>The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.</p> <p>The Internal Market responsibility is a shared competence between the Union and the Member States (Article 4(2)(a) TFEU).</p>
<p><b>Competences of the Agency</b></p> <p>(Regulation (EC) No 460/2004 of the Parliament and the Council)</p>	<p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1. The Agency enhances the capability of the Union, the Member States and the business Union to prevent, address and respond to network and information security problems.</li> <li>2. The Agency provides assistance and delivers advice to the Commission and the Member States on issues related to network and information security falling within its competencies.</li> <li>3. The Agency develops a high level of expertise and uses this expertise to stimulate broad cooperation between actors from the public and private sectors.</li> <li>4. The Agency assists the Commission, where called upon, in the technical preparatory work for updating and developing Community legislation in the field of network and information security.</li> </ol> <p><b>Tasks</b></p> <p>The Agency:</p> <ol style="list-style-type: none"> <li>(a) collects information on current and emerging risks that could produce an impact on electronic communications networks,</li> <li>(b) provides the European Parliament, the Commission and European bodies or competent national bodies with advice and assistance,</li> <li>(c) enhances cooperation between actors in its field,</li> <li>(d) facilitates cooperation on common methodologies to address network and information security issues,</li> <li>(e) contributes to awareness-raising on network and information security issues for all users by, inter alia, promoting exchanges of current best practices, including methods of alerting users and seeking synergy in public and private sector initiatives,</li> <li>(f) assists the Commission and the Member States in their dialogue with industry,</li> <li>(g) tracks the development of standards for products and services on network and information security,</li> <li>(h) advises the Commission on research in the area of network and information security and the use of risk prevention technologies,</li> <li>(i) promotes risk assessment activities on prevention management solutions,</li> <li>(j) contributes to cooperation with third countries and international organisations,</li> <li>(k) expresses independently its own conclusions, orientations and gives advice on matters within its scope and objectives.</li> </ol>

<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p>One representative from each Member State, three representatives appointed by the Commission, as well as three representatives, proposed by the Commission and appointed by the Council, without the right to vote, each of whom represents one of the following groups:</p> <p>(a) information and communication technologies industry;</p> <p>(b) consumer groups;</p> <p>(c) academic experts in network and information security.</p> <p><b>Permanent Stakeholders Group</b></p> <p>— 30 high-level experts representing the relevant stakeholders, such as the information and communication technologies (ICT) industry, ICT user organisations and academic experts in network and information security.</p> <p>— Following an open call, the Members are selected by the Executive Director, who after informing the Management Board of his decision, appoints the selected applicants <i>ad personam</i> for a term of office of 2,5 years.</p> <p><b>Executive Director</b></p> <p>Appointed by the Management Board, from a list of candidates proposed by the European Commission and following a hearing in the European Parliament, for a term of five years.</p> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Internal audit</b></p> <p>Internal Audit Service of the European Commission.</p> <p><b>Discharge authority</b></p> <p>European Parliament on a recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>8,1 million euro (8,1 million euro) of which the Union subsidy is 100 % (100 %)</p> <p><b>Staff at 31 December 2011</b></p> <p>44 (44) posts foreseen in the establishment plan, of which occupied: 41 (40).</p> <p>Other posts occupied: 13 (11) Contract Agents, 4 (2) Seconded National Experts.</p> <p>Total staff: 58 (53), undertaking the following tasks:</p> <p>operational: 40 (34)</p> <p>administrative: 18 (19)</p>
<p><b>Products and services in 2011 (2010)</b></p>	<p><b>WS <sup>(1)</sup>1: the Agency as facilitator for improving cooperation</b></p> <p>The principal goal of the first Work Stream was to support the European Commission and the Member States in building on current cooperation schemes to intensify the exchange of information and cooperation between Member States. This includes providing data and opinions to the Commission in order to assist them in drafting new regulation as well as the identification and promotion of good practice in support of such legislation. This work fed into and takes into account the discussions at the European Forum for Member States (EFMS) and the European Public Private Partnership for Resilience (EP3R). The problems to be solved have</p>

been described in other documents, notably the European Commission's Communications on Security (COM 2006 251), the CIIP (COM 2009 149), which highlighted the importance of network and information security and resilience for the creation of a single European Information Space, and the Digital Agenda. As interdependencies become complex, a disruption in one infrastructure can easily propagate across boundaries (geographical and jurisdictional) as well as into other infrastructures and have a European-wide impact. The global nature of telecommunication business requires a common approach to deal with issues such as resilience and security of public communication networks.

Number of deliverables: 13

### **WS2 – Improving Pan-European CIIP <sup>(2)</sup> & Resilience**

The objective of work stream 2 is to assist Member States in implementing secure and resilient ICT systems and to increase the level of protection of critical information infrastructures and services in Europe.

This Work Stream is closely aligned with the CIIP Action Plan described in the Commission's communication of March 2009 and of March 2011. Much of this work also directly supports objectives laid down in the Internal Security Strategy document as well as the Digital Agenda. Work packages in the area of CIIP are, for the most part, a natural continuation of work carried out as part of the work programme of 2010.

More specifically, the objectives of this work stream are:

- To enhance the operational capabilities of Member States by helping relevant stakeholders to increase their level of efficiency and effectiveness
- To support and promote exercises on a pan-European level
- To identify and address the information security challenges in CIIP
- To identify and address information security issues in ICT and Interconnected Networks
- To support to the EU-U.S. Working Group on Cyber-security and Cyber-crime established in the context of the EU-U.S. summit of 20 November 2010.

Number of deliverables: 16

### **WS3: the Agency as promoter of privacy & trust**

WS3 comprised of four work packages (WPK):

- Understanding and analysing economic incentives and barriers to information security.
- Ensuring that privacy, identity and trust are correctly integrated into new services.
- Supporting the implementation of article 4 of the ePrivacy Directive (2002/58/EC).
- Promoting the establishment of a European Cyber Security month.

The first WPK analysed the economic barriers and incentives for improving information security at the pan-European level. The Agency analysed economic drivers and barriers in legal, policy, technical and educational areas and identified potential improvements.

The second WPK examined how privacy, identity and trust are integrated into new services, proposing recommendations for improvements. The goal was to assess and evaluate current developments in protecting the privacy of individuals and in enhancing the level of trust in network services.

---

	<p>The third WPK covered the support that the Agency provided for the implementation of Article 4 of the ePrivacy Directive. This was a continuation of the collaboration with Art.29, the EDPS as well the European Commission (DGs JUST and INFSO) and aimed at investigating how to practically implement at EU level the provisions of Article 4.</p> <p>Finally, the Agency collaborated with Member States on the organisation of a European Cybersecurity month.</p> <p>Number of deliverables: 5</p>
--	--

---

<sup>(1)</sup> WS: Work stream

<sup>(2)</sup> CIIP: Critical Information Infrastructure Protection

Source: Information supplied by the Agency.

---

---

**THE AGENCY'S REPLIES**

12. As stated by the Court, budget implementation improved in 2011. In order to further reduce the carry overs, the Agency started its procurement planning for 2012 and managed to launch respective procurement procedures related to activities provided for in the Work Programme 2012 in the last quarter of 2011. This practice should show results at the end of 2012.

13. The Agency has streamlined its asset management with the introduction of ABAC Assets, the asset management module introduced by the Commission and used by Institutions and Agencies. The said tool, that is fully deployed and used in 2012, provides for unique identification of all assets registered, therefore the comment of the Court is fully addressed.

14. The Agency has adopted relevant guidelines on the recruitment of staff on 2 March 2012, which fully address the comment of the Court. These guidelines are handed out to the members of the Selection Boards as soon as they are appointed by the Executive Director.

---

## REPORT

**on the annual accounts of the Europol Pension Fund for the financial year 2011, together with the Fund's replies**

(2012/C 388/24)

## INTRODUCTION

1. The Europol Pension Fund (hereinafter "the Fund"), which is located in The Hague, was established by Article 37, Appendix 6, of the former Staff Regulations of the European Police Office, The Hague (Europol). Rules on the implementation of the Fund were established by Council Act of 12 March 1999 <sup>(1)</sup> and amended by Council Decision of 28 June 2011 <sup>(2)</sup>. The objective of the Fund is to finance and pay pensions for staff already employed by Europol before it became an EU Agency on 1 January 2010.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of the Fund's internal controls. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union and Article 10(4) of the Council's Decision of 28 June 2011 the Court has audited the annual accounts of the Fund <sup>(3)</sup> and the legality and regularity of the transactions underlying those accounts.

**The Management's responsibility**

4. The Director of Europol and the Fund's Management Board have joint responsibility for the management of the Fund and for putting in place the relevant organisational structure, internal management and control systems and procedures for drawing up the final accounts. The Fund's Management Board has sole responsibility for the preparation of the final accounts and for making sure that these 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 Auditor's responsibility**

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(4)</sup> with a

statement of assurance as to the reliability of the annual accounts of the Fund and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Fund are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the Fund, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

8. The Court considers 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**

9. In the Court's opinion, the Fund's Annual Accounts <sup>(5)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Council Act of 12 March 1999 as amended by Council Decision 28 June 2011 and Directive 610 of the Dutch financial reporting rules and the International Financial Reporting Standards (IFRS).

<sup>(1)</sup> Document 5397/99 on the Council's public register: <http://register.consilium.europa.eu/>.

<sup>(2)</sup> OJ L 179, 7.7.2011, p. 5.

<sup>(3)</sup> The accounts comprise the balance sheet, the statement of income and expenses, the cash flow statement and the explanatory notes.

<sup>(4)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

<sup>(5)</sup> The Final Annual Accounts were drawn up on 10 July 2012 and received by the Court on 12 July 2012.



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

10. In the Court's opinion, the transactions underlying the annual accounts of the Fund for the financial year ended 31 December 2011 are legal and regular in all material respects.

**Emphasis of Matter**

11. The Court draws attention to Note 2.6 to the Fund's Annual Report 2011. The Fund's Management Board prepared the accounts on a going concern basis. However, by 1 July 2015 there will be no active participants. A high number of pension right transfers and severance grant payments are expected in the near future, substantially reducing the Fund's activities, assets and pension liabilities. The Fund's Board and Europol's Management Board are currently assessing options for the future of the Fund, one of which is liquidation shortly after 1 July 2015.

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

**OTHER COMMENTS**

13. The Court noted shortfalls in the procedure offered by Europol to its staff to exit the fund. When the Office became a full European Agency in 2010, it asked its staff no longer contributing to the fund<sup>(6)</sup> to exit from the Fund by either receiving a severance grant (SG) or by transferring the accumulated pension rights (TPR) to alternative pension schemes (e.g. PMO, national pension schemes, private companies). However no deadline was set for staff to take the decision.

14. At year end the Fund had net financial assets of 16 million euro, of which of 15,98 million euro was held in one bank.

15. The Management Board has not yet prepared procedures for the annual verification of pensioners' entitlements, including proof that the pensioners are still alive. In 2011, the six people benefiting from pensions at that time were requested to provide a confirmation of their place of residence, only one replied.

This report was adopted by Chamber IV, headed by Mr. Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---

<sup>(6)</sup> Now covered by the EU Staff Regulation.

### THE FUND'S REPLIES

13. Staff exiting the Europol Pension Fund (EPF) were informed about the requirement to make a choice between the different exit options. A non-financial overview in relation to the different options, as well as an offer to have a personal meeting (including financial data), were communicated to concerned staff. The majority of the staff took the opportunity for a dedicated meeting on the exit options.

Europol did not receive any formal complaints from staff members for not having been properly informed about the related pension entitlements.

14. As agreed in the meeting of the EPF Management Board held on 11 November 2011, the EPF is using the services of a second bank since the beginning of 2012. In its meeting of 19 June 2012, the Board also requested to look for other banks to further spread the potential risk.

15. The EPF Management Board of 19 June 2012 agreed on an annual process for the verification of the entitlements of pensioners (as of 2013).

Regarding the pending procedure 2012, it was decided in the same meeting to send a reminder to the pensioners with a deadline of one month. If no confirmation is received by then, the payment of the pension will be put on hold.

---

## REPORT

**on the annual accounts of the European Railway Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/25)

## INTRODUCTION

1. The European Railway Agency (hereinafter "the Agency"), which is located in Lille and Valenciennes, was created by Regulation (EC) No 881/2004 of the European Parliament and of the Council <sup>(1)</sup>. The Agency's task is to enhance the level of interoperability of railway systems and to develop a common approach to safety in order to contribute to creating a more competitive European railway sector with a high level of safety <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Agency, which comprise the "financial statements" <sup>(4)</sup> and the reports on the implementation of the budget <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 220, 21.6.2004, p. 3.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The level of payments against budget appropriations improved for all titles, but remained low for title III (operational expenditure) with 47 % (39 % in 2010). This situation is at odds with the budgetary principle of annuality.

**OTHER COMMENTS**

13. The Agency's Founding Regulation sets maximum employment periods for temporary staff recruited by the Agency from the professionals of the railways sector. According to these provisions, the Agency will have to replace half of its operational staff in the period 2013-2015, which may cause major disruptions in the Agency's operational activities<sup>(12)</sup>.

14. There is room to improve the Agency's recruitment procedures in order to fully ensure transparency and equal treatment of candidates. As an example, vacancy notices did not provide information on the required minimum number of years of post-secondary or university studies which however was used as a selection criterion. The pass marks for interviews and reserve lists, the scoring of selection criteria, the questions for oral and written tests and the weightings between written and oral tests were not set before applications were examined.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 4 July 2012 and received by the Court on 7 July 2012. 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 [www.era.europa.eu](http://www.era.europa.eu).

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Regulation (EC) No 881/2004, Article 24.

## ANNEX

**European Railway Agency (Lille/Valenciennes)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p>(Article 91(1) of the Treaty on the Functioning of the European Union)</p>	<p>“For the purpose of implementing Article 90, and taking into account the distinctive features of transport, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:</p> <p>(a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;</p> <p>(b) the conditions under which non-resident carriers may operate transport services within a Member State;</p> <p>(c) measures to improve transport safety;</p> <p>(d) any other appropriate provisions.”</p>
<p><b>Competences of the Agency</b></p> <p>(Regulation (EC) No 881/2004 of the European Parliament and of the Council)</p>	<p><b>Objectives</b></p> <p>To contribute, on technical matters, to the implementation of the Union legislation aimed at:</p> <ul style="list-style-type: none"> <li>— improving the competitive position of the railway systems;</li> <li>— developing a common approach to safety on the European railway system.</li> </ul> <p>In order to contribute to creating a European railway area without frontiers and guaranteeing a high level of safety.</p> <p><b>Tasks</b></p> <p>1 - Address recommendations to the Commission on</p> <ul style="list-style-type: none"> <li>— the common safety methods (CMS) and common safety targets (CSTs) provided in the Railway Safety Directive (2004/49/EC);</li> <li>— safety certificates and measures in the field of safety;</li> <li>— development of Technical specifications for Interoperability;</li> <li>— vocational competencies;</li> <li>— registration of rolling stock.</li> </ul> <p>2 - Issue opinions on</p> <ul style="list-style-type: none"> <li>— national safety rules;</li> <li>— monitoring the quality of work of notified bodies;</li> <li>— interoperability of the trans-European network.</li> </ul> <p>3 - Coordination of national bodies</p> <p>Coordination of national safety authorities and national investigation bodies (as described in Directive 2004/49/EC, Articles 17 and 21).</p> <p>4 - Publications and databases</p> <ul style="list-style-type: none"> <li>— report on safety performance (every two years);</li> <li>— report on progress with interoperability (every two years);</li> <li>— public database of safety documents;</li> <li>— public register of documents on interoperability.</li> </ul>

<b>Governance</b>	<p><b>Administrative Board</b></p> <p>Comprises one representative from each Member State, four representatives from the Commission and six representatives, without the right to vote, from the professional sectors concerned.</p> <p><b>Director</b></p> <p>Appointed by the Administrative Board on a proposal from the Commission.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>Parliament following a recommendation from the Council.</p>
<b>Resources made available to the Agency in 2011 (2010)</b>	<p><b>Budget</b></p> <p>26 (24) million euro</p> <p><b>Staff at 31 December 2011</b></p> <p>Posts listed in the establishment plan: 144 (139)</p> <p>Posts occupied on 31.12.2011: 140 (133)</p> <p>Other staff: 14 (15)</p> <p>Total staff: 154 (148), of which assigned to:</p> <ul style="list-style-type: none"> <li>— operational tasks: 107 (101)</li> <li>— administrative tasks: 47 (47)</li> </ul>
<b>Products and services in 2011 (2010)</b>	<p>Recommendations on Safety Certification, including the migration to a single Union safety certificate, recommendations for a Union model of a train driver licence and register. Follow-up activities regarding the certification of entities in charge of maintenance.</p> <p>Recommendations on safety regulation, including evaluating the way national safety rules are made available, examination of the transposition of the Railway Safety Directive in the Member States.</p> <p>Recommendations on Safety Reporting, including Common Safety Indicators, coordination of safety authorities' and investigation bodies and reporting on safety performance in the Member States.</p> <p>Recommendations on safety assessment, including Common Safety Methods.</p> <p>Recommendations on Technical Specifications for Interoperability and their Revision. Evaluation of extension of scope and error correction.</p> <p>Recommendation on common criteria in regard to vocational competencies and assessment of railway staff involved in operation and maintenance.</p> <p>Reports on railway safety and Interoperability.</p> <p>Technical Opinions on national rules and monitor the work of Notified Bodies.</p> <p>Set up and maintenance of a series of registers for safety and interoperability.</p>

---

	<p>Act as the System Authority and Change Control Manager for ERTMS (European Railway Traffic Management System) assisting the Commission in evaluating ERTMS projects.</p> <p>Definition and compilation of the Reference Document of national rules for vehicle authorisation and classify their equivalence for cross acceptance.</p> <p>Accompany all recommendations with an impact assessment.</p>
--	--

---

Source: Information supplied by the Agency.

---

**THE AGENCY'S REPLIES**

12. In 2010 and 2011 a major effort was made to reduce payment times and to bring contracts duration more in line with the calendar year in order to better respect the principle of annuality. It is important to note that over the last years the level of unused carry overs is very low (less than 5 %).

13. The Agency is fully aware of the risks related to the wide use of staff on short term employment prescribed by the Founding Regulation. The main mitigation factor has been to manage the length of the contracts of staff on short term employment carefully in order to avoid as far as possible that staff with expertise in the same area have to leave the Agency at the same time.

14. The Agency shall, for future vacancy notices, provide information on required minimum years of post-secondary or university studies. However, the Agency thinks that the other elements brought by the Court do not jeopardize the impartiality of the selection procedure as the applications are reviewed on the basis of the same criteria, and compared to the total group of applicants. This is also valid for the questions of the written test and interviews. Nonetheless, the issues raised by the Court will be considered in the upcoming review of the Agency's procedure for selections.

---



## REPORT

**on the annual accounts of the European Research Council Executive Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/26)

## INTRODUCTION

1. The European Research Council Executive Agency (hereinafter "the Agency"), which is located in Brussels, was created by Commission Decision 2008/37/EC of 14 December 2007<sup>(1)</sup>. The Agency was established for a period beginning on 1 January 2008 and ending on 31 December 2017 with the aim of managing the "Ideas" specific programme in the field of frontier research<sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Agency, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting

in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 9, 12.1.2008, p. 15.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 25 of Commission Regulation (EC) No 1653/2004 (OJ L 297, 22.9.2004, p. 10).

