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COVER NOTE

from: Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt: 13 December 2012
to: Mrs Erato KOZAKOU-MARCOULLIS, President of the Council of the
European Union

Subject: Report on the annual accounts of the ENIAC Joint Undertaking for the
financial year 2011 together with the replies of the Joint Undertaking

Madam,

I enclose in all the official languages of the European Union a copy of the Court of Auditors' report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2011.

This report is accompanied by the Joint Undertaking's replies and will shortly be published in the Official Journal of the European Union.

(Complimentary close).

(s.) Vítor CALDEIRA

Encl.: Report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2011 together with the replies of the Joint Undertaking.

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EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
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EUROPEISKA REVISIONSRÄTTEN

Report on the annual accounts of the ENIAC Joint Undertaking
for the financial year 2011

together with the replies of the Joint Undertaking

INTRODUCTION

1. The European Joint Undertaking for the implementation of the Joint Technology Initiative on Nanoelectronics (ENIAC Joint Undertaking), located in Brussels, was set up in December 2007¹ for a period of 10 years.
2. The main objective of the Joint Undertaking is to define and implement a “Research Agenda” for the development of key competences for nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability, and allow the emergence of new markets and societal applications².
3. The Founding Members of the Joint Undertaking are the European Union represented by the Commission, the Member States Belgium, Estonia, France, Germany, Greece, Ireland, Italy, the Netherlands, Poland, Portugal, Spain, Sweden and the United Kingdom, and the Association for European Nanoelectronics Activities (AENEAS). Other Member States and associated countries, as well as any other country or legal entity capable of making a substantial financial contribution to the achievement of the Joint Undertaking’s objectives, may become members of the ENIAC Joint Undertaking.
4. The maximum EU contribution to the ENIAC Joint Undertaking to cover running costs and research activities is 450 million euro to be paid from the budget of the Seventh Framework Programme³. AENEAS is to make a maximum contribution of 30 million euro to the running costs of the Joint

¹ Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking (OJ L 30, 4.2.2008, p. 21).

² The Annex summarises the Joint Undertaking’s competences, activities and available resources. It is presented for information purposes.

³ The Seventh Framework Programme, adopted by Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006, brings all the research-related EU initiatives together under one roof and plays a crucial role in achieving the goals of growth, competitiveness and employment. It is also a key pillar for the European Research Area.

Undertaking. ENIAC Member States are to make in-kind contributions to the running costs (by facilitating the implementation of projects), and to provide financial contributions of at least 1,8 times the EU contribution. In-kind contributions are also to be provided by research organisations participating in projects. The organisations participating in the research projects must make in-kind contributions at least equal to the contribution of the Commission and the Member States.

5. The Joint Undertaking was granted its financial autonomy on 26 July 2010.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

6. The audit approach taken by the Court comprises analytical audit procedures, testing of transactions at the level of the Joint Undertaking and an assessment of key controls of the 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

7. Pursuant to the provisions of Article 287(1) of the Treaty on the Functioning of the European Union the Court has audited the annual accounts⁴ of the ENIAC Joint Undertaking, which comprise the “financial statements”⁵ and the “reports on the implementation of the budget”⁶ for the financial year ended

⁴ The Court received the provisional annual accounts on 30 March 2012. These accounts are accompanied by a report on the budgetary and financial management during the year which gives *inter alia* an account of the rate of implementation of the appropriations.

⁵ The financial statements include the balance sheet and the economic outturn account, the cash flow table, the statement of changes in net assets and the annex to the financial statements, which includes a description of the main accounting policies and other explanatory information.

⁶ The budget implementation reports comprise the budget outturn account and its annex.

31 December 2011 and the legality and regularity of the transactions underlying those accounts.

8. This Statement of Assurance is addressed to the European Parliament and the Council in accordance with Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002⁷.

The Management's responsibility

9. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the Joint Undertaking's financial rules, under his own responsibility and within the limits of the authorised appropriations⁸. The Director is responsible for