<sup>(7)</sup> Article 29 of Regulation (EC) No 1653/2004.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapter 1 and 2 of Title VI of Regulation (EC) No 1653/2004 as last amended by Regulation (EC) No 651/2008 (OJ L 181, 10.7.2008, p. 15).

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

12. The Agency did not exercise sufficient control during the development of an internal IT asset called e-Stream, whose purpose was to automate the workflow approval processes of the Scientific Management department. The business case for this project was not adequately defined, risks were not adequately identified and addressed and management failed to monitor the project's progress. These weaknesses contributed to the failure of the IT project, resulting in an impairment charge of 258 967 euro.

13. The Director ad interim of the Agency was appointed on 1 January 2011 by a Commission decision. In February 2012, at the time of the audit, the duration of this posting exceeded the one year maximum foreseen in the Staff Regulation by one month. Since the Director's original function as Head of Department was taken over temporarily by a Head of Unit, the same non-compliance with Staff Regulations also applies here. Another Head of Unit was acting Head of Department between June 2009 and February 2011 and the duration of the posting was irregular also in this case.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*

Vítor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 27 June 2012 and received by the Court on 28 June 2012. 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://erc.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Research Council Executive Agency (Brussels)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 182 of the Treaty on the Functioning of the European Union)</i></p>	<ol style="list-style-type: none"> <li>1. A multiannual framework programme, setting out all the activities of the Union, shall be adopted by the European Parliament and the Council, after consulting the Economic and Social Committee. The framework programme shall: <ul style="list-style-type: none"> <li>— establish the scientific and technological objectives to be achieved by the activities provided for in Article 180 and fix the relevant priorities,</li> <li>— indicate the broad lines of such activities,</li> <li>— fix the maximum overall amount and the detailed rules for Union financial participation in the framework programme and the respective shares in each of the activities provided for.</li> </ul> </li> <li>2. The framework programme shall be adapted or supplemented as the situation changes.</li> <li>3. The framework programme shall be implemented through specific programmes developed within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, may not exceed the overall maximum amount fixed for the framework programme and each activity.</li> <li>4. The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, shall adopt the specific programmes.</li> </ol>
<p><b>Competences of the Agency</b></p> <p><i>(Commission Decision 2008/37/EC)</i></p>	<p><b>Objectives</b></p> <p>The Agency was set up in December 2007 by Commission Decision 2008/37/EC, for the management of the specific Community Programme "Ideas" in the field of frontier research in the application of Council Regulation (EC) No 58/2003. "Ideas" is implemented by the European Research Council (ERC), comprising an independent Scientific Council which establishes the ERC's scientific strategy and monitors its implementation by the Agency that handles the operational management. The Agency became autonomous from the Directorate General for Research and Innovation on 15 July 2009.</p> <p><b>Tasks</b></p> <p>The tasks of the Agency are described in the Delegation Act (See Commission Decision C(2008) 5694), namely in Articles 5-7 thereof. Among these tasks, the Agency has been entrusted with tasks covering:</p> <ul style="list-style-type: none"> <li>— All aspects of administrative implementation and programme execution and in particular, the evaluation procedures, peer review and selection process according to the principles established by the Scientific Council;</li> <li>— The financial and scientific management of the grants.</li> </ul>
<p><b>Governance</b></p> <p><i>(Commission decisions C(2008) 5132 and C(2011) 4877)</i></p>	<p><b>Steering Committee</b></p> <p>The Steering Committee is the body that supervises the operations of the Agency and is appointed by the Commission (See Commission Decision C(2008) 5132). It adopts the Agency's annual work programme (after approval by the Commission), administrative budget and annual reports. It is composed of five members and one observer.</p>

<p>(Commission decisions 2007/134/EC and 2011/12/EU)</p> <p>(Council decision 2006/972/EC)</p> <p>(Council Regulation (EC) No 58/2003)</p>	<p><b>Scientific Council of the ERC</b></p> <p>The Scientific Council of the ERC is entrusted by virtue of Commission Decision 2007/134/EC with establishing a scientific strategy for the Ideas Specific Programme, deciding on the type of research to be funded in accordance with Article 5(3) of Council Decision 2006/972/EC and acting as a guarantor of the quality of the activity from a scientific perspective. Its tasks cover, in particular, the establishment of the annual work programme for the Ideas Specific Programme, and of the peer review process, as well as the monitoring and quality control of the implementation of the Specific Programme "Ideas", without prejudice to the responsibility of the Commission. It is composed of twenty-two members appointed by the Commission.</p> <p><b>Director of the Agency</b></p> <p>Appointed by the European Commission for four years.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>Parliament, following a recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>35,6 (29,3) million euro</p> <p><b>Staff at 31 December 2011</b></p> <p>The 2011 operating budget provides for an establishment plan of 100 (100) Temporary staff (TS) and a budget for 253 (215) Contract staff (CS) and 7 (15) Seconded National Experts (SNE), at a total of 360 (330) staff, out of which 350 (316) were occupied at year end 2011:</p> <ul style="list-style-type: none"> <li>— 97 (94) temporary staff, out of which 13 (13) TS seconded and 84 (81) TS external;</li> <li>— 245 (218) contract staff;</li> <li>— 8 (4) SNEs.</li> </ul> <p><i>Allocated to:</i></p> <ul style="list-style-type: none"> <li>— Operational activities (Scientific and Grant Management departments): 68 %;</li> <li>— Administrative activities (other departments): 32 %.</li> </ul>
<p><b>Products and services in 2011 (2010)</b></p>	<ol style="list-style-type: none"> <li>1. Monitor the grant agreements awarded under the 2010 and 2011 Ideas Work Programme, calls for Starting Grants, Advanced Grants and Proof-of-Concept Grants. The Ideas work programme is implemented via the publication of the annual calls for proposals, which is followed by an evaluation (by external experts), the preparation and signing of grant agreements and finally the monitoring of project implementation. Each call for proposals results in a series of Grant Agreements, with an expected project cycle of about five years.</li> <li>2. Execution of the 2011 Calls for proposals for the Ideas work programme. (Starting Grants, Advanced Grants and Proof-of-Concept Grants): 6 515 proposal applications were submitted in 2011, out of which 4 080 were for Starting Grants, 2 284 for Advanced Grants and 151 for Proof-of-Concept Grants. Of these a total of 6 400 were eligible and thus evaluated by the review panels. A total of 822 proposals were selected for the granting process (794 on the main lists, 28 on the reserve lists).</li> <li>3. Generation and dissemination of information on the Ideas Specific Programme and the Agency's activities in 2011.</li> </ol>

- 
4. Support to the Scientific Council of the ERC: Five Scientific Council plenary sessions were organised during the reporting period. In order to facilitate the Scientific Council's strategy discussion, the Agency, in conjunction with the Secretary General of the ERC, carried out analysis on the operation, portfolio of funded projects and early signs of the impact that the ERC has on the scientific community as well as the research landscape in Europe. Meetings (typically two per year) relating to the four existing ERC Working Groups on "Relations with Industry", "Open Access", "Third Country Participation" and "Gender Balance", as well as the two standing committees of the Scientific Council (Committee on panels and Committee on Conflict of Interest and Scientific Misconduct) were organised by the Agency. A series of documents containing analyses and key messages on the specific issues dealt with by the Working Groups and the Committees were prepared by the Agency in conjunction with the members of the said groups and were submitted for discussion/adoption to the plenary meetings of the Scientific Council. As every previous year, the Agency supported the Scientific Council in the establishment of the Annual Work Programme of the Ideas Specific Programme.
- 

Source: Information supplied by the Agency.

---

### THE AGENCY'S REPLIES

12. The failure of the eStream project is due to a combination of technical and environmental factors. The ERCEA has recognized weaknesses in its management of IT projects and has made significant progress in its Action Plan to address these weaknesses. It should also be stressed that the impairment of 258 967 euro represents about 2,5 % of the Agency IT budget over the period of development of eStream.

13. In the case of the ERCEA Director *ad interim* the extension of the temporary posting beyond one year is in the interest of the service, given that the post was published in March 2012 and the selection procedure is currently ongoing. In the case of the Head of Unit to the post of Head of Department previously occupied by the current Director *ad interim*, the temporary posting was foreseen to be effective until the post of the Director would be filled. The extension of the temporary posting beyond one year is in the interest of the service as foreseen in Article 7 of the Staff Regulation.

In the second case of a Head of Unit acting as Head of Department, this temporary posting ended on 15 February 2011 and the new Head of Department took up duties on 16 February 2011 following a successful recruitment procedure open to external candidates.

---

## REPORT

**on the annual accounts of the European Securities and Markets Authority for the financial year 2011, together with the Authority's replies**

(2012/C 388/27)

## INTRODUCTION

1. The European Securities and Markets Authority (hereinafter "the Authority" or "ESMA"), which is located in Paris, was established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>(1)</sup>. The Authority's task is to improve the functioning of the EU internal financial market by ensuring a high, effective and consistent level of regulation and supervision, promoting integrity and stability of the financial systems and strengthening international supervisory coordination in order to ensure stability and effectiveness of the financial system<sup>(2)</sup>. ESMA was set up on 1 January 2011.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Authority, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Authority, under his own

responsibility and within the limits of the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Authority and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Authority are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the

<sup>(1)</sup> OJ L 331, 15.12.2010, p. 84.

<sup>(2)</sup> The *Annex* summarises the Authority's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Authority.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

8. The Court considers 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***

9. In the Court's opinion, the Authority's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Authority for the financial year ended 31 December 2011 are legal and regular in all material respects.

11. The comments which follow do not call the Court's opinions into question. They should be considered in the context of the Authority's transition from its predecessor Committee of European Securities Regulators to a European Authority.

#### **COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Authority's commitments amounted to 12 841 997 euro or 76 % of the 2011 budget. The commitment rates were low especially for Title III "Operational expenditure" (47 %). This impacted on the Authority's IT objectives which were not entirely achieved. The low budget execution rates indicate difficulties in budget planning and implementation.

<sup>(10)</sup> The Final Annual Accounts were drawn up on 20 June 2012 and received by the Court on 2 July 2012. 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://www.esma.europa.eu>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

13. The Authority's budget for the financial year 2011 amounted to 16,9 million euro. In accordance with Article 62(1) of its Founding Regulation, 60 % of the 2011 budget was financed from Member States' and EFTA countries' contributions and 40 % from the Union budget. At the end of 2011, ESMA recorded a positive budget outturn of 4,3 million euro. In compliance with its Financial Regulation<sup>(12)</sup> the full amount was then recorded in the accounts as a liability towards the European Commission.

14. Weaknesses were noted as regards six legal commitments made in advance of budget commitments (483 845 euro).

15. The Court identified a number of cases with a total value of 207 442 euro in which payment appropriations carried over to 2012 did not correspond to legal commitments made. These carryovers were therefore irregular and should be cancelled.

#### **COMMENTS ON KEY CONTROLS OF THE AUTHORITY'S SUPERVISORY AND CONTROL SYSTEMS**

16. The Authority had not yet adopted internal control standards.

17. There is a need to improve the Authority's management of fixed assets. For intangible assets developed by the Authority, accounting procedures and information on costs were not reliable.

#### **OTHER COMMENTS**

18. The implementing rules to the Staff Regulation had not been adopted.

19. ESMA had not yet reached an interinstitutional agreement with the European Anti-Fraud Office (OLAF) on fraud investigations. The Authority should ensure that its Financial Regulation is fully implemented in this respect.

20. The Authority needs to improve the transparency of recruitment procedures. The number of years of experience required for a given position was not respected, applications received after the deadline were accepted, questions for oral and written tests were not set before the applications were examined by the selection board and there was no decision of the Appointing Authority to appoint the selection board.

<sup>(12)</sup> Articles 15(4) and 16(1).



This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 18 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---

## ANNEX

**European Securities and Markets Authority (Paris)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 114 of the Treaty on the Functioning of the European Union)</i></p>	<p>The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.</p>
<p><b>Competences of the Authority</b></p> <p><i>(Regulation (EU) No 1095/2010 of the Parliament and of the Council and Regulation (EC) No 1060/2009 of the Parliament and of the Council)</i></p>	<p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— Develop draft regulatory technical standards.</li> <li>— Develop draft implementing technical standards.</li> <li>— Issue guidelines and recommendations.</li> <li>— Issue recommendations where a national competent authority has not applied sectoral acts or has applied them in a way which appears to be a breach of Union law.</li> <li>— Take individual decisions addressed to competent authorities in certain emergency situations and in settlement of disagreements between competent authorities in cross-border situations.</li> <li>— In cases concerning directly applicable Union law, take individual decisions addressed to financial market participants, where: (i) a national competent authority has not applied sectoral acts or has applied them in a way which appears to be a breach of Union law and where the competent authority has not complied with a formal opinion of the Commission; (ii) in certain emergency situations where a competent authority does not comply with the decision of the Authority adopted; or (iii) in settlement of disagreements between competent authorities in cross-border situations where a competent authority has not complied with the decision of the Authority.</li> <li>— Issue opinions to the European Parliament, the Council or the Commission on all issues related to its areas of competence.</li> <li>— Collect the necessary information concerning financial market participants to carry out the duties assigned to it.</li> <li>— Develop common methodologies for assessing the effect of product characteristics and distribution processes on the financial position of financial market participants and on consumer protection.</li> <li>— Provide a centrally accessible database of registered financial market participants in the area of its competence where specified in sectoral legislation.</li> <li>— Issue warnings in the event that a financial activity poses a serious threat to its objectives.</li> <li>— Temporarily prohibit or restrict certain financial activities that threaten the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union in the cases specified and under the conditions laid down in sectoral legislation or if so required in the case of an emergency situation.</li> <li>— Participate in the activities of colleges of supervisors, including on-site examination, carried out jointly by two or more competent authorities.</li> <li>— Address any risk of disruption in financial services that is caused by an impairment of all or parts of the financial system and has the potential to have serious negative consequences for internal market and the real economy.</li> </ul>

	<ul style="list-style-type: none"> <li>— Draw up additional guidelines and recommendations for key financial market participants, to take account of the systemic risk posed by them.</li> <li>— Conduct an inquiry into a particular type of financial activity or type of product or type of conduct in order to assess potential threats to the integrity of financial markets or the stability of the financial system and make appropriate recommendations for action to the competent authorities concerned.</li> <li>— Carry out tasks and responsibilities delegated by competent authorities.</li> <li>— Provide opinions to competent authorities.</li> <li>— Conduct peer reviews of the activities of competent authorities.</li> <li>— Coordinate between competent authorities, in particular where adverse development could potentially jeopardise the orderly functioning and integrity of financial markets or the stability of the financial system in the Union.</li> <li>— Initiate and coordinate Union-wide assessments of the resilience of financial market participants to adverse market development.</li> <li>— Take decisions on applications for certification and registration of credit rating agencies and on withdrawal of such certification and registration.</li> <li>— Establish cooperation agreements with the relevant credit rating agency supervisory authorities of third countries.</li> <li>— Conduct investigations of and on-site inspections at the premises of credit rating agencies, rated entities and related third parties.</li> <li>— Where a credit rating agency has committed an infringement, take decisions to withdraw its registration, temporarily prohibit it from issuing credit ratings, suspend the use for regulatory purposes of the credit ratings it issued, require the infringement to be brought to an end, and/or issue public notices.</li> <li>— Where a credit rating agency has committed an infringement intentionally or negligently, take decisions to impose a fine.</li> </ul>
<p><b>Governance</b></p>	<p><b>Board of Supervisors</b></p> <p><i>Composition:</i> Chairperson (non-voting); the head of the national public authority competent for the supervision of financial market participants in each Member State; one representative of the Commission (non-voting); one representative of the European Systemic Risk Board (non-voting); one representative of each of the other two European Supervisory Authorities (non-voting).</p> <p><i>Tasks:</i> Gives guidance to the work of the Authority and is in charge of taking decisions referred to in Chapter II of the founding Regulation.</p> <p><b>Management Board</b></p> <p><i>Composition:</i> Chairperson and six other members of the Board of Supervisors, elected by and from the voting members of the Board of Supervisors. The Executive Director and a representative of the Commission participate in meetings without the right to vote (though the representative of the Commission can vote on budgetary matters).</p> <p><i>Tasks:</i> Ensures that the Authority carries out its mission and performs the tasks assigned to it in accordance with the founding Regulation.</p> <p><b>Chairperson</b></p> <p>Representative of the Authority responsible for preparing the work of the Board of Supervisors and chairing the meetings of the Board of Supervisors and the Management Board. Appointed by the Board of Supervisors after having been heard by the European Parliament.</p>

	<p><b>Executive Director</b></p> <p>Appointed by the Board of Supervisors after confirmation by the European Parliament. In charge of the management of the Authority and prepares the work of the Management Board.</p> <p><b>Internal audit</b></p> <p>The Authority has had first meetings with the Internal Audit Services, which will organise their first visit in June 2012.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>European Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Authority in 2011</b></p>	<p><b>Final Budget</b></p> <p>Total budget: 16,9 million euro, including:</p> <p>Union subsidy: 6,8 million euro</p> <p>Contributions from National Competent Authorities: 10,1 million euro</p> <p><b>Staff as at 31 December 2011</b></p> <ul style="list-style-type: none"> <li>— Statutory staff: 58 temporary agent posts authorised in the establishment plan, of which occupied: 50</li> <li>— Contract agents: 5 contract agent posts planned in the budget, of which occupied: 5</li> <li>— Seconded National Experts: 12 Seconded National Expert posts planned in the budget, of which occupied: 2</li> </ul>
<p><b>Products and services in 2011</b></p>	<ul style="list-style-type: none"> <li>— 15 CRAs registered.</li> <li>— First on-site inspections of CRAs including Fitch, Moody's and Standard &amp; Poor's.</li> <li>— Assessed the compliance of three new proposals for MiFID pre-trade transparency waivers.</li> <li>— Published final view on automated high-frequency trading (HFT).</li> <li>— Continued work on commodities and on MiFID review.</li> <li>— Preparatory work for proposed technical standards for the regulation on OTC derivatives, Central Clearing Counterparties (CCPs) and Trade Repositories (European Market Infrastructure Regulation - EMIR).</li> <li>— Produced detailed rules for alternative investment fund managers.</li> <li>— Contributed to development of International Financial Reporting Standards (IFRS).</li> <li>— Provided assistance on application of IFRS when dealing with sovereign debt.</li> <li>— Work on sharing experiences and discussing implications between national supervisors on market surveillance issues and matters relating to the Prospectus (PD) and Transparency Directives (TD), Takeover Bids, etc.</li> <li>— Joint work with the other ESAs.</li> <li>— Contributed actively to ESRB on financial stability, including through regular risk reports.</li> </ul>

- 
- |  |  |
|--|--|
|  | <ul style="list-style-type: none"><li>— Enhanced financial consumer protection through additional rules and requirements for intermediaries and fund managers.</li><li>— First pan-European product warning on foreign exchange to investors.</li><li>— Ran cross-EU database for transaction reports.</li><li>— Developed successful IT solution for the publication of CRA historical ratings.</li><li>— Coordinated national supervisors' responses to the financial crisis.</li><li>— Conducted two peer reviews on market abuse and prospectus.</li></ul> |
|--|--|
- 

*Source:* Information supplied by the Authority.

---

### THE AUTHORITY'S REPLIES

12. 2011 was ESMA's first year of operations, although its Founding Regulation had only been published on 15 December 2010. This late publication of the Regulation prevented ESMA from launching its recruitments on time, impacting directly its spending rate. Furthermore, most of ESMA's IT objectives/projects were delayed due to delays in the legislation requiring the implementation of such systems.
13. ESMA's Financial Regulation (which derives from the Framework Financial Regulation) does not adequately reflect ESMA's financing structure. ESMA asked DG Budg in October 2011 to indicate the procedure regarding reimbursement of positive budget outturn. DG Budg confirmed in March 2012 that the surplus should be booked as a liability to the Commission. In May 2012, DG Budg proposed a practical procedure to ensure that this surplus is returned to ESMA, who shall reimburse Member States and Commission on a proportional basis according to their original contributions.
14. ESMA is the legal successor of CESR, therefore some legal commitments were signed by CESR before the creation of ESMA, when the procedures in use differed from EU procedures. Due to technical difficulties and the late implementation of ABAC, the corresponding budget commitments were only registered in the accounts in late 2011.
15. ESMA acknowledges this finding which was due to the unexpectedly heavy work load at the 2011 year end and the carry forward exercise in the EU budgetary system in its first year of operations.
16. During its set-up, ESMA agreed with its parent DG on a plan to set up EU internal control standards. Documentation was submitted to and checked by DG Markt in October 2011. In 2012 ESMA intends to further formalise such controls and have them approved by the Management Board.
17. Regarding fixed assets, ESMA implemented ABAC Assets in September 2011. On intangible assets, ESMA implemented timesheets for internal staff working on IT projects as of 1 January 2012 and is in the process of improving the relevant procedures.
18. In January 2011, the Management Board of ESMA provisionally approved its HR implementing rules before submitting them to the Commission on 17 January 2011. In late spring 2011, DG HR required that there should be common rules from the three ESAs. A new version was submitted to DG HR on 21 December 2011.
19. ESMA sent a letter on 14 December 2011 to OLAF containing its Management Board's approved anti-fraud rules in order to begin setting up this agreement. OLAF has not responded to date.
20. Following the first visit of the Court of Auditors in October 2011, ESMA revised its recruitment procedures to address the mentioned issues in February 2012.
-

## REPORT

**on the annual accounts of the European Training Foundation for the financial year 2011, together with the Foundation's replies**

(2012/C 388/28)

## INTRODUCTION

1. The European Training Foundation (hereinafter "the Foundation"), which is located in Turin, was established by Council Regulation (EEC) No 1360/90 <sup>(1)</sup>. The Foundation's task is to support the reform of vocational training in the European Union's partner countries. As such, it assists the Commission in the implementation of various programmes (Phare, Tacis, CARDS and MEDA) <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Foundation's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Foundation, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Foundation, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Foundation and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Foundation are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 131, 23.5.1990, p. 1.

<sup>(2)</sup> The *annex* summarises the Foundation's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Foundation.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Foundation's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Foundation for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON KEY CONTROLS OF THE FOUNDATION'S SUPERVISORY AND CONTROL SYSTEMS**

12. The Foundation has not yet adopted and implemented a treasury policy to minimise and spread financial risk while aiming at adequate returns. The account is kept in a bank which no longer has the minimum rating as indicated by the Commission.

13. The Court identified 64 contracts with a total value of 2 million euro which were not countersigned by the Foundation's contractor, creating legal uncertainty.

**OTHER COMMENTS**

14. Maintenance and essential services such as heating, water and electricity are not ensured for the Foundation's premises since the Consortium responsible for facility management went into liquidation in November 2011. The situation regarding the Foundation's premises is unsatisfactory and puts its activities at risk of disruption.

15. The Foundation needs to further improve the transparency of its recruitment procedures. The threshold scores for admission to interviews and written tests were not set in advance and questions for oral and written tests were not set before the applications were examined by the selection boards.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 18 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 29 June 2012 and received by the Court on 02 July 2012. 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. They can be found on the following website <http://eca.europa.eu> or <http://www.etf.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.



## ANNEX

**European Training Foundation (Turin)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Art. 166(3) of the Treaty on the Functioning of the European Union)</i></p>	<p>The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.</p>
<p><b>Competences of the Foundation</b></p> <p><i>(Council Regulation (EEC) No 1360/90)</i></p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>— to contribute, in the context of EU external relations policies, to improving human capital development in the following countries: the countries eligible for support under Regulations (EC) No 1085/2006 and No 1638/2006 and subsequent related legal acts; other countries designated by decision of the Governing Board on the basis of a proposal supported by two-thirds of its members and a Commission opinion, and covered by a Union instrument or international agreement that includes an element of human capital development, and as far as available resources allow.</li> <li>— For the purpose of this Regulation, ‘human capital development’ shall be defined as work which contributes to the lifelong development of individuals’ skills and competences through the improvement of vocational education and training systems.</li> </ul> <p><b>Tasks</b></p> <p>For the purpose of achieving the objective, the Foundation, within the limits of the powers conferred on the Governing Board and following the general guidelines established at Union level, shall have the following functions:</p> <ul style="list-style-type: none"> <li>— to provide information, policy analyses and advice on human capital development issues in the partner countries;</li> <li>— to promote knowledge and analysis of skills needs in national and local labour markets;</li> <li>— to support relevant stakeholders in partner countries in building capacity in human capital development;</li> <li>— to facilitate the exchange of information and experience among donors engaged in human capital development reform in partner countries;</li> <li>— to support the delivery of Union assistance to partner countries in the field of human capital development;</li> <li>— to disseminate information and encourage networking and the exchange of experience and good practice between the EU and partner countries and amongst partner countries in human capital development issues;</li> <li>— to contribute, at the Commission’s request, to the analysis of the overall effectiveness of training assistance to the partner countries;</li> <li>— to undertake such other tasks as may be agreed between the Governing Board and the Commission, within the general framework of this Regulation.</li> </ul>
<p><b>Governance</b></p>	<p><b>Governing Board</b></p> <p>One representative of each Member State</p> <p>Three representatives of the Commission</p> <p>Three non voting experts appointed by the European Parliament</p>

	<p>In addition, three representatives of the partner countries may attend meetings of the Governing Board as observers</p> <p><b>Director</b></p> <p>Appointed by the Governing Board on a proposal from the Commission</p> <p><b>External Audit</b></p> <p>Court of Auditors.</p> <p><b>Internal Audit</b></p> <p>Internal Audit Service of the Commission.</p> <p><b>Discharge authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Foundation in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>— 20,3 (18,8) million euro for commitments and 19,8 (19,3) million euro for payments, of which 19,3 million euro funded by a Commission subsidy.</p> <p><b>Staff at 31 December 2011</b></p> <p>— 96 (96) temporary posts in the establishment plan, of which 90 (92) posts occupied.</p> <p>— 35 (36) other staff (local agents, contract agents, seconded national experts)</p> <p>— Total staff: 125 (128), assigned to the following duties:</p> <p>— operational tasks: 70 (70)</p> <p>— administrative tasks: 28 (31)</p> <p>— corporate coordination and communication tasks: 27 (27)</p>
<p><b>Products and services supplied during the financial year 2011 (2010)</b></p>	<p><b>Activities</b></p> <p>The ETF contributes, in the context of the EU external relations policies, to improving human capital development (HCD) in 30 Partner Countries designated by its regulation and the Governing Board. The main activities are supporting EU policies and projects, providing policy analyses, disseminating and exchanging information and experience and supporting partner-country capacity building.</p> <p>The ETFs added value comes from its neutral, non-commercial and unique established knowledge base consisting of expertise in human capital development and its links to employment. This includes expertise in adapting the approaches to human capital development in the EU and its Member States to the context of the partner countries.</p> <p>In 2011 ETF successfully organised a conference (9 May) to present the results of the first year of the Torino Process (24 Partner Countries VET policy assessments) and discuss strategic policies, promoting development best practices, and facilitating coordination and harmonisation, as well as in the external dimension of internal Union Policies. It also prepared the next round of Progress Country Analysis to be undertaken in 2012. The other corporate conference was on the Institutional Arrangements in the implementation of Qualifications Frameworks, an opportunity to launch the electronic Qualifications Framework promoting exchange of expert information among Partner countries developing qualifications frameworks.</p> <p>It also worked on its main functions as follows:</p> <p>— Supporting the EU policies and project cycle of External Relations instruments for the partner countries: 30 (30) outputs;</p>

- 
- Capacity building of Partner Countries: 72 (22) outputs;
  - Policy analysis 22 (29) outputs;
  - Dissemination and networking: 24 (30) outputs.

*Outputs measure the accomplishment of the results of a project, and put the budget in relation to ETF functions*

In addition to these functions carried out in the context of its work programme, the ETF also responded to direct requests from the European Commission throughout the year. In 2011 it reported 100 on-going Commission requests; 44 % were addressed to IPA countries and 45 % to ENPI and 10 % to DCI. (In 2010 there were 105 on-going direct requests, 62 % were addressed to IPA countries and 30 % to ENPI and 7 % to DCI).

IPA: Instrument for Pre-Accession Assistance (Western Balkans, Turkey and Iceland).

ENPI: European Neighbourhood and Partnership Instrument (South-East Mediterranean Region and Eastern Europe).

DCI: Development Cooperation Instrument (Central Asia countries).

---

Source: Information provided by the Foundation.

---

**THE FOUNDATION'S REPLIES**

12. The ETF will put in place a treasury policy including the monitoring of bank credit ratings, in view of spreading financial risk and ensuring an adequate return on cash holdings

13. This comment concerns purchase orders issued under one specific framework contract. Following the Court's comments, ETF has brought its practice in this case into line with that of all its other framework contracts, under which all purchase orders are countersigned by the contractor.

14. The ETF is doing all in its power through its contacts at local, regional and national level in Italy, as well as through its Governing Board and the European Commission, to re-establish a long-term perspective of accommodation in suitable premises in Turin, as foreseen in the Seat Agreement. Meetings have been held between the Chairman of the ETF Governing Board and the Italian Authorities and letters have been exchanged between the Commission and the Italian Government. The ETF will persevere in its efforts to reach a satisfactory solution by all possible means, not excluding legal action if necessary.

15. ETF has now adopted a standard threshold of 70 % in all phases of the selection process. Concerning the timing of the setting of test and interview questions, ETF's selection procedure foresees that the test and interview questions should be set before the CVs are distributed to the selection board. ETF will reinforce its control procedures to ensure that the procedures are respected and clearly evidenced in the files.

---

## REPORT

**on the annual accounts of the Euratom Supply Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/29)

## INTRODUCTION

1. The Euratom Supply Agency (hereinafter "the Agency"), located in Luxembourg, was created in 1958<sup>(1)</sup>. Council Decision 2008/114/EC, Euratom<sup>(2)</sup> replaced the preceding Statutes of the Agency. The Agency's main tasks are to provide the Union with expertise on the market in nuclear materials and services and to monitor it.

2. The Agency did not receive an own budget to cover its operations since 2008. The Commission bore all costs incurred by the Agency for implementing the 2011 activities. For 2012, the Agency was granted an own budget by the Commission.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts of the Agency<sup>(3)</sup> for the financial year ended 31 December 2011 and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure in accordance with the financial rules of the Agency, under his own responsibility<sup>(4)</sup>. The Director is responsible for putting in place<sup>(5)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(6)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(7)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

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

<sup>(1)</sup> OJ 27, 6.12.1958, p. 534.

<sup>(2)</sup> OJ L 41, 15.2.2008, p. 15.

<sup>(3)</sup> These include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(4)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(5)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(6)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(7)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

**Opinion on the reliability of the accounts**

9. In the Court's opinion, the Agency's Annual Accounts<sup>(8)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(9)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

**Emphasis of matter**

11. Without calling into question the opinion expressed in paragraph 10, the Court wishes to draw again attention to the following matter. Article 54 of the Treaty Establishing the European Atomic Energy Community provides that the Agency shall have financial autonomy. Article 7 of the Agency's Statutes provides that "the expenditure of the Agency shall consist of administrative expenses of its staff and of the Committee, as well as expenses resulting from contracts entered into with third parties". In fact, the Agency has not, since 2008, received a budget. That being the case, the European Commission has directly discharged the Agency's expenses mentioned in Article 7 above. In the Court's view, this situation is at odds with the Statutes of the Agency and the Court considers that the Agency and the Commission should, together with all interested parties, consider measures to eliminate this situation.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

---

<sup>(8)</sup> The Final Annual Accounts were drawn up on 29 June 2012 and received by the Court on 3 July 2012. 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/euratom/accounts\\_en.html](http://ec.europa.eu/euratom/accounts_en.html).

<sup>(9)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

---

**THE AGENCY'S REPLIES**

11. The Agency agrees with the conclusion of the Court of Auditors.

In 2011, the Commission adopted the proposal to re-establish a specific budget line for the Euratom Supply Agency. As a result, for 2012 the Agency was granted a subsidy of 98 000 euro by the Commission, with a total budget of 104 000 euro (including the financial revenues) for 2012.

---

## REPORT

**on the annual accounts of the European Foundation for the Improvement of Living and Working Conditions for the financial year 2011, together with the Foundation's replies**

(2012/C 388/30)

## INTRODUCTION

1. The European Foundation for the Improvement of Living and Working Conditions (hereinafter "the Foundation"), which is located in Dublin, was established by Council Regulation (EEC) No 1365/75 of 26 May 1975 <sup>(1)</sup>. The Foundation's task is to contribute to the planning and establishment of better living and working conditions in the Union by increasing and disseminating knowledge which is relevant to this subject <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Foundation's supervisory and control systems. This is supplemented by an analysis of management representations. In preparation for the proposed modifications to the EU Financial Regulation, the Court engaged an audit firm to carry out the audit, applying the Court's audit approach and procedures. The Court reviewed the work performed and has used it in support of its opinion.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Foundation, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Foundation, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Foundation and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Foundation are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 139, 30.5.1975, p. 1.

<sup>(2)</sup> The *Annex* summarises the Foundation's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Foundation.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).



8. The Court considers 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**

9. In the Court's opinion, the Foundation's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Foundation for the financial

year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Foundation carried over 47 % of Title III appropriations (operational expenditure) amounting to 3,4 million euro, of which 1,6 million euro was unplanned (22 % of Title III). This situation is at odds with the budgetary principle of annuality.

**OTHER COMMENTS**

13. The Court identified a need to improve the transparency of recruitment procedures: selection board meetings were not always sufficiently documented and there is no evidence that questions for interviews or written tests were set before the examinations.

This report was adopted by Chamber IV, headed by Mr. Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 20 June 2012 and received by the Court on 29 June 2012. 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://www.eurofound.europa.eu>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Foundation for the Improvement of Living and Working Conditions (Dublin)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 151 of the Treaty on the Functioning of the European Union)</i></p>	<p>The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. [...]</p>
<p><b>Competences of the Foundation</b></p> <p><i>(Council Regulation (EEC) No 1365/75 as amended by Regulation (EC) No 1111/2005)</i></p>	<p><b>Objectives</b></p> <p>The aim of the Foundation shall be to contribute to the establishment of better living and working conditions by increasing and disseminating knowledge which is relevant to this subject. In particular, it is required to consider the following areas:</p> <ul style="list-style-type: none"> <li>— man at work,</li> <li>— organisation of work and particularly job design,</li> <li>— problems peculiar to certain categories of workers,</li> <li>— long-term aspects of the improvement of the environment,</li> <li>— the distribution of human activities in space and in time.</li> </ul> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— to foster the exchange of information and experience in these fields,</li> <li>— to facilitate contact between universities, study and research institutes, economic and social administrations and organisations,</li> <li>— to carry out studies or to conclude study contracts and to provide assistance for pilot projects,</li> <li>— to cooperate as closely as possible with existing specialised institutes in the Member States and at international level.</li> </ul>
<p><b>Governance</b></p>	<p><b>The Governing Board (GB)</b></p> <ul style="list-style-type: none"> <li>— from each Member State: one government representative, one representative from employers' organisations and one workers' representative,</li> <li>— three representatives from the Commission,</li> <li>— one regular meeting per year.</li> </ul> <p><b>The Bureau of the GB</b></p> <ul style="list-style-type: none"> <li>— consists of 11 members; three members from each of the social partners and the governments, two from the Commission,</li> <li>— it monitors the implementation of decisions of the GB and takes measures for the proper management between GB meetings,</li> <li>— 6 regular meetings per year.</li> </ul> <p><b>The Director and Deputy Director</b> are appointed by the Commission from a list of candidates submitted by the GB. The Director implements the decisions of the GB and its Bureau and manages The Foundation.</p>

	<p><b>Internal audit</b></p> <p>Internal Audit Service (IAS) of the Commission.</p> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>European Parliament acting on recommendation of the Council.</p>
<p><b>Resources available to the Foundation in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>20,6 million euro (20,85 million euro)</p> <p><b>Staff at 31 December 2011</b></p> <p>Temporary Agents:</p> <p>101 posts provided for in the establishment plan, of which 97 (91) were occupied at 31 December 2011.</p> <p>Other Staff:</p> <p>Seconded National Experts: 0 (0)</p> <p>Contract Agents: 9 (10)</p> <p>Total Staff employed: 106 (101)</p> <p><i>Allocated to:</i></p> <p>Operating activities: 72 (66)</p> <p>Administrative tasks: 29 (31)</p> <p>Mixed: 5 (4)</p>
<p><b>Activities and services provided in 2011 (2010)</b></p>	<p><b>Monitoring and surveys</b></p> <p>Network of European Observatories (NEO):</p> <ul style="list-style-type: none"> <li>— European Industrial Relations Observatory (EIRO): 326 information updates added; 4 representativeness studies; 2 annual updates on pay and working time; Industrial relations and working conditions developments in Europe 2010; 4 comparative analytical reports; 1 survey report</li> <li>— European Working Conditions Observatory (EWCO): 99 information updates added; 3 comparative analytical reports; Industrial relations and working conditions developments in Europe 2010; 9 survey reports</li> <li>— European Restructuring Monitor (ERM) 1,350 restructuring fact sheets added; 3 comparative analytical reports</li> </ul> <p>Surveys:</p> <ul style="list-style-type: none"> <li>— 5th European Working Conditions Survey: first findings published and preparation of overview report and secondary analysis</li> <li>— 2nd European Quality of Life Survey: secondary analysis on Quality of life in Croatia, the former Yugoslav Republic of Macedonia and Turkey; Quality of life in ethnically diverse neighbourhoods; Participation in volunteering and unpaid work</li> <li>— 2nd European Company Survey: secondary analysis on Performance-related pay and employment relations in European companies; Employee representation at establishment level in Europe; Management practices and sustainable organisational performance</li> </ul> <p><b>Employment and competitiveness</b></p> <ul style="list-style-type: none"> <li>— European Restructuring Monitor - ERM Report 2011: Public instruments to support restructuring in Europe</li> </ul>

- European Jobs Monitor – EJM report: Shifts in the job structure in Europe during the Great Recession
- Young people and NEETs (Not in Employment, Education or Training): Challenges and solutions for higher participation of young people in the labour market
- Report on Emerging forms of entrepreneurship
- Joint public-private local partnerships for employment to cope with the recession
- Public measures to support self-employment and job creation in one-person and micro enterprises
- Impact of inter-firm relationships – employment and working conditions

#### **Industrial relations and workplace development**

- Industrial relations and working conditions developments in Europe 2010
- Social dialogue and working conditions
- SMEs (Small and Medium sized Enterprises) in the crisis: Employment, industrial relations and local partnership
- Helping young workers during the crisis: contributions by social partners and public authorities
- Employment and industrial relations in the health care sector
- Social dialogue in the banking sector

#### **Social cohesion and quality of life**

- Active inclusion of young people with disabilities or health problems
- Managing household debts
- Promoting ethnic entrepreneurship in European cities
- Company initiatives for workers with care responsibilities for disabled children or adults
- Volunteering by older people in the EU

#### **Communication and sharing ideas and experience**

73 952 print publications disseminated; 4 e-alerts totalling 18 440 emails; 895 new web and print publications; 873 contacts and briefing meetings with European level policy makers; over 2 million user sessions; 20 media activities resulted in reaching 178 million European citizens; 228 enquiries from journalists; more than 3 300 quotations in European media, over 450 quotations of The Foundation research in scientific journals in Europe.

Over 170 EU policy documents quoting references to the Foundation findings and expertise.

- 15 exhibitions and 33 visits to The Foundation, which consisted of 328 visitors.
- Cooperation with other EU agencies in a joint European Parliament/EU agencies seminar on Youth and EmploymentSource: Information supplied by the Foundation.

**THE FOUNDATION'S REPLIES**

12. Eurofound is highly committed to continue and even increase efforts to reduce the amount of unplanned carry-forward through closer budget monitoring.

13. The audited procedures took place before the improvements initiated following previous audits became fully evident. The shortlisting and interview criteria are exactly as used in the vacancy notice. The questions are linked directly to these criteria. Therefore the areas of questioning, and by extension the questions, are set from the moment that the vacancy notice is agreed and published. The written tests are always set before the shortlisting of candidates.

---

## REPORT

## on the annual accounts of Eurojust for the financial year 2011, together with Eurojust's replies

(2012/C 388/31)

## INTRODUCTION

1. The European Union's Judicial Cooperation Unit (hereinafter "Eurojust"), which is located in The Hague, was set up by Council Decision 2002/187/JHA <sup>(1)</sup> with a view to stepping up the fight against serious organised crime. Its objective is to improve the coordination of cross-border investigations and prosecutions between the Member States of the European Union, and between Member States and non-Member States <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of Eurojust's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of Eurojust, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of Eurojust, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of Eurojust and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of Eurojust are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> Decision of 28 February 2002 setting up Eurojust (OJ L 63, 6.3.2002, p. 1).

<sup>(2)</sup> The *Annex* summarises Eurojust's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of Eurojust.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, Eurojust's Annual Accounts <sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer <sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of Eurojust for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. Payment appropriations amounting to 6,1 million euro had been carried over from 2010 to 2011. The Court highlighted in its report for the financial year 2010 that such a high

level of carry-over was excessive. Out of the amount carried over, 1,3 million euro had to be cancelled in 2011. Payment appropriations amounting to 5,2 million euro (16 % of total payment appropriations) have been carried over to 2012. Of this amount, 3,1 million euro related to Title III (operational expenditure) which represents 39 % of Title III payment appropriations. This level is again excessive and at odds with the principle of annuality.

**OTHER COMMENTS**

13. In the report for the financial year 2010, the Court noted that there was scope to reconsider the definition of respective roles and responsibilities between the Director and the College of Eurojust in order to avoid the overlap of responsibilities, currently resulting from the Founding Regulation <sup>(12)</sup>. No corrective measures were taken in 2011.

14. Eurojust has not yet adopted all Implementing Rules of the Staff Regulations <sup>(13)</sup>.

15. The Court again identified shortcomings in recruitment procedures. The composition of the selection boards was in several cases not fully in line with the requirements of the Staff Regulations: not all the members of the selection board had the required minimum staff grade. In one selection procedure, the Chairman of the Board was a direct superior of the only candidate invited for the interview and selected for the post.

This report was adopted by Chamber IV, headed by Mr. Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 30 June 2012 and received by the Court on 5 July 2012. 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://www.eurojust.europa.eu/adm\\_budg\\_finance.htm](http://www.eurojust.europa.eu/adm_budg_finance.htm).

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Articles 28, 29, 30 and 36 of the Council Decision 2002/187/JHA, as amended by Council Decision 2003/659/JHA (OJ L 245, 29.9.2003, p. 44) and 2009/426/JHA (OJ L 138, 4.6.2009, p. 14).

<sup>(13)</sup> Implementing rules are missing for the areas: "Reclassification", "Administrative inquiries and disciplinary procedure", "Part-time work", "Job-Sharing", "Middle management", "Temporary occupation of management posts", "Appraisal senior management", "Early retirement without reduction of pension rights", "Leave", "Staff Committee" and "Mission guide."

## ANNEX

**EUROJUST (The Hague)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 85 of the Treaty on the Functioning of the European Union)</i></p>	<p>Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol. [...]</p>
<p><b>Competences of Eurojust</b></p> <p><i>(as defined in articles 3, 5, 6 and 7 of the Council Decision 2002/187/JHA as amended by Council Decision 2003/659/JHA and Council decision 2009/426/JHA)</i></p>	<p><b>Objectives</b></p> <p><i>Article 3 Eurojust Council Decision</i></p> <p>In the context of investigations and prosecutions, concerning two or more Member States, of criminal behaviour referred to in Article 4 in relation to serious crime, particularly when it is organised, the objectives of Eurojust shall be:</p> <p>(a) to stimulate and improve the coordination, between the competent authorities of the Member States, of investigations and prosecutions in the Member States, taking into account any request emanating from a competent authority of a Member State and any information provided by any competent body by virtue of provisions adopted within the framework of the Treaties;</p> <p>(b) to improve cooperation between the competent authorities of the Member States, in particular by facilitating the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effects to the principle of mutual recognition;</p> <p>(c) to support otherwise the competent authorities of the Member States in order to render their investigations and prosecutions more effective.</p> <p><b>Tasks</b></p> <p><i>Article 5 Eurojust Council Decision</i></p> <p>1. In order to accomplish its objectives, Eurojust shall fulfil its tasks:</p> <p>(a) through one or more of the national members concerned in accordance with Art. 6, or</p> <p>(b) as a College in accordance with Art. 7:</p> <p style="padding-left: 20px;">(i) when so requested by one or more of the national members concerned by a case dealt with by Eurojust, or</p> <p style="padding-left: 20px;">(ii) when the case involves investigations or prosecutions which have repercussions at Union level or which might affect Member States other than those directly concerned, or</p> <p style="padding-left: 20px;">(iii) when a general question relating to the achievement of its objectives is involved, or</p> <p style="padding-left: 20px;">(iv) when otherwise provided for in this Decision.</p> <p>2. When it fulfils its tasks, Eurojust shall indicate whether it is acting through one or more of the national members within the meaning of Art. 6 or as a College within the meaning of Art. 7.</p>



*Article 6 Eurojust Council Decision*

1. When Eurojust acts through its national members concerned, it:
  - (a) may ask the competent authorities of the Member States concerned, giving its reasons, to:
    - (i) undertake an investigation or prosecution of specific acts;
    - (ii) accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts;
    - (iii) coordinate between the competent authorities of the Member States concerned;
    - (iv) set up a joint investigation team in keeping with the relevant cooperation instruments;
    - (v) provide it with any information that is necessary for it to carry out its tasks;
    - (vi) take special investigative measures;
    - (vii) take any other measure justified for the investigation or prosecution;
  - (b) shall ensure that the competent authorities of the Member States concerned inform each other on investigations and prosecutions of which it has been informed;
  - (c) shall assist the competent authorities of the Member States, at their request, in ensuring the best possible coordination of investigations and prosecutions;
  - (d) shall give assistance in order to improve cooperation between the competent national authorities;
  - (e) shall cooperate and consult with the European Judicial Network, including making use of and contributing to the improvement of its documentary database;
  - f) shall, in the cases referred to in Article 3(2) and (3) and with the agreement of the College, assist investigations and prosecutions concerning the competent authorities of only one Member State;
2. The Member States shall ensure that competent national authorities respond without undue delay to requests made under this Article.

*Article 7 Eurojust Council Decision*

1. When Eurojust acts as a College, it:
  - (a) may in relation to the types of crime and the offences referred to in Article 4(1) ask the competent authorities of the Member States concerned, giving its reasons:
    - (i) to undertake an investigation or prosecution of specific acts;
    - (ii) to accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts;
    - (iii) to coordinate between the competent authorities of the Member States concerned;
    - (iv) to set up a joint investigation team in keeping with the relevant cooperation instruments;
    - (v) to provide it with any information that is necessary for it to carry out its tasks;

	<p>(b) shall ensure that the competent authorities of the Member States inform each other of investigations and prosecutions of which it has been informed and which have repercussions at Union level or which might affect Member States other than those directly concerned;</p> <p>(c) shall assist the competent authorities of the Member States, at their request, in ensuring the best possible coordination of investigations and prosecutions;</p> <p>(d) shall give assistance in order to improve cooperation between the competent authorities of the Member States, in particular on the basis of Europol's analysis;</p> <p>(e) shall cooperate and consult with the European Judicial Network, including making use of and contributing to the improvement of its documentary database;</p> <p>(f) may assist Europol, in particular by providing it with opinions based on analyses carried out by Europol;</p> <p>(g) may supply logistical support in the cases referred to in points (a), (c) and (d). Such logistical support may include assistance for translation, interpretation and the organisation of coordination meetings.</p> <p>2. Where two or more national members cannot agree on how to resolve a case of conflict of jurisdiction as regards the undertaking of investigations or prosecution pursuant to Article 6 and in particular Article 6(1)(c), the College shall be asked to issue a written non-binding opinion on the case, provided the matter could not be resolved through mutual agreement between the competent national authorities concerned. The opinion of the College shall be promptly forwarded to the Member States concerned. This paragraph is without prejudice to paragraph 1(a) (ii).</p> <p>3. Notwithstanding the provisions contained in any instruments adopted by the European Union regarding judicial cooperation, a competent authority may report to Eurojust recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, and request the College to issue a written non-binding opinion on the matter, provided it could not be resolved through mutual agreement between the competent national authorities or through the involvement of the national members concerned. The opinion of the College shall be promptly forwarded to the Member States concerned.</p>
<p><b>Governance</b></p> <p><i>(Articles 2, 9, 23, 28, 29 and 36 of the Eurojust Council Decision 2002/187/JHA as amended by Council Decision 2003/659/JHA and Council decision 2009/426/JHA; Article 3 of the Rules of Procedure of Eurojust)</i></p>	<p><b>College</b></p> <p>The College is responsible for the organisation and operation of Eurojust. The College is composed of National Members who are seconded by each Member State in accordance with its legal system and who are prosecutors, judges or police officers of equivalent competence. The College elects its President from among the National Members.</p> <p><b>Director</b></p> <p>The Administrative Director is appointed by the College by 2/3 majority.</p> <p><b>The Joint Supervisory Body</b> supervises the processing of personal data.</p> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>European Parliament, acting on a Recommendation from the Council acting by qualified majority.</p>

---

<b>Resources made available to the Eurojust in 2011 (2010)</b>	<b>Final Budget</b>
	31,4 (32,3) million euro
	<b>Staff as at 31 December 2011</b>
	Temporary agents 186 (185)
<b>Products and services in 2011 (2010)</b>	<b>Number of coordination meetings: 204 (141)</b>
	<b>Total number of cases: 1 441 (1 424)</b>
	Fraud: 575 (631); 39 % (45 %)
	Drug trafficking: 242 (254); 16 % (18 %)
	Terrorism: 27 (25); 1 % (2 %)
	Murder: 88 (83); 6 % (6 %)
Trafficking in human beings: 79 (87); 5 % (6 %)	

---

Source: Information supplied by EUROJUST.

---

### EUROJUST'S REPLIES

12. Eurojust acknowledges the Court's comment. A series of steps have been taken by Eurojust in order to improve the budget forecasting and implementation, such as new monthly forecasting reports and other monitoring tools, which will result in a reduced number of carry forwards and budget transfers.

13. Eurojust again calls the attention of the Court to the fact that such definition of roles and responsibilities, other than the internal measures which have already been taken by Eurojust, corresponds to the EU legislator, within the framework of the preparation of the new Regulation on Eurojust.

The governance structure of Eurojust is based on the Eurojust Council Decisions [2002/187/JHA, 2003/659/JHA and 2009/426/JHA]. Hence the College has no means to make any substantial modifications to the present situation. The envisaged new Regulation on Eurojust, in accordance with Article 85, 2nd sentence, of the Treaty on the Functioning of the EU (TFEU), will provide an opportunity to adequately define roles and responsibilities within Eurojust.

14. Eurojust acknowledges that a number of implementing rules have not yet been adopted in accordance with Article 110(1) of the Staff Regulations (SR) and will adopt all missing implementing rules in the near future. Eurojust aims at submitting all outstanding draft implementing rules to the Commission in 2012 and expects adoption in 2012 and 2013.

15. Eurojust takes note of the Court's comment. However, Eurojust would like to recall the fact that it is a relatively small Agency with low gradings in comparison to other Agencies, which has occasionally in the past made it difficult to comply with the same or higher grading requirement for the members of a Selection Board. Eurojust has taken the necessary corrective actions on this regards, in particular the recruitment policy has been updated to comply fully with the requirements of the Staff Regulations. The specific procedure mentioned was conducted in a transparent manner and not biased in favour of the selected candidate.

---

## REPORT

**on the annual accounts of the European Police Office for the financial year 2011, together with the Office's replies**

(2012/C 388/32)

## INTRODUCTION

1. The European Police Office (hereinafter "the Office"), which is located in The Hague, was established by Council Decision (2009/371/JHA) <sup>(1)</sup>. The objective of the Office is to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Office, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Office, under his own responsibility and within the limits of the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Office and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Office are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 121, 15.5.2009, p. 37.

<sup>(2)</sup> The *Annex* summarises the Office's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year, which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Office.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Office's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Office for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

### **COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. In 2010, more than 1,6 million euro had to be cancelled and in 2011, 1,9 million euro (9 % of the appropriations carried over from 2010) were cancelled. As in 2010, carry-overs of commitment appropriations were also high in 2011, with 4,2 million euro (41 %) for Title II (administrative expenditure) and 10,6 million euro (46 %) for Title III (operational expenditure). The high carry-over and cancellation rates and also the high number of 11 budget transfers made in 2011 indicate difficulties in the planning and/or implementation of the Office's activities.

13. The level of payments against commitments was low, with 34 % for Title II and 45 % for Title III and is at odds with the budgetary principle of annuality.

<sup>(10)</sup> The Final Annual Accounts were drawn up on 10 July 2012 and received by the Court on 12 July 2012. 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://www.europol.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

### **COMMENTS ON KEY CONTROLS OF THE OFFICE'S SUPERVISORY AND CONTROL SYSTEMS**

14. Procedures concerning the establishment, approval and recording of exceptions and deviations from policies and procedures have not been adopted. Exceptions and deviations were recorded for 7 % of 2011 payments.

15. The accounting system has not been fully validated by the Accounting Officer. Key processes such as year end closing and the establishment of staff's financial rights are not yet covered.

16. Weaknesses were found as regards the physical verification and recording of assets before and after the move to the new headquarters. In addition, insurance contracts do not reflect the value of the Office's assets. Whereas, before the move, net assets were over-insured by about 17 million euro, they are now under-insured by about 21 million euro.

17. There is considerable room for improving the preparation, execution and documentation of procurement procedures.

### **OTHER COMMENTS**

18. The Office's Financial Regulation refers to detailed rules and procedures laid down in its Implementing Rules. However, they have not yet been adopted.

19. The general conditions of the contract between the Office and the host country on the use of the new headquarters do not include any provision for dilapidation costs<sup>(12)</sup>. However, Annex IV of the lease stipulates that the Office will have to remove a significant number of items when the contract comes to an end. There is no estimate of the related cost and no provision for this has been recorded in the accounts.

20. There is considerable room for improving the transparency of recruitment procedures: questions for written tests and interviews were set after the applications had been examined by the selection board; no threshold scores were set for admission to written tests and interviews and for being included in the list of suitable candidates; selection boards did not document all their meetings and decisions.

21. According to the EU Staff Regulations, a maximum of 12 days of untaken annual leave can be carried forward to the next year. More days can only be carried forward in exceptional circumstances. However, the Office accepted carry-overs in excess of the 12 days for about 25 % of its staff of approximately 500.

<sup>(12)</sup> The cost of bringing the building back to its initial condition when the lease comes to an end.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 18 September 2012.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

---

## ANNEX

**European Police Office (The Hague)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 88 of the Treaty on the functioning of the European Union)</i></p>	<p>“Europol’s mission shall be to support and strengthen action by the Member States’ police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy”.</p>
<p><b>Competences of the Office</b></p> <p><i>(Council Decision 2009/371/JHA establishing the European Police Office(Europol) (ECD))</i></p>	<p><b>Competence</b></p> <p>Europol’s competence shall cover organised crime, terrorism and other forms of serious crime affecting two or more Member States in such a way as to require a common approach by the Member States owing to the scale, significance and consequences of the offences.</p> <p>Europol’s competence shall also cover related criminal offences as defined in art. 4 (3) ECD.</p> <p><b>Principal tasks</b></p> <ul style="list-style-type: none"> <li>— to collect, store, process, analyse and exchange information and intelligence;</li> <li>— to notify the competent authorities of the Member States without delay via the national unit referred to in Article 8 of information concerning them and of any connections identified between criminal offences;</li> <li>— to aid investigations in the Member States, in particular by forwarding all relevant information to the national units;</li> <li>— to ask the competent authorities of the Member States concerned to initiate, conduct or coordinate investigations and to suggest the setting up of joint investigation teams in specific cases;</li> <li>— to provide intelligence and analytical support to Member States in connection with major international events;</li> <li>— to prepare threat assessments, strategic analyses and general situation reports relating to its objective, including organised crime threat assessments;</li> <li>— to provide support to Member States in their tasks of gathering and analysing information from the Internet in order to assist in the identification of criminal activities facilitated by or committed using the Internet.</li> </ul> <p><b>Additional tasks</b></p> <ul style="list-style-type: none"> <li>— to develop specialist knowledge of the investigative procedures of the competent authorities of the Member States and to provide advice on investigations;</li> <li>— to provide strategic intelligence to assist and promote the efficient and effective use of the resources available at national and Union level for operational activities and the support of such activities.</li> </ul> <p><b>Additionally, assist Member States through support, advice and research in the following areas</b></p> <ul style="list-style-type: none"> <li>— the training of members of their competent authorities, where appropriate in cooperation with the European Police College;</li> <li>— the organisation and equipment of those authorities by facilitating the provision of technical support between the Member States;</li> </ul>



	<ul style="list-style-type: none"> <li>— crime prevention methods;</li> <li>— technical and forensic methods and analysis, and investigative procedures.</li> </ul> <p>And Europol shall also act as the <b>Central Office for combating euro counterfeiting</b> in accordance with Council Decision 2005/511/JHA of 12 July 2005 on protecting the euro against counterfeiting.</p> <p>Europol shall process and transfer financial messaging data in accordance with the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the “<b>Terrorist Finance Tracking Program</b>”.</p> <p>And Europol shall continue efforts to establish the <b>Prüm Helpdesk</b> in order to support the daily application of the “Prüm Decisions” in accordance with the Council conclusions of 13 December 2011 on intensifying the implementation of the “Prüm Decisions”.</p>
<b>Governance</b>	<p><b>Management Board</b></p> <p>The Management Board shall be composed of one representative of each Member State and one representative of the Commission.</p> <p><b>Director</b></p> <ul style="list-style-type: none"> <li>— Is appointed by the Council, acting by qualified majority, from a list of at least three candidates presented by the Management Board, for a four-year period (may be extended once for not more than four years).</li> <li>— Is assisted by three Deputy Directors appointed for a four-year period extendable once.</li> <li>— Leads Europol and is accountable to the Management Board in respect of the performance of his duties.</li> <li>— Is Europol’s legal representative.</li> </ul> <p><b>External audit</b></p> <ul style="list-style-type: none"> <li>— European Court of Auditors (ECA);</li> <li>— Internal Audit Service (IAS) of the Commission;</li> <li>— Joint Supervisory Body (JSB);</li> <li>— Additionally: Internal Audit Function (IAF) and Data Protection Officer (DPO) – functionally independent, associated with the line organisation (established based on the Europol Council Decision).</li> </ul> <p><b>Discharge Authority</b></p> <p>The European Parliament, taking into account a recommendation from the Council acting by qualified majority.</p>
<b>Resources made available to the Office in 2011 (2010)</b>	<p><b>Final budget 2011</b></p> <p>84,8 (92,8) million euro</p> <p><b>Staff establishment plan 2011</b></p> <ul style="list-style-type: none"> <li>— 457 (453) temporary staff</li> <li>— 25 (25) seconded national experts</li> <li>— 73 (78) contract staff</li> </ul>

**Products and services in 2011  
(2010)**
**Europol as the principal EU support centre for law enforcement operations**

Analysis Work Files, operational analysis reports and other reporting, operational support on the spot and from the headquarters, Joint Investigation Teams

- Europol supported competent authorities in EU Member States in 13 697 cross-border cases, an increase of 17 % over 2010. 21 % of these cross border cases were related to drugs.
- Europol initiated or actively supported 694 investigations in the Member States with in-depth analytical and operational support, most of which are still ongoing. Operations focused on the areas of cannabis, facilitated illegal immigration, and synthetic drugs and trafficking in human beings were most frequently supported by Europol.
- Europol produced 984 cross match reports and 340 operational analysis reports.
- Lead investigator(s) of operations in the Member States and Member States' experts expressed a high level of satisfaction with the analysis and operational support provided by Europol.
- There was a substantial increase in the amount of operational support provided to Member States confirming the trend evident in previous years for increased requests for all Europol services. Europol continued to provide financial support for operational meeting attendance and to support euro counterfeiting investigations.
- Europol undertook a substantial amount of work to develop the New Analysis Work File (AWF) Concept (NAC) that will lead to several important benefits to the Member States including a faster response to Member State requests.
- Europol supported 17 Joint Investigation Teams in 2011 as a full member.
- Europol established an improved Operational Centre enabling enhanced coordination of all incoming information, centralised routing of operational information, management and coordination function and operational prioritisation function.
- Europol intensively supported the establishment and implementation of the EU Policy Cycle 2011-2013 which is based on the OCTA 2011. Several workshops were organised at Europol to elaborate strategic goals for each of the eight priorities for the fight against organised crime and to convert these strategic goals into annual operational action plans based on the template developed by Europol.
- A dedicated unit within Europol continued to fulfil Europol's role in the Terrorist Finance Tracking Programme (TFTP) and processed all related US requests and information leads. Europol also started an awareness campaign on the TFTP for practitioners of competent authorities, prosecutors etc. and at meetings of experts in Brussels where the EU equivalent system of the US TFTP was discussed.

**Strategic analysis capability**

Strategic analysis reports (Threat Assessments, Situation Reports and Intelligence Notifications)

- Threat Assessments: Credit card fraud; Trafficking in human beings; Comparison of US and EU priorities and methods in combating transnational organised crime; Organised Crime Threat Assessment (OCTA); Organised crime in the Danube region; Major international sports event (football Eurocup Poland and Ukraine); Visa liberalisation for Ukraine: security impact on the EU; Visa liberalisation for Moldova: security impact on the EU.

- Situation Reports: Joint report (Frontex, Olaf, Taxud, European Commission) on organised crime at EU borders; Nuclear and radioactive events; EU Terrorism Situation and Trend Report (TE-SAT).
- OC-SCAN Threat Notices: Trafficking in endangered species by Organised Crime Groups (OCGs); Involvement of a mobile OCG in the illegal trade in rhino horn; illegal waste trafficking and disposal, growth in the trade in counterfeit and other illegal pesticides across Europe.
- Knowledge Products: Europol's contribution to the Handbook for CSDP Missions; Fact Sheet and Risk Profile for Joint Police Operation 'Eurocar'.

#### **Europol as the EU criminal information hub**

Information management capabilities, Secure Information Exchange Network Application (SIENA) Europol Information System (EIS), Liaison Bureaux network

- In total 222 135 SIENA messages were received by Europol, Member States and external partners in 2011. This is an increase of 34 % compared to 2010.
- By the end of 2011, 15 Member States' national asset recovery offices were linked to SIENA. The project continues in 2012.
- At the end of 2011, thirteen Member States were using automatic data loaders to the enable automatic feeding of data into the EIS. The project continues in 2012.
- The EIS content reached 200 000 objects on 28 October 2011.
- Work continued to improve federated search capabilities across all Europol applications.
- The Europol Links Manager (ELM) went live at the end of October 2011. The new function enables automated cross-checking of AWFs, 10.4 repository, the EIS, and the ERES.
- Europol liaison officers ensure a live link between Europol headquarters in The Hague and 27 Europol National Units in the national capitals of the Member States. This is a unique network of 145 liaison officers who play an important role in everyday law enforcement activities by facilitating the exchange of information, as well as providing support and coordination for ongoing investigations. Europol also hosts liaison officers from 10 non-EU countries and organisations who work together with Europol on the basis of cooperation agreements. This Liaison Bureaux Network is supported by secure channels of communication provided by Europol. In addition, Europol has seconded two liaison officers to Washington (USA) and one to Interpol's headquarters in Lyon (France).

#### **Europol as the EU centre for law enforcement expertise**

Europol Platforms for Experts (EPE), Data exchange platforms and storage solutions, Knowledge products and services, Training, Conferences and awareness sessions

- Nineteen platforms have been created on the Europol Platform for Experts for which the number of accounts and active users are continuously growing.
- In relation to cybercrime, Europol took steps to consolidate its operational and strategic expertise in key work areas relating to online crime, including intrusion and identity theft, child sexual exploitation, mass marketing fraud, payment card fraud and intellectual property theft. Improvements to the Cyber Crime Centre infrastructure and tools were realised. Europol has also built on existing partnerships with other EU cyber-security bodies such as the European Network and Information Security Agency (ENISA), Eurojust, the European Police College (CEPOL), to ensure that the EU provides a collective response to the evolving threat of cybercrime.

---

— The European Commission/OLAF, the European Central Bank and Europol jointly organised the 2nd International Conference on the protection of the Euro against counterfeiting (2011 Euro Conference) at Europol's new headquarters in The Hague from 23 to 25 November 2011.

— Europol supported CEPOL in the development and delivery of training/awareness packages to further support Member States in implementing National Intelligence Models. Europol participated in 2011 in a one week seminar at CEPOL for planning the training packages.

#### **External relations**

##### Relations with cooperation partners

— Europol cooperates with a number of EU partners, and with third countries and organisations. The exchange of information with these partners takes place on the basis of cooperation agreements. Strategic agreements make it possible for the two parties involved to exchange all information with the exception of personal data, while operational agreements also allow the exchange of personal data.

— Europol currently cooperates with 18 non-EU countries, 9 EU bodies and agencies and 3 other international organisations, including Interpol, which features in many aspects of Europol's operational work.

— Interpol <sup>(1)</sup> and Europol endorsed a collaborative operational action plan in key security areas in October 2011.

— At the end of 2011, four operational cooperation partners were using direct access to SIENA. The project will continue in 2012.

— The Heads of Europol National Units (HENUs) of all EU Member States, including observers from cooperation partners (such as Eurojust and Interpol) and the Commission, meet on a regular basis to assist Europol on operational matters and to provide support in the establishment of Joint Investigation Teams involving Europol.

---

<sup>(1)</sup> International Criminal Police Organisation (ICPO).

Source: Information supplied by the Office.

---

**EUROPOL'S REPLIES**

9. Europol reflected the assets in the final accounts, based on a statement of assurance from the Host State, confirming to Europol the correctness of the values of the transferred assets, in line with the lease agreement. Europol holds the view that the statement of assurance gives 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.

14. An amount of 22,6 million euro was carried forward from 2010 to 2011. Europol considers it to be a considerable improvement that carry-forwards were decreased to 15,0 million euro across the budget.

Special circumstances during 2011 held up budget implementation, such as the delayed move (3 months) to the new building. 2011 being the second year for Europol to operate financially as an EU agency, dedicated additional actions were taken to further align activities with the principle of budget annuality. An audit by the Internal Audit Service (IAS) of the European Commission, performed in 2011 on planning and budgeting process, confirmed positive developments in this regard.

15. Reference is made to Europol's response under item 14.

16. Exceptions in the area of recruitment, procurement activities and all financial transactions are recorded. Europol has developed an own Process Framework (PF) which is based on and recognises applicable standards and norms. Nonetheless, Europol acknowledges the ECA's comment and will further streamline the management and recording of exceptions to (financial) processes to fully comply with the observations made by the ECA.

17. Key processes feeding into the accounting system of Europol were validated, including budget commitment as well as payment processes covering also salary expenditure. However, Europol acknowledges the comment of the ECA and will expand its validation activities in this regard.

18. Considerable efforts were undertaken to confirm the physical location of the concerned assets for the final accounts.

As soon as the final asset value transferred by the Host State was known, concerned insurance policies were updated.

Having now concluded the transfer process of assets from the Host State, Europol will conduct another full physical verification of assets and will act upon the results as a matter of priority.

19. Europol acknowledges the need for improving the preparation and execution of procurement procedures, including the underlying documentation. Next to process refinements, supporting organisational changes are considered for implementation by the end of 2012.

20. Europol will prepare and adopt implementing rules to the Financial Regulation (FR) applicable to Europol, following the adoption of the new Framework Financial Regulation at EU level. The current implementing provisions of the EU Framework Financial Regulation are applied by analogy within Europol.

21. Dilapidation costs for the new building of Europol and the external disaster recovery site were reflected as contingent liabilities in the final annual accounts 2011. Europol will seek independent re-insurance concerning the estimated costs, taking into account the costs such a review will imply.

22. Europol considers the confidentiality of selection texts to be of great importance. Access to test material is restricted.

Thresholds for admission to tests and interviews were introduced as from July 2012 onwards.

Europol holds the view that all key findings of selection committees which are of relevance to appointments are properly documented. Nonetheless, Europol will take further action to identify additional refinements as highlighted by the ECA.

23. Europol addresses the comment of the ECA in the context of human resources related performance monitoring.

## REPORT

**on the annual accounts of the European Union Fundamental Rights Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/33)

## INTRODUCTION

1. The European Union Fundamental Rights Agency (hereinafter "the Agency"), which is located in Vienna, was established by Council Regulation (EC) No 168/2007<sup>(1)</sup>. The objective of the Agency is to provide the relevant authorities of the Union and its Member States with assistance and expertise when implementing Union law relating to fundamental rights<sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Agency, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations<sup>(6)</sup>. The Director is responsible for putting

in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 53, 22.2.2007, p. 1.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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***

9. In the Court's opinion, the Agency's Annual Accounts <sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended,

in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer <sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

This report was adopted by Chamber IV, headed by Mr. Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vítor Manuel da SILVA CALDEIRA

*President*

---

<sup>(10)</sup> The Final Annual Accounts were drawn up on 20 February 2012 and received by the Court on 25 June 2012. 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://www.fra.europa.eu/>.

---

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

## European Union Agency for Fundamental Rights (Vienna)

## Competences and activities

<p><b>Areas of Union competence deriving from the Treaty</b></p>	<p><b>Collection of information</b></p> <ul style="list-style-type: none"> <li>— The Commission may, within the limits and under conditions laid down by the Council acting by a simple majority in accordance with the provisions of the Treaties, collect any information and carry out any checks required for the performance of the tasks entrusted to it. (Article 337)</li> </ul>
<p><b>Competences of the Agency</b></p> <p><i>(Council Regulation (EC) No 168/2007)</i></p>	<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>— To provide the relevant institutions, bodies, offices and agencies of the Union and its Member States when implementing Union law with assistance and expertise relating to fundamental rights in order to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights.</li> </ul> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data;</li> <li>— To develop methods and standards to improve the comparability, objectivity and reliability of data at European level;</li> <li>— To carry out, cooperate with or encourage scientific research and surveys, preparatory studies and feasibility studies;</li> <li>— To formulate and publish conclusions and opinions on specific thematic topics, for the Union institutions and the Member States when implementing Union law;</li> <li>— To publish an annual report on fundamental-rights issues covered by the areas of the Agency's activity;</li> <li>— To publish thematic reports based on its analysis, research and surveys;</li> <li>— To publish an annual report on its activities;</li> <li>— To develop a communication strategy and promote dialogue with civil society.</li> </ul>
<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p><i>Composition</i></p> <p>One independent person appointed by each Member State, one independent person appointed by the Council of Europe and two representatives of the Commission.</p> <p><i>Duties</i></p> <p>To adopt the budget, work programme and annual reports. To adopt the final budget and the establishment plan. To give an opinion on the final accounts.</p> <p><b>Executive Board</b></p> <p><i>Composition</i></p> <ul style="list-style-type: none"> <li>— Chairperson of the Management Board;</li> <li>— Vice-Chairperson of the Management Board;</li> <li>— One representative of the Commission;</li> <li>— Two other elected members from the Management Board;</li> </ul>



	<p>— the person appointed by the Council of Europe in the Management Board may participate in the meetings of the Executive Board.</p> <p><b>Scientific Committee</b></p> <p><i>Composition</i></p> <p>— Eleven independent persons, highly qualified in the field of fundamental rights;</p> <p>— Appointed by the Management Board shall appoint the members following a transparent call for applications and selection procedure.</p> <p><b>Director</b></p> <p>— Is appointed by the Management Board on a proposal from the Commission and after opinions of the European Parliament and the Council of the European Union (who will state their preference).</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Internal control</b></p> <p>The Commission's Internal Audit Service.</p> <p><b>Discharge authority</b></p> <p>Parliament on a recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>20,180 million euro (20,214) of which the Union subsidy is 99 % (99 %)</p> <p><b>Staff as at 31 December 2011</b></p> <p>72 (72) foreseen in the establishment plan, of which occupied: 70 (69) + 22 (18) other staff (contract agents, seconded national experts)</p> <p>Total staff: 94 (90), undertaking the following tasks:</p> <p>operational: 59 (55)</p> <p>administrative: 29 (29)</p> <p>mixed: 6 (6)</p>
<p><b>Products and services 2011 (2010) <sup>(1)</sup></b></p>	<p><b>RAXEN</b></p> <p>Number of contributions by the national focal points: 1 (162)</p> <p>Number of meetings: 0 (1)</p> <p><b>FRALEX</b></p> <p>Number of contributions by legal experts: 0 (131)</p> <p>Number of meetings: 0 (0)</p> <p><b>FRANET <sup>(2)</sup></b></p> <p>Number of contributions by the 29 national focal points: 29 (0)</p> <p>Number of meetings: 2 (0) (1 with 5 representatives of contractors and 1 with 60 representatives of contractors)</p>

**Research Reports**

Number of reports: 26 plus 113 language versions (37, incl. lang. versions)

Number of meetings: 11 (20)

Annual reports: 2 plus 2 language versions (3, incl. lang. versions)

Annual report Summary: 1 plus 4 lang. versions

Factsheets: 10 plus 149 language versions

Poster: 1

**Non-Research Materials**

Various FRA publications: 5 plus 27 language versions (3)

**Key Conferences and Events**

Fundamental Rights Conference: 1 (1)

Diversity Day Event: 1 (2)

FRA Symposium: 1 (1)

**Cooperation with Member States and other Institutions**

Member States: 13 (12)

Council of the EU: 9 (6)

European Commission: 18 (20)

European Parliament: 10 (5)

Court of Justice of the EU: 1 (0)

Committee of the Regions: 3 (2)

European Economic and Social Committee: 1 (1)

Fundamental Rights Platform: 3 (2)

Council of Europe: 10 (16)

European Investment Bank: 1 (0)

OSCE: 3 (3)

United Nations: 2 (6)

External Stakeholders: 48 (30)

Specialised Bodies (NHRIs and Equality Bodies): 4 (7)

Other Meetings and Round Tables: 20 (20)

(1) Please note that for year 2011, we have separated reports from factsheets, and we also explicitly state the total amount of language versions for each category.

(2) FRANET replaces RAXEN and FRALEX networks.

Source: Information supplied by the Agency.

**THE AGENCY'S REPLY**

The Agency has taken note of the Court's report.

---

## REPORT

**on the annual accounts of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States for the financial year 2011, together with the Agency's replies**

(2012/C 388/34)

## INTRODUCTION

1. The European Agency for the Management of Operational Cooperation at the External Borders of the Member States (hereinafter "the Agency"), which is located in Warsaw, was created by Council Regulation (EC) No 2007/2004 <sup>(1)</sup>. The Agency's task is to coordinate the Member States' activities in the field of the management of external borders (support for operational cooperation, technical and operational assistance, and risk analysis) <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Agency, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 349, 25.11.2004, p. 1.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Agency's 2011 budget amounted to 118,2 million euro of which 38,7 million euro (33 %) were carried over to

2012. Carryovers related to Title III (operational expenditures) amounted 36 million euro (41 %). As in the previous year, the level of carryovers is excessive and at odds with the budgetary principle of annuality.

13. Within the total amount carried over, the Agency carried over global commitments of 5,1 million euro. The Agency's Financial Regulation however does not provide a clear basis for such a carryover<sup>(12)</sup>.

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

14. In 2011, the Agency financed grants for joint operations amounting to 74 million euro. In order to verify the expenditure claimed by the beneficiaries (Member states and Schengen Associated Countries), the Agency, although it performs reasonableness checks, does not usually request supporting documentation that would address the risk of ineligible expenditure.

15. As in the previous year, the Agency's accounting system has still to be validated by the Accounting Officer.

16. Internal control weaknesses were identified as regards the management of fixed assets. There is no procedure related to the disposal of fixed assets and the physical inventory is incomplete.

This report was adopted by Chamber IV, headed by Mr. Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vítor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 20 June 2012 and received by the Court on 11 July 2012. 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://www.frontex.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> The Agency Financial Regulation states in its article 62(2) that "Global budget commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of year N+1". Both the EU Financial Regulation and the Agency Financial Regulation are however unclear concerning the use of global commitments for non differentiated appropriations. The Agency used global commitments to justify an automatic carryover of non differentiated appropriations.

## ANNEX

**European Agency for the Management of Operational Cooperation at the External Borders (Warsaw)**  
**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Articles 74 and 77(2)(b) and (d) of the Treaty on the Functioning of the European Union)</i></p>	<p>Art. 74: "The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Title, as well as between those departments and the Commission. [...]"</p> <p>Art. 77(2): "[...] the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:</p> <p>[...] (b) the checks to which persons crossing external borders are subject;</p> <p>[...] (d) any measure necessary for the gradual establishment of an integrated management system for external borders; [...]"</p>
<p><b>Competences of the Agency</b></p> <p><i>(Council Regulation (EC) No 2007/2004 amended by Regulation (EC) No 863/2007 of the European Parliament and of the Council, amended by Regulation (EU) No 1168/2011 of the European Parliament and of the Council)</i></p> <p><i>(The last amendment entered into force on 12.12.2011; the content of the table reflects the situation after this last amendment.)</i></p>	<p><b>Objectives</b></p> <p>The Agency was established with a view to improving the integrated management of the external borders of the Member States of the EU.</p> <p><b>Main Tasks</b></p> <p>(a) coordinate operational cooperation between Member States in the field of management of external borders;</p> <p>(b) assist Member States on training of national border guards and establish common training standards;</p> <p>(c) carry out risk analyses, including the assessment of the capacity of Member States to face threats and pressures at the external borders;</p> <p>(d) participate in the development of research relevant for the control and surveillance of external borders;</p> <p>(e) assist Member States in circumstances requiring increased technical and operational assistance, especially those Member States facing specific and disproportionate pressures;</p> <p>(f) provide Member States with the necessary support including, upon request, coordination or organisation of joint return operations;</p> <p>(g) set up European Border Guard Teams (EBGT) to be deployed during joint operations, pilot projects and rapid interventions;</p> <p>(h) develop and operate information systems for information exchange, including IConet;</p> <p>(i) provide necessary assistance to the development and operation of a European border surveillance system (EUROSUR).</p>
<p><b>Governance</b></p>	<p><b>Management Board</b></p> <p><i>Composition:</i></p> <p>One representative of each Member State, two representatives of the Commission and one representative per Schengen Associated Country (Iceland, Norway, Switzerland and Liechtenstein).</p> <p><i>Tasks:</i></p> <p>(a) appoint the Executive Director;</p> <p>(b) adopt the general report of the Agency;</p>

	<p>(c) adopt the Agency's Programme of Work;</p> <p>(d) establish procedures for taking decisions related to the operational tasks of the Agency;</p> <p>(e) carry out its functions relating to the Agency's budget;</p> <p>(f) exercise disciplinary authority over the (Deputy) Executive Director;</p> <p>(g) establish its Rules of Procedure;</p> <p>(h) establish the organisational structure of the Agency and adopt the Agency's staff policy;</p> <p>(i) adopt the Agency's multiannual plan.</p> <p><b>Executive Director</b></p> <p>Appointed by the Management Board on a proposal from the Commission.</p> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>European Parliament acting on a recommendation of the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>118,2 (93,2) million euro</p> <p>Union subsidy 111 (89,1) million euro</p> <p><b>Staff as at 31 December 2011</b></p> <p><i>Establishment plan:</i></p> <p>Temporary agents planned: 143 (143) - Temporary agents occupied: 141 (139)</p> <p><i>Other posts:</i></p> <p>Contract staff planned 88 (79) - Contract staff occupied 85 (79)</p> <p>Seconded National Experts planned: 83 (76) - Seconded National Experts occupied: 78 (76)</p> <p>Total staff number: 314 (298) - out of which occupied: 304 (294)</p> <p>Assigned to the following occupied tasks: operational: 214 (203) - administrative: 90 (91)</p>
<p><b>Products and services in 2011 (2010)</b></p>	<p><b>Risk Analysis Unit</b> produced 20 (14) strategic assessments, 4 (4) quarterly reports, 469 (294) analytical products supporting Joint Operations (including Weekly Briefings and new types of reports aimed at improving operational focus and response), 112 (64) reports of other types, including briefings for the Agency Management, the EU Commission and others; publication of 6 strategic reports for the general public via the Agency website. Comprehensive update of the Common Integrated Risk Analysis Model (CIRAM v 2.0) finalised in 2011. 4 (4) regular Frontex Risk Analysis Network meetings, 2 Tactical Risk Analysis Meetings and 5 (2) regional Expert Meetings were organised.</p> <p><b>Joint Operations Unit</b> organised 19 (17) joint operations, 14 (9) pilot projects and 15 (4) conferences. Furthermore, during 42 (40) the Agency coordinated joint return operations 2 059 (2 038) people were returned. The Rapid Border Intervention Team (RABIT) Operation launched in November 2010 was finalised in March 2011. Overall operational intensity increased as a total of 7 754 (6 471) operational days was accumulated in all joint operations; the number of operational man-days accumulated, increased to 105 038 (54 976).</p>

**Frontex Situation Centre (FSC)** provided 1 900 (500) Situational Reports, Flash Reports, Falsified Document Alerts and 11 (14) Mission Awareness Reports for internal and external customers. Daily Newsletters were delivered to 400 (350) accounts. The FSC as a single point of contact for information exchange with external clients managed around 24 000 (20 000) correspondence items and implemented the Frontex-One-Stop-Shop (FOSS), a web-based information-sharing portal which is used by 35 (30) countries and 2 600 (900) users.

As well as intensive participation in the EUROSUR Programme, 4 process automation projects were (fully and/or partially) developed and/or implemented.

**Training Unit** organised 223 (176) activities attended by 3 490 (4 015) people (training experts, trainees, etc.) within the framework 20 (18) projects; stakeholders devoted a total of 12 947 (11 000) man-days to training activities.

**Pooled Resources Unit** implemented 6 (9) projects designed to improve the overall effectiveness of Frontex operations. PRU also coordinated deployment during the RABIT operation throughout the entire period of 61 days. The deployment of 576 officers was coordinated, as was the deployment of 67 items of technical equipment.

**Research & Development Unit** developed further – in close collaboration with other Agency's units - the EUROSUR Programme, which is very important to the Agency. The R&D Unit organised and held 34 (32) meetings including conferences, workshops and bilateral events held with Member States. R&D staff participated in approximately 130 (110) internal and external workshops, conferences and working meetings. The R&D Unit produced 19 (10) country reports, 15 meeting reports, 11 project proposal evaluation reports for FP7 SEC and financed three academic studies.

**Partnership and cooperation with third countries:** During 2011, two Working Arrangements (WAs) were concluded with the National Police of Cape Verde and with the Migration, Asylum and Refugees Regional Initiative (MARRI) Regional Centre, increasing the overall number of WAs to 16 (14). On the basis of existing WAs, specific cooperation on operational and technical border security/management matters between the Agency and the third country partners has been increased with a view to working towards sustainable partnerships.

**Cooperation with EU Bodies and international organisations:** By the end of 2011, a Working Arrangement (WA) was signed in DCAF, increasing the overall number to 11 (10). All WAs are implemented through a number of the Agency's activities; the organisation of the Anti-Trafficking Day in Warsaw together with fellow JHA Agencies and the Commission was a very important event in this respect.

Source: Information supplied by the Agency.



### THE AGENCY'S REPLIES

12. The increased operational activities related to the developments in the Mediterranean Area went hand in hand with a budgetary amendment amounting to 31,8 million EUR. The additional funds arrived to a large part in late October 2011 only which led to a situation where significant carry over occurred as a result.

The high level of carry over is partly a consequence of the budgetary procedure in force, which is not appropriate for reactions on exceptional developments. Frontex would like to provide also the information that the carryovers from 2010 were used to a level of 81 %.

13. The Agency considers that there is a lack of clarity in Frontex' Financial Regulation, giving room for different interpretations. The Agency will refrain from carrying over global commitments.

14. As of January 2012 Frontex requests supporting documents for the majority of costs in joint return operations. For other grants issued for joint operations, supporting documentation is requested in case of discrepancies detected in the final financial statements.

Frontex is developing a policy on ex-ante controls which will be finalised and implemented as of 30 September 2012.

15. The Accounting Officer has started the validation of the Accounting System in the first quarter of 2012 and will finalise it by September 2012.

16. Process descriptions on asset management are currently subject to the approval process; an asset management policy (covering disposal as well) and guidelines on internally developed assets are to be adopted by the end of Q3 of 2012. An audit on asset registration and conducting inventories will be finalised by August 2012 and the management intends to address potential weaknesses identified with corrective actions.

---

## REPORT

**on the annual accounts of the European GNSS Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/35)

## INTRODUCTION

1. The European GNSS (Global Navigation Satellite System) Agency (hereinafter "the Agency"), which is located in Brussels, was set up by Regulation (EU) No 912/2010 of the European Parliament and the Council<sup>(1)</sup>, repealing Council Regulation (EC) No 1321/2004<sup>(2)</sup> and amending Regulation (EC) 683/2008<sup>(3)</sup>, to manage the public interests relating to the European GNSS programmes and to act as the regulatory agency for the programme during the deployment and operational phases of the Galileo Programme. Regulation (EC) No 683/2008 of the European Parliament and the Council reduced the responsibilities of the Agency to the control of the security of Galileo systems and to the preparation of their commercialisation<sup>(4)</sup>. According to Decision 2010/803/UE of the Member States<sup>(5)</sup>, the Agency will be relocated to Prague as of 1 September 2012.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(6)</sup> of the Agency, which comprise the "financial statements"<sup>(7)</sup> and the "reports on the implementation of the budget"<sup>(8)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations<sup>(9)</sup>. The Director is responsible for putting in place<sup>(10)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>(11)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(12)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the

<sup>(1)</sup> OJ L 276, 20.10.2010, p. 11.

<sup>(2)</sup> OJ L 246, 20.7.2004, p. 1.

<sup>(3)</sup> OJ L 196, 24.7.2008, p. 1.

<sup>(4)</sup> The Annex summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(5)</sup> OJ L 342, 28.12.2010, p. 15.

<sup>(6)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(7)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(8)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(9)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(10)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(11)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(12)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

8. The Court considers 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**

9. In the Court's opinion, the Agency's Annual Accounts<sup>(13)</sup> fairly present, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(14)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

#### **COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

12. Ex-post audits carried-out for the Agency by an external audit firm in respect of grant payments made in previous years

under the Sixth Framework Programme for Research and Development (FP6)<sup>(15)</sup> frequently called into question the declarations of cost made by the beneficiaries. At the end of 2011, the amounts in dispute were estimated at 1,7 million euro or 5 % of the audited grants.

13. In 2011, the Agency made grant payments under the Seventh Framework Programme for Research and Development (FP7) amounting to 5,8 million euro. In order to verify the expenditure claimed by the beneficiaries (private and public entities performing research), the Agency, although it performs reasonableness checks, does not usually request supporting documentation that would address the risk of ineligible expenditure.

14. In 2011, payments amounting to 4,8 million euro (22 % of the amounts paid during the year) were made after the deadlines stipulated in the Financial Regulation<sup>(16)</sup>.

#### **OTHER COMMENTS**

15. The Court had qualified its opinion on the reliability of the Agency's 2010 accounts on the grounds of incorrect accounting treatment of tangible fixed assets related to the Galileo satellite programme<sup>(17)</sup>. These assets were incorporated in two satellites that were launched in October 2011. On 27th September 2012 the Court received confirmation from DG ENTR that these assets are now under the control of the Commission and are not to be capitalised in the Agency's accounts according to International accounting standards<sup>(18)</sup>. The Court considers that there is no longer the basis for a qualification on such grounds for 2011.

16. As noted in the previous year's report, the staff selection procedures audited showed that the threshold scores were not determined for admission to written tests and interviews or for inclusion in the list of suitable candidates. These practices jeopardised the transparency of the recruitment procedures.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 16 October 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(13)</sup> The Final Annual Accounts were drawn up on 15 June 2012 and received by the Court on 29 June 2012. 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. They can be found on the following website <http://eca.europa.eu> or <http://gsa.europa.eu/>

<sup>(14)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(15)</sup> The audited grants account for 50 % of all FP6 grants under the Second and Third Calls (65,3 million euro).

<sup>(16)</sup> Approximately 9 days' delay on average.

<sup>(17)</sup> Regulation (EC) No 683/2008 on the further implementation of European satellite navigation programmes (EGNOS and Galileo).

<sup>(18)</sup> IPSAS accounting rule No 1.

## ANNEX

**European GNSS Agency (Brussels)****Competences and activities**

<b>Areas of Union competence deriving from the Treaty</b>	— Competitiveness for growth and employment
<b>The Agency's powers</b>  <i>(Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010)</i>	<b>Objectives</b> — to contribute to the achievement of fully operational European satellite navigation systems established under the EGNOS and Galileo programmes  <b>Tasks</b> — to ensure security accreditation and operation of the Galileo security centres; — to guarantee the operations of the Galileo Security Monitoring Centres (GSMC); — to contribute to the preparation of the commercialisation of the systems, including the necessary market analysis; — to accomplish other tasks that may be entrusted to it by the Commission, such as promoting application and services in the satellite navigation market, ensuring that the components of the system are certified by the appropriate, duly authorised certification bodies.
<b>Governance</b>	<b>Administrative Board</b>  <i>Composition:</i> — one representative per Member State; — five representatives from the Commission; — a non-voting representative of the European Parliament; — one representative of the HR and ESA each to be invited as observers.  <i>Tasks:</i> — appoints the Executive Director (ED); — adopts the annual work programme; — produces a statement of estimates of revenue and expenditure; — adopts the budget; — delivers an opinion on the final accounts of the Agency; — oversees the operation of the Galileo Security Monitoring Centre; — exercises disciplinary power over the ED; — adopts the special provisions necessary for implementing right of access to documents; — adopts the annual report on the activities and prospects of the Authority.  <b>Executive Director</b>  Appointed by the Administrative Board.

	<p><b>Security Accreditation Board</b></p> <p><i>Composition:</i></p> <ul style="list-style-type: none"> <li>— one representative per Member State;</li> <li>— one representative from the Commission;</li> <li>— one representative from the HR;</li> <li>— one representative of ESA to be invited as observer.</li> </ul> <p><i>Tasks:</i></p> <p>To act as the security accreditation authority;</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Agency in 2011 (2010)</b></p>	<p><b>Final Budget</b></p> <p>38,7 (15,9) million euro consisting of the EU subsidy of 8,2 (8,7) million euro, which is the operating subsidy from the Commission, and 30,5 (7,2) million euro in operational funds from the Commission.</p> <p><b>Staff as at 31 December 2011</b></p> <p>Authorised: 29 (28)</p> <p>Occupied: 28 (26)</p> <p>Other posts: 14 (14)</p> <p>Total: 42 (40), assigned to the following duties:</p> <p>Allocated to:</p> <ul style="list-style-type: none"> <li>— operational tasks: 20 (18)</li> <li>— administrative and support tasks: 14 (14)</li> <li>— mixed tasks: 8 (8)</li> </ul>
<p><b>Products and services 2011</b></p>	<p><b>Programmes</b></p> <p>Support to the European Commission in the implementation of the EGNOS and Galileo programmes.</p> <p><b>Systems Security</b></p> <p>Galileo and EGNOS Systems Security (Galileo Security Accreditation, System Safety and Security Committee – 3SC, GNSS Security Requirements, EGNOS Security);</p> <p>Public Regulated Service – PRS (Preparation of the PRS User Segment);</p> <p>Galileo Security Monitoring Centre – GSMC;</p> <p>GNSS Technology Control Regime.</p> <p><b>Market development</b></p> <p>EGNOS Market Entry (Aviation, Agriculture, Road, EDAS, Market Monitoring);</p>

---

	<p>International activities (Latin America, Israel, China, Africa);</p> <p>Information and Outreach (EGNOS Information Portal).</p> <p><b>Research and development</b></p> <p>Management of projects under the 6th Framework Programme and 7th Framework Programme (1st, 2nd and 3d calls) for research;</p> <p>Implementation/update of a web-based knowledge management and dissemination tool.</p>
--	---

---

Source: Information supplied by the Agency.

---

### THE AGENCY'S REPLIES

13. The grant agreements managed by the GSA for FP6 had been inherited from the predecessor of the GSA, the Galileo Joint Undertaking (GJU). The GJU and the European Space Agency (ESA) had established their FP6 rules, slightly different from the European Commission rules. The FP6 ex-post audit controls have been finalised in 2012. The final findings of the auditors show that the costs for the sample audited were overstated by 455 836,66 EUR, or 1,4 % of the audited grants. The GSA plans to recover most of the amounts found to be incorrect by our external auditors, pending agreement with the European Commission.

14. The GSA analysis of costs is based on: the project proposal, the deliverables during the project life (quarterly reports), the final deliverables and the costs incurred. It is to be noted that the proposals include a detailed work plan (WP) with different activities necessary to achieve the project's objectives. Based on the resources which are needed to implement the work plan the beneficiaries have to set up a project budget. These proposals are evaluated and the grants awarded by experts at the Commission premises. In the future, the GSA intends to implement controls that allow an effective verification of the project costs.

15. In 2011, the Agency carried out 1 195 payment requests, out of which 140 (11,72 %) with some delay. The result of the audit findings is highly influenced by some very particular but in large amounts transactions e.g. transfers of unused funds to the EC and highly complex grant agreement payments. In addition, due to the small size of the Agency, payments during holiday periods can easily be delayed due to the lack of back-ups in some key operational and administrative positions. Improved financial circuits have been implemented from April 2012, which should help reduce to the minimum payment delays.

16. The GSA has revised the selection procedure. Since 2012, the pre-selection panel determines the threshold scores at the stage of designing Vacancy Notice. The thresholds are now published in the Vacancy Notice. The questions and written tests are prepared by the experts in the Selection Panel together with the Vacancy Notice and must be ready before the Selection Panel members receive access to candidate's applications.

---

## REPORT

**on the annual accounts of the Office for Harmonization in the internal Market for the financial year 2011, together with the Office's replies**

(2012/C 388/36)

## INTRODUCTION

1. The Office for Harmonization in the Internal Market (hereinafter "the Office"), which is located in Alicante, was established by Council Regulation (EC) No 40/94<sup>(1)</sup>. The Office's task is to implement the Union legislation on trade marks and designs, which gives undertakings uniform protection throughout the entire area of the European Union<sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>(3)</sup> of the Office, which comprise the "financial statements"<sup>(4)</sup> and the "reports on the implementation of the budget"<sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. As authorising officer, the President implements the revenue and expenditure of the budget in accordance with the financial rules of the Office, under his own responsibility and within the limits of the authorised appropriations<sup>(6)</sup>. The President is responsible for putting in place<sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant

for drawing up final accounts<sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>(9)</sup> with a statement of assurance as to the reliability of the annual accounts of the Office and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Office are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 11, 14.1.1994, p. 1.

<sup>(2)</sup> The *Annex* summarises the Office's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Office.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).



8. The Court considers 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**

9. In the Court's opinion, the Office's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Office for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Court identified several shortcomings as regards the 2011 service level agreement between the Office and the Translation Center for the Bodies of the EU (CDT). The agreement was signed by the Office on 20 June 2011 and according to

article 10, applied from 1st January 2011. The execution of the contract started before the contract signature. On request of CDT, the Office made a payment of 1,8 million euro in compensation<sup>(12)</sup>. Furthermore, this payment was authorised without a budget commitment and without available appropriations<sup>(13)</sup>.

13. The Court identified five cases amounting to 2,9 million euro where budgetary commitments were approved after legal commitments.

**COMMENTS ON KEY CONTROLS OF THE OFFICE'S SUPERVISORY AND CONTROL SYSTEMS**

14. There is a need to improve the Office's management of fixed assets. For intangible assets developed by the Office, accounting procedures and information on costs were not reliable.

15. Cash held by the Office as at 31 December 2011 totalled 520 million euro (495 million euro in 2010). Following the treasury policy approved by the Budget committee in 2010 the cash was held in 9 banks in 5 Member States.

**OTHER COMMENTS**

16. The Office needs to improve the transparency of recruitment procedures. The threshold scores for admission to interviews and written tests were not set in advance and questions for oral and written tests were not set before the applications were examined by the selection boards. Moreover, there was no decision by the Appointing Authority to appoint the selection board and in one case the segregation of duties between the Appointing Authority and the selection board was not ensured.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 18 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 27 June 2012 and received by the Court on 29 June 2012. 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://www.oami.europa.eu/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> The minimum value was set in the agreement to be 16,3 million euro. The services provided in 2011 totalled 14,5 million euro.

<sup>(13)</sup> This payment was made from the 2012 budget.

## ANNEX

**Office for Harmonization in the Internal Market (Alicante)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Articles 36 and 56 of the Treaty on the Functioning of the European Union)</i></p>	<p><b>Free movement of goods</b></p> <p>[...] prohibitions or restrictions justified on grounds of the protection of industrial and commercial property must not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. [...]</p> <p>[...] restrictions on freedom to provide services within the Union are prohibited in respect of nationals of Member States who are established in a State of the Union other than that of the person for whom the services are intended. [...]</p>
<p><b>Competences of the Office</b></p> <p><i>(Council Regulation (EC) No 40/94)</i></p>	<p><b>Objectives</b></p> <p>To implement the Union legislation on trade marks and designs, which gives undertakings the right to uniform protection throughout the entire area of the European Union?</p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To receive and enter applications for registration.</li> <li>— To examine the conditions for entry in the Register and compatibility with Union legislation.</li> <li>— To search at the industrial property offices of the Member States for any pre-existing national trade marks.</li> <li>— To publish applications.</li> <li>— To examine any opposition by third parties.</li> <li>— To register or reject applications.</li> <li>— To examine applications for revocation or invalidity.</li> <li>— To handle appeals against decisions.</li> </ul>
<p><b>Governance</b></p>	<p><b>Administrative Board</b></p> <p><i>Composition</i></p> <ul style="list-style-type: none"> <li>— One representative of each Member State.</li> <li>— One representative of the Commission and their alternates.</li> </ul> <p><i>Task</i></p> <ul style="list-style-type: none"> <li>— To advise the President on matters for which the Office is responsible.</li> <li>— To prepare lists of candidates (Article 125) for President, Vice-Presidents and chairmen and members of the Boards of Appeal.</li> </ul> <p><b>President of the Office</b></p> <ul style="list-style-type: none"> <li>— Appointed by the Council from a list of at most three candidates which has been prepared by the Administrative Board.</li> </ul> <p><b>Budget Committee</b></p> <p><i>Composition</i></p> <ul style="list-style-type: none"> <li>— One representative of each Member State and one representative of the Commission and their alternates.</li> </ul>

	<p><i>Task</i></p> <p>— To adopt the budget and the financial regulation, grant discharge to the President and determine the cost of search reports.</p> <p><b>Decisions related to the applications</b></p> <p>Decisions are taken by:</p> <p>(a) the Examiners;</p> <p>(b) the Opposition Divisions;</p> <p>(c) the Administration of Trade Marks and Legal Division;</p> <p>(d) the Cancellation Divisions;</p> <p>(e) the Boards of Appeal.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>The Office's Budget Committee.</p>
<p><b>Resources made available to the Office in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>387 million euro (365).</p> <p><b>Staff at 31 December 2011</b></p> <p>687 (643) posts in the establishment plan, posts occupied 629 (608) + 116 (133) other staff (auxiliary contracts, seconded national experts, local and employment agency staff, special advisers)</p> <p><i>Total staff: 745 (741)</i></p>
<p><b>Products and services supplied 2011 (2010)</b></p>	<p><b>Trade marks</b></p> <p>Numbers of applications: 105 859 (98 200) Number of registrations: 93 849 (100 800)</p> <p>Cases of opposition: 17 026 (17 700)</p> <p>Appeals to the Boards of Appeal: 2 622 (2 570) Appeals pending: 2 573 (2 157)</p> <p><b>Designs</b></p> <p>Designs received: 87 473 (74 700) Designs registered: 77 665 (73 500)</p>

Source: Information supplied by the Office.

### THE OFFICE'S REPLIES

12. The Agreement for 2010 was tacitly renewed and as the Agreement for 2011 was finalized only in June 2011, it was applied retroactively. The minimum number of pages to translate in 2011 being lower than planned, the parties agreed on a compensation to maintain the global amount of 16,3 million euro. The corresponding budget commitment was done on the 2012 budget. The Office has centralised the management of all transactions in one operational unit in order to reinforce communication between the units and avoid validations of budget commitments ex post.

13. Following the Court's mission additional budgetary commitments were made before end of 2011.

14. The Office takes good note of the comments and will continue to improve the procedures and practice in relation to the precision of information on the software development.

15. As at 31 December 2011 the Office held its cash in 9 banks in 5 Member States. The funds were placed with entities with a rating of at least one double A in line with the minimum rating included in the Treasury guidelines endorsed by the Budget Committee, as well as in conformity with the instructions of the Commission. In 2012, the Office opened bank accounts with two additional central banks in order to further diversify risks.

16. In order to improve transparency of the selection procedures, the Office is finalizing its guidelines on Selection procedures. In addition, the Office intends to work on internal rules of functioning for Selection Committees. The Office practice is that Selection Committees, in their first meeting, discuss on interpretation of the criteria of the vacancy notice, define the content and structure of the interview. This meeting takes place before the examination of CVs. The Office will pay special attention to avoid any kind of inconsistencies in the appointments of Selection Committees.

---

## REPORT

**on the annual accounts of the European Agency for Safety and Health at Work for the financial year 2011, together with the Agency's replies**

(2012/C 388/37)

## INTRODUCTION

1. The European Agency for Safety and Health at Work (hereinafter "the Agency"), which is located in Bilbao, was created by Council Regulation (EC) No 2062/94 <sup>(1)</sup>. The Agency's task is to collect and disseminate information on national and Union priorities in the field of health and safety at work, to support national and Union organisations involved in policymaking and implementation and provide information on preventive measures <sup>(2)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Agency, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 216, 20.8.1994, p. 1. The Regulation was last amended by Council Regulation (EC) No 1112/2005 (OJ L 184, 15.7.2005, p. 5).

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>(7)</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Agency's 2011 budget amounted to 16,4 million euro compared with 15,5 million euro the previous year. The

cancellation rate for appropriations doubled, from 4 % in 2010 to 8 % (1,3 million euro) of the total budget for 2011, indicating difficulties in the implementation of the actions foreseen in the annual work programme and in complying with the budgetary principle of annuality.

13. Between 16 September and 31 December 2011, all the financial operations (budget and legal commitments, payments) effected by delegated authorising officers were made on the basis of obsolete delegations which had not been renewed after the arrival of the new Director.

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

14. Whereas the Agency's Financial Regulation and the corresponding Implementing Rules provide for a physical inventory at least every three years, the latest physical inventory was carried out in 2006.

**OTHER COMMENTS**

15. In contrast to the other two European Agencies based in Spain (OHIM in Alicante and CFCA in Vigo), a seat agreement had not been concluded.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

<sup>(10)</sup> The Final Annual Accounts were drawn up on 29 June 2012 and received by the Court on 3 July 2012. 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://osha.europa.eu/en/about/finance/>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

## ANNEX

**European Agency for Safety and Health at Work (Bilbao)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Articles 151 and 153 of the Treaty on the Functioning of the European Union)</i></p>	<p>The Union and the Member States ..., shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.</p> <p>With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields:</p> <ul style="list-style-type: none"> <li>(a) improvement in particular of the working environment to protect workers' health and safety;</li> <li>(b) working conditions;</li> <li>(e) the information and consultation of workers;</li> <li>(h) the integration of persons excluded from the labour market, without prejudice to Article 166;</li> <li>(i) equality between men and women with regard to labour market opportunities and treatment at work;</li> <li>(j) the combating of social exclusion.</li> </ul>
<p><b>Competences of the Agency</b></p> <p><i>(Council Regulation (EC) No 2062/94)</i></p>	<p><b>Objectives</b></p> <p>In order to improve the working environment, as regards the protection of the safety and health of workers as provided for in the Treaty and successive strategies and action programs concerning health and safety at the workplace, the aim of the Agency shall be to provide the Union and the Member States, the social partners and those involved in the field with technical, scientific and economic information of use in the field of safety and health at work. <i>(Article 2).</i></p> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To collect, analyse and disseminate information on national and Union priorities and on research;</li> <li>— To promote cooperation and the exchange of information, including information on training programmes;</li> <li>— To supply the Union bodies and the Member States with the information they require for formulating and implementing policies, in particular as regards the impact on small and medium-sized enterprises;</li> <li>— To make available information on preventive activities;</li> <li>— To contribute to the development of strategies and Union action programmes;</li> <li>— To set up a network comprising national focal points and topic centres.</li> </ul>
<p><b>Governance</b></p>	<p><b>Governing Board (GB)</b></p> <ul style="list-style-type: none"> <li>— 1 representative of the Government of each Member State;</li> <li>— 1 representative of the employers' organisations of each Member State;</li> <li>— 1 representative of the employees' organisations of each Member State;</li> <li>— 3 representatives of the Commission;</li> </ul>

	<p>— Members and alternate members from the first three categories shall be appointed from the members and alternate members of the Advisory Committee on Safety and Health at Work.</p> <p><b>Bureau of the GB</b></p> <p>— Chair and 3 vice-chairs of the Board;</p> <p>— Coordinators from each of the three interest groups;</p> <p>— 1 additional member from each of the groups and the Commission.</p> <p><b>Director</b> is appointed by the Governing Board on the basis of a short-list from the Commission.</p> <p><b>Committees</b></p> <p>Obligatory consultation of the Commission and the Advisory Committee on Safety and Health at Work in respect of the work program and budget.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>European Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources available to the Agency in 2011 (2010)</b></p>	<p><b>Budget</b></p> <p>16,4 (15,5) million euro of which:</p> <p>— Union subsidy, DG Employment: 91,0 % (94,0 %)</p> <p>— Union subsidy, DG Enlargement: 8,0 % (3,4 %)</p> <p>— Other: 1,0 % (2,6 %)</p> <p><b>Staff at 31 December 2011</b></p> <p>44 (44) posts provided for in the establishment plan, of which, 41 (41) posts were occupied</p> <p>Other Staff:</p> <p>— Seconded National Experts: 0 (0)</p> <p>— Contract Agents: 26 (25) (One of which financed by earmarked funds)</p> <p>— Local agents: 1 (1)</p> <p>Total staff employed: 68 (67)</p> <p>Allocated to:</p> <p>— Operational activities: 50 (49)</p> <p>— Administrative tasks: 10 (10)</p> <p>— Mixed tasks: 8 (8)</p>
<p><b>Products and services in 2011</b></p> <p>(Collecting and analysing information)</p>	<p><b>European Risk Observatory: anticipating change</b></p> <p>Dissemination of results of the European Survey of Enterprises on New and Emerging Risks (<b>ESENER</b>): additional national events to launch and disseminate the report and summary (published in 22 languages).</p> <p>Completed Phase 2 of foresight on 'safety and health impact of technological innovations in green jobs by 2020'. Phase 3 was started, including seven scenario-building workshops with experts and policy-makers.</p>



Publications on:

- Foresight of new and emerging risks to OSH associated with new technologies in 'green jobs' by 2020': Phase 1 – key drivers of change, and Phase 2 – key technologies;
- OSH in figures: Occupational safety and health in the transport sector — an overview;
- Emergency services: a literature review on occupational safety and health risks;
- Workplace violence and harassment: a European picture;
- Online summary of the "Women and OSH" seminar.

Finalisation of the "OSHWiki" online platform and the 78 articles which were commissioned from expert authors.

#### **Working Environment Information: sharing knowledge on good practice at workplace level**

Provision of OSH expertise to the European campaign on safe maintenance, including participation in national and international events, and publication of:

- Factsheets –(Legionella and legionnaires' disease, Safe maintenance in agriculture);
- Maintenance in Agriculture - A Safety and Health Guide;
- European good practice awards 2010/11 - a European campaign on safe maintenance;
- Legionella and Legionnaires' disease: a policy overview;
- Three E-facts to support the Safe Maintenance campaign.

Launch of the Online Interactive Risk Assessment Tool (OiRA) project at the World Congress on Safety and Health at Work.

Development of OiRA tools in 10 countries, and discussions for development in another eight.

Publication of factsheets, reports and case studies on road transport, safety culture, mental health promotion, economic incentives and safe maintenance.

#### **Communication, Campaigning and Promotion**

European campaign on Safe Maintenance: second and final year. Good practice awards ceremony; Summit; European Campaign Assistance Package; 53 official EU campaign partners; development of an online campaigning toolkit; preparation of 2012-2013 campaign *Working together for risk prevention*.

Multilingual web-based and printed publications and information products, tools and services on occupational safety and health.

Promotion of OSH information including projects on OSH and transport; OSH and environmental tobacco smoke; women at work; ESENER findings (four national seminars in 2011).

Public launch of the OiRA project (online interactive risk assessment) and development of an OiRA promotion and diffusion strategy.

Active or passive participation in more than 160 OSH events, exhibitions and conferences.

Development and pilot testing of a teachers' toolkit featuring the popular animated character Napo.

---

	<p>Photo competition <i>focus on risk prevention</i>; healthy workplaces documentary film award.</p> <p>Development and fieldwork of a pan-European opinion poll on public attitudes to OSH.</p> <p>Monitoring and evaluation: website usability study; evaluation of healthy workplaces film award; review of Salus cartoon characters; media monitoring.</p> <p><b>Networking and Coordination</b></p> <p>Further development of focal point network, the Governance of the Agency and liaison with European and International organisations.</p> <p>Coordination of Heads of Agencies' network and of Heads of Administration network.</p> <p>Institutional capacity building in Candidate and Potential Candidate Countries (ear-marked funds).</p> <p>Evaluation of EU-OSHA's 2009-2013 Strategy.</p>
--	--

---

Source: Information supplied by the Agency.

---

**THE AGENCY'S REPLIES**

12. The levels of budget implementation for the financial year 2011 were generally better than the previous year, in particular as regards cancellations of C8 appropriations and reduction of carry forward of C1 appropriations for Title III – Operational activities.

The higher cancellation rate for 2011 appropriations is partly due to some vacant posts and to the need not to engage in a major activity (OSHwiki) until international cooperation was secured (World Conference).

13. It was the Agency's understanding that previous delegations remained valid.

Having noted that this assumption was not supported by the Court during the on-site audit, new delegations confirming all previous delegations were signed on 2.3.2012 by the current Director.

14. The Agency notes the CoA's recommendation and will carry out a comprehensive physical check of all its assets by the end of 2012.

15. The Agency has striven for a seat agreement for many years. Negotiations with the Spanish Authorities are on-going and are expected to be finalized in 2012.

---

## REPORT

**on the annual accounts of the Research Executive Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/38)

## INTRODUCTION

1. The Research Executive Agency (hereinafter "the Agency"), which is located in Brussels was set up by Commission Decision 2008/46/EC <sup>(1)</sup>. The Agency was established for a limited period beginning on 1 January 2008 and ending on 31 December 2017 with the aim of managing specific Union activities in the field of research <sup>(2)</sup>. On 15 June 2009 the Agency was officially granted its administrative and operational autonomy by the European Commission.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts <sup>(3)</sup> of the Agency, which comprise the "financial statements" <sup>(4)</sup> and the "reports on the implementation of the budget" <sup>(5)</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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 the authorised appropriations <sup>(6)</sup>. The Director is responsible for putting

in place <sup>(7)</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(8)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(9)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 11, 15.1.2008, p. 9.

<sup>(2)</sup> The *Annex* summarises the Agency's competences and activities. It is presented for information purposes.

<sup>(3)</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>(4)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

<sup>(5)</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>(6)</sup> Article 25 of Commission Regulation (EC) No 1653/2004 (OJ L 297, 22.9.2004, p. 10).

<sup>(7)</sup> Article 29 of Regulation (EC) No 1653/2004.

<sup>(8)</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VI of Regulation (EC) No 1653/2004 as last amended by Regulation (EC) No 651/2008 (OJ L 181, 10.7.2008, p. 15).

<sup>(9)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers 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**

9. In the Court's opinion, the Agency's Annual Accounts<sup>(10)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>(11)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. Carryovers amounting to 1,2 million euro (representing 35 % of all appropriations carried over to 2011) were cancelled in 2011. This concerned in particular Title I (Staff expenditure) where 0,3 million euro (52 % of appropriations) and Title II (Infrastructure and operating expenditure), where 0,7 million euro (41 % of appropriations) were cancelled. This situation is at odds with the budgetary principle of annuality.

13. Many budget transfers were made towards the year end. Appropriations concerning IT and operational expenditure increased significantly<sup>(12)</sup>. This situation indicates weaknesses in budget planning and programming and is at odds with the principle of specification.

**OTHER COMMENTS**

14. There is room for improving the transparency of recruitment procedures. Questions for written tests and interviews were set after the applications had been examined by the selection board; threshold scores for being included in the reserve list were not set in advance; the selection board did not fully document all its meetings and decisions.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 18 September 2012.

For the Court of Auditors  
Vitor Manuel da SILVA CALDEIRA  
President

<sup>(10)</sup> The Final Annual Accounts were drawn up on 20 June 2012 and received by the Court on 4 July 2012. 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/rea>.

<sup>(11)</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>(12)</sup> Appropriations concerning IT expenses (budget line 2103) increased by 80 % from 1,9 million euro to 3,4 million euro. Appropriations for the common FP7 evaluation platform (budget line 3303) increased by 194 % from 0,7 million euro to 2,1 million euro.

## ANNEX

**Research Executive Agency (Bruxelles)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Articles 179 and 180 of the TFEU)</i></p>	<p><b>Collection of information</b></p> <p>The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encouraging it to become more competitive, including in its industry.</p> <p>For this purpose the Union shall encourage undertakings, including SMEs, research centers and universities in their research and technological development activities of high quality; it shall support their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential to the full, in particular through [...] the definition of common standards and the removal of legal and fiscal obstacles to that cooperation. [...]</p> <p>In pursuing these objectives, the Union shall carry out the following activities, complementing the activities carried out in the Member States:</p> <p>(a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centers and universities;</p> <p>(b) promotion of cooperation in the field of Union research, technological development and demonstration with third countries and international organizations;</p> <p>(c) dissemination and optimization of the results of activities in Union research, technological development and demonstration;</p> <p>(d) stimulation of the training and mobility of researchers in the Union.</p>
<p><b>Competences of the Agency</b></p> <p><i>(Commission Decision 2008/46/EC)</i></p>	<p><b>Objectives</b></p> <p>The objective of the Agency is to manage the Programmes entrusted to it under the Seventh Framework Programme of the Union for Research, Technological Development and Demonstration Activities (2007-2013) (hereafter FP7) (the People Programme, the SME actions of the Capacities Programme, and the Space and Security themes of the Cooperation Programme) efficiently and effectively, to deliver efficient and effective services to the research community and to provide centralised FP7 support services to the respective Commission services for all areas of the Cooperation, Capacities and People Specific Programmes.</p> <p>With regard to the efficient and effective Programme implementation, the Agency – as promoter of the European Research Area – aims at improving project management, establishing close contact with final beneficiaries and providing a high visibility of the European Union.</p> <p><b>Tasks</b></p> <p>With regard to the management of projects, the Agency concludes and manages grant agreements, involving the following operations:</p> <ul style="list-style-type: none"> <li>— preparation and publication of calls for proposals;</li> <li>— evaluation of proposals;</li> <li>— preparation and signature of grant agreements;</li> <li>— monitoring the implementation of projects including acceptance of reports and other deliverables;</li> </ul>

	<ul style="list-style-type: none"> <li>— payments, recoveries, and application of sanctions within the meaning of Article 114(4) of the general Financial Regulation, notably when errors in declared costs have been identified following ex-post audits at the level of the final beneficiaries;</li> <li>— ex-post publicity and dissemination of results.</li> </ul> <p>With regard to FP7 Support Services, the Agency performs the following tasks:</p> <ul style="list-style-type: none"> <li>— administrative support for call publication;</li> <li>— management of the electronic reception of proposals;</li> <li>— support for remote and on-site evaluations;</li> <li>— support to the preparation of appointment letters and payments for experts;</li> <li>— management of the Central FP7 participants database (Unique Registration Facility – URF), including support for financial capacity checks of selected beneficiaries;</li> <li>— management of the Research Enquiry Service.</li> </ul>
<b>Governance</b>	<p><b>Steering Committee</b></p> <p>Comprises five members appointed by the European Commission. It adopts the Agency's organization chart and its Annual Work Programme after approval by the Commission. In addition, it adopts the administrative budget of the Agency and its Annual Activity Report.</p> <p><b>Director</b></p> <p>Appointed by the Commission, manages the Agency together with the Steering Committee, implements the administrative budget, sets up management and internal control systems adapted to the tasks entrusted to the Agency and prepares the reports to be presented to the Commission.</p> <p><b>External audit</b></p> <p>The European Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>The European Parliament, acting on a recommendation from the European Council. With respect to the Agency's implementation of its administrative budget, the discharge decision is addressed to the Director. For the implementation of the operational budget delegated by the Commission to the Agency, the Commission remains accountable.</p>
<b>Resources made available to the Agency in 2011 (2010)</b>	<p><b>Operational Budget 2011 (2010)</b></p> <p>1 340,6 (962,6) million euro of commitment appropriations and 1 059 (1 709) million euro of payment appropriations. The Agency implements the Commission's operational budget under a delegation decision of the Commission.</p> <p><b>Administrative Budget 2011 (2010)</b></p> <p>39,2 (33,6) million euro. The Agency implements the administrative budget autonomously.</p> <p><b>Staff at 31 December 2011 (2010)</b></p> <p>TA posts: 117 (106) listed in the establishment plan of which 103 (99) occupied.</p> <p>Contract staff: 349 (318) staff planned of which 351 (309) were in place as of 31 December 2011.</p> <p>Total staff in place: 454 (408) undertaking the following tasks:</p> <ul style="list-style-type: none"> <li>— Programme implementation: 287 (254)</li> <li>— FP7 Support Services: 88 (81)</li> <li>— Management and Administrative functions: 79 (73)</li> </ul>

<p><b>Products and services 2011 (2010)</b></p>	<p>For the People Programme, 10 calls were closed in 2011 and 10 evaluations completed. 1 615 new grant agreements were signed and 2,676 payments made (<i>excluding payments for expert evaluators</i>). The Agency now manages a total of 5 159 (4 125) projects under this programme.</p> <p>For the SME actions of the Capacities Programme, 3 calls were closed and 3 evaluations completed. 162 new grant agreements were signed and 385 payments made (<i>excluding payments for expert evaluators</i>). The Agency now manages a total of 522 (408) projects under this scheme.</p> <p>For the Space and Security themes of the Cooperation Programme, 2 calls were closed in 2011 and 2 evaluations completed. 118 new grant agreements were signed and 183 payments made (<i>excluding payments to expert evaluators</i>). The Agency now manages a total of 271 (153) projects under these themes.</p> <p>As regards the FP7 support services, the results obtained for 2011 are as follows:</p> <ul style="list-style-type: none"> <li>— 64 (88) call publications supported;</li> <li>— 26 838 (21 766) proposals received through the electronic proposal submission tool;</li> <li>— 3 897 (3 847) expert evaluators contracted and 3 620 (2 615) expert payments made (<i>for programmes managed by the Agency only</i>);</li> <li>— 6 252 (5 896) validations of participants completed;</li> <li>— 7 123 (7 171) replies sent following questions to the Research Enquiry Service.</li> </ul>
---	---

Source: Information supplied by the Agency.



### THE AGENCY'S REPLIES

12. Cancellations of carryovers – expressed in percentage of previous year budget – reduced from 7 % for the carry over from 2009 to 2010 to only 3 % for the carry over from 2010 to 2011 and it is expected that the amount of appropriations carried over to 2012 and subsequently cancelled will further reduce as the Agency paid additional attention to ensure that the balance of provisional commitments at year-end reflects a reliable estimate of the real outstanding obligations for payment.

13. The more significant budget transfers are linked to the unexpectedly high contributions due to the Commission for the use of IT tools and the proposal evaluation facilities shared amongst all services managing FP7. The Agency agreed with the Commission on a new procedure which will provide more reliable budget estimates for the next financial year.

14. The Agency points out that its recruitment procedures were in full conformity with its staff implementing rules, adopted in line with the model developed by the Commission and shared amongst all Executive Agencies, and that the impartiality of the recruitments was not jeopardized. An update of these staff implementing rules was, however, agreed with the Commission in summer 2012 and the Court's arguments will be considered for the forthcoming review of the Agency's recruitment procedures.

---

## REPORT

**on the annual accounts of the Trans-European Transport Network Executive Agency for the financial year 2011, together with the Agency's replies**

(2012/C 388/39)

## INTRODUCTION

1. The Executive Agency for the Trans-European Transport Network ("the Agency"), located in Brussels, was set up by Commission Decision 2007/60/EC <sup>(1)</sup>, amended by Commission Decision 2008/593/EC <sup>(2)</sup>. The Agency was established for a period beginning on 1 November 2006 and ending on 31 December 2015 for the management of EU actions in the field of the trans-European transport network <sup>(3)</sup>.

## INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, 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 2011 and the legality and regularity of the transactions underlying those accounts.

## The Management's responsibility

4. 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>(7)</sup>. The Director is responsible for putting in place <sup>(8)</sup>

the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts <sup>(9)</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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council <sup>(10)</sup> with 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.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgement, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

<sup>(1)</sup> OJ L 32, 6.2.2007, p. 88.

<sup>(2)</sup> OJ L 190, 18.7.2008, p. 35.

<sup>(3)</sup> The Annex 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 further information on budget implementation and management.

<sup>(5)</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

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

<sup>(7)</sup> Article 25 of Commission Regulation (EC) No 1653/2004 (OJ L 297, 22.9.2004, p. 6).

<sup>(8)</sup> Article 29 of Regulation (EC) No 1653/2004.

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

<sup>(10)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for its statement of assurance.

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

9. In the Court's opinion, the Agency's Annual Accounts <sup>(11)</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the Accounting Rules adopted by the Commission's Accounting Officer <sup>(12)</sup>.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year

ended 31 December 2011 are legal and regular in all material respects.

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

**BUDGETARY AND FINANCIAL MANAGEMENT**

12. For Title III – Technical and administrative support expenditure, only 41 % of the initial budget of 0,6 million euro was used during the year, mainly due to lower than expected evaluation costs as a result of the postponement to 2012 of the call for proposals for the 2011 work programme of the Agency. The unused appropriations were transferred to Title II – Infrastructure and operating expenditure, so that the total final budget of 9,9 million euro remained unchanged. Nonetheless, the underconsumption in Title III represents a divergence from the approved annual work programme of the Agency

This report was adopted by Chamber II, headed by Mr Harald NOACK, Member of the Court of Auditors, in Luxembourg at its meeting of 10 October 2012.

*For the Court of Auditors*

Vitor Manuel da SILVA CALDEIRA

*President*

---

<sup>(11)</sup> The Final Annual Accounts were drawn up on 15 June 2012 and received by the Court on 29 June 2012. The Final Annual Accounts can be found on the following website [http://tentea.ec.europa.eu/en/about\\_us/mission\\_introduction/key\\_documents.htm](http://tentea.ec.europa.eu/en/about_us/mission_introduction/key_documents.htm).

<sup>(12)</sup> The Accounting Rules adopted by the Commission's Accounting Officer are derived from International Public Sector Accounting Standards (IPSAS) or, by default, International Financial Reporting Standards (IFRS).

## ANNEX

**Trans-European Transport Network Executive Agency (Brussels)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty on the Functioning of the European Union</b></p> <p>(Articles 26, 170, 171, 172, 174 of the Treaty)</p>	<p>The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market. The internal market shall comprise an area in which the free movement of goods, persons, services and capital is ensured.</p> <p>In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion.</p> <p>To help achieve these objectives, and to enable citizens in the Union, economic operators and regional and local communities to derive full benefit from the setting up of an area without internal frontiers, the Union shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures. Action by the Union shall aim at promoting the interconnection and interoperability of national networks as well as access to them.</p> <p>In order to achieve these objectives, the Union shall establish a series of guidelines covering the objectives, priorities and broad lines of measure envisaged in the sphere of trans-European networks (TENs).</p>
<p><b>Competences of the Agency</b></p> <p>(Decision 661/2010/EU of EP and Council on Union Guidelines for development of the TEN-T (recast))</p> <p>(Regulation 2236/95 of the Council)</p> <p>(Regulation EC/58/2003)</p> <p>(Commission Decision 2007/60/EC last amended by 2008/593/EC)</p>	<p><b>Objectives</b></p> <p>The Decision on Union Guidelines for the development of the Trans-European Transport Network (TEN-T) establishes the guidelines covering the objectives, priorities and broad lines envisaged in the area of TEN-T. General rules were laid down for the Union financing of TENs, in order to permit the implementation of these Guidelines.</p> <p>Council Regulation 58/2003 empowers the Commission to establish executive agencies to carry out tasks related to Union Programmes. TEN-T EA was therefore set up to manage Union action in the field of the TENs on the basis of the TEN-T Guidelines and Financial Regulation and add value in the management of the TEN-T Programme. It remains under the supervision of its parent DG MOVE, which retains responsibility for policy issues.</p> <p>TEN-T EA is responsible for managing the technical and financial implementation of the TEN-T Programme by following the entire project lifecycle. In its day to day work it aims to improve the effectiveness and flexibility of TEN-T implementation at a lower cost whilst at the same time mobilising a high level of expertise by making the recruitment of specialised staff easier. It also strengthens the links between the TEN-T and key stakeholders; ensures a better coordination of funds with other EU instruments; raises the profile and benefits of EU funding; and provides support/feedback to the Commission.</p>
<p><b>Governance</b></p>	<p><b>Steering Committee</b></p> <p>The Agency's activities are supervised by a Steering Committee which is composed of five members from the EC Directorate-Generals Mobility &amp; Transport, Regional Policy, Environment and Human Resources and an observer from the European Investment Bank. The Committee meets four times a year and approves the Agency's Administrative Budget, Work Programme, Annual Activity Report, Accounts of all revenue and expenditure, external evaluation report and adopts other specific implementing rules.</p> <p><b>Director</b></p> <p>Appointed by the European Commission.</p> <p><b>Internal audit</b></p> <p>Internal Audit Service of the EC and the Agency's Internal Audit Capability.</p>

	<p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Discharge Authority</b></p> <p>European Parliament acting on a recommendation from the Council.</p>
<p><b>Resources available to the Agency in 2011</b></p>	<p><b>Budget</b></p> <p>A) 8,0 billion euro (100 % general budget of the European Union) for the TEN-T budget linked to the 2007 – 2013 Financial Perspective.</p> <p>B) 9,9 million euro (administrative budget) 100 % EU subsidy for which the Agency is autonomous.</p> <p><b>Staff at 31 December 2011</b></p> <p>Temporary Agent posts: 33 posts listed in establishment plan, of which 100 % occupied.</p> <p>Contract staff: 67 posts planned, of which 66 (99 %) were occupied.</p> <p>Total staff: 100 (99 occupied)</p> <p>Allocated to:</p> <p>a) Operational activities: 65 (65 occupied)</p> <p>b) Administrative activities: 35 (34 occupied)</p>
<p><b>Products and services 2011</b></p>	<p><b>Selections</b></p> <ul style="list-style-type: none"> <li>— Multi-Annual Programme (MAP) Call for Proposals with 3 fields for a total of 180 million euro. 47 proposals requesting 326,7 million euro were evaluated by 19 external experts and 26 proposals for 161,3 million euro were recommended for funding.</li> <li>— Preparation for the Annual Call 2011 for a total of 200 million euro published in 2012.</li> </ul> <p><b>Project Management</b></p> <ul style="list-style-type: none"> <li>— Preparation of 49 new financing Decisions (2010 Calls) – 316 open at the end of 2011;</li> <li>— Treatment of 137 requests for Amendments from the beneficiaries – 98 new in 2011;</li> <li>— Analysis of 228 Action Status Reports (ASRs - the main tool for monitoring project progress) and 48 Strategic Action Plans (SAPs);</li> <li>— 70 project meetings held either on-site or at the Agency's premises;</li> <li>— Full use of the available payment appropriations, with average time to pay only 13 days.</li> </ul> <p><b>Simplification measures</b></p> <ul style="list-style-type: none"> <li>— Introduction of model letters to inform beneficiaries about deliverables and deadlines;</li> <li>— Streamlining of processes to review ASRs and for the evaluation/selection of projects;</li> <li>— Good Practice Working Group (Agency and beneficiaries) pursued target to discuss constraints in procedures, exchange good practices and identify areas for improvement;</li> <li>— Modification of ex-ante control methodology.</li> </ul>

---

	<p><b>Communication</b></p> <ul style="list-style-type: none"><li>— Website added sections on ITS and Financial Engineering – 150 000 visits in 2011. Motorways of the Sea Helpdesk website had 2 700 visitors;</li><li>— Campaign '10 out of TEN' on TEN-T project achievements with brochure and posters;</li><li>— Publication of 9 e-Newsletters for beneficiaries, 53 press releases in 14 languages on new projects selected, and a new brochure 'Biennial Report 2008-2010';</li><li>— Events included the 3rd Project management Workshop, the Calls Info Day and participation in DG MOVE's TEN-T Days, and events organised by the CoR and the EESC.</li></ul> <p><b>Cooperation with parent DG</b></p> <ul style="list-style-type: none"><li>— Follow-up of the MAP project portfolio mid-term review and Mid-term review of the TEN-T component of the European Economic Recovery Plan Call for proposals (39 projects);</li><li>— Production of statistics, reporting and maps related to the Programme e.g. 'the Report on the Assessment of TEN-T Programme Implementation';</li><li>— Contribution to revision of the TEN-T Guidelines and Connecting Europe Facility (CEF).</li></ul> <p><b>Audits</b></p> <p>26 audits were carried out, representing 30 % of interim/final payments (monetary value) from 2010.</p>
--	--

---

Source: Information supplied by the Agency.

---

### THE AGENCY'S REPLIES

12. In 2010 the Agency had made a reasonable budgetary forecast for 2011, which included a significant amount under Title III for the organisation of the external evaluation of the 2011 annual call for proposals. However, the Commission decided to postpone this call to 2012, and the planned budget was not needed. This postponement also had an impact on the budget for experts and for communication and translation activities, all within Title III.

The savings enabled the Agency to bring forward the reimbursement of the outstanding amount for the refurbishment of its premises, and to reduce the related interest payments. Funds could also be transferred to Title II Chapter 21 (computer equipment), responding to a recommendation of the Commission's Internal Audit Service to 'accelerate the Agency's efforts to acquire or develop a comprehensive management information system', and contributing to the achievement of the IT actions set out in the Agency's Work Programme, Internal Control Standards action plan and risk register. The budgetary transfers were therefore made as a result of an unforeseen event (delaying of the 2011 annual call), and the Agency considers that it took appropriate steps to ensure a sound financial management and efficient execution of the 2011 budget.

---







<u>Notice No</u>	Contents (continued)	Page
2012/C 388/22	Report on the annual accounts of the European Maritime Safety Agency for the financial year 2011, together with the Agency's replies .....	129
2012/C 388/23	Report on the annual accounts of the European Network and Information Security Agency for the financial year 2011, together with the Agency's replies .....	135
2012/C 388/24	Report on the annual accounts of the Europol Pension Fund for the financial year 2011, together with the Fund's replies .....	142
2012/C 388/25	Report on the annual accounts of the European Railway Agency for the financial year 2011, together with the Agency's replies .....	145
2012/C 388/26	Report on the annual accounts of the European Research Council Executive Agency for the financial year 2011, together with the Agency's replies .....	151
2012/C 388/27	Report on the annual accounts of the European Securities and Markets Authority for the financial year 2011, together with the Authority's replies .....	157
2012/C 388/28	Report on the annual accounts of the European Training Foundation for the financial year 2011, together with the Foundation's replies .....	165
2012/C 388/29	Report on the annual accounts of the Euratom Supply Agency for the financial year 2011, together with the Agency's replies .....	171
2012/C 388/30	Report on the annual accounts of the European Foundation for the Improvement of Living and Working Conditions for the financial year 2011, together with the Foundation's replies .....	174
2012/C 388/31	Report on the annual accounts of Eurojust for the financial year 2011, together with Eurojust's replies .....	180
2012/C 388/32	Report on the annual accounts of the European Police Office for the financial year 2011, together with the Office's replies .....	187
2012/C 388/33	Report on the annual accounts of the European Union Fundamental Rights Agency for the financial year 2011, together with the Agency's replies .....	196
2012/C 388/34	Report on the annual accounts of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States for the financial year 2011, together with the Agency's replies .....	202
2012/C 388/35	Report on the annual accounts of the European GNSS Agency for the financial year 2011, together with the Agency's replies .....	208
2012/C 388/36	Report on the annual accounts of the Office for Harmonization in the internal Market for the financial year 2011, together with the Office's replies .....	214



<u>Notice No</u>	Contents (continued)	Page
2012/C 388/37	Report on the annual accounts of the European Agency for Safety and Health at Work for the financial year 2011, together with the Agency's replies .....	219
2012/C 388/38	Report on the annual accounts of the Research Executive Agency for the financial year 2011, together with the Agency's replies .....	226
2012/C 388/39	Report on the annual accounts of the Trans-European Transport Network Executive Agency for the financial year 2011, together with the Agency's replies .....	232



## 2012 SUBSCRIPTION PRICES (excluding VAT, including normal transport charges)

EU Official Journal, L + C series, paper edition only	22 official EU languages	EUR 1 200 per year
EU Official Journal, L + C series, paper + annual DVD	22 official EU languages	EUR 1 310 per year
EU Official Journal, L series, paper edition only	22 official EU languages	EUR 840 per year
EU Official Journal, L + C series, monthly DVD (cumulative)	22 official EU languages	EUR 100 per year
Supplement to the Official Journal (S series), tendering procedures for public contracts, DVD, one edition per week	multilingual: 23 official EU languages	EUR 200 per year
EU Official Journal, C series — recruitment competitions	Language(s) according to competition(s)	EUR 50 per year

Subscriptions to the *Official Journal of the European Union*, which is published in the official languages of the European Union, are available for 22 language versions. The Official Journal comprises two series, L (Legislation) and C (Information and Notices).

A separate subscription must be taken out for each language version.

In accordance with Council Regulation (EC) No 920/2005, published in Official Journal L 156 of 18 June 2005, the institutions of the European Union are temporarily not bound by the obligation to draft all acts in Irish and publish them in that language. Irish editions of the Official Journal are therefore sold separately.

Subscriptions to the Supplement to the Official Journal (S Series — tendering procedures for public contracts) cover all 23 official language versions on a single multilingual DVD.

On request, subscribers to the *Official Journal of the European Union* can receive the various Annexes to the Official Journal. Subscribers are informed of the publication of Annexes by notices inserted in the *Official Journal of the European Union*.

## Sales and subscriptions

Subscriptions to various priced periodicals, such as the subscription to the *Official Journal of the European Union*, are available from our sales agents. The list of sales agents is available at:

[http://publications.europa.eu/others/agents/index\\_en.htm](http://publications.europa.eu/others/agents/index_en.htm)

**EUR-Lex (<http://eur-lex.europa.eu>) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.**

**For further information on the European Union, see: <http://europa.eu>**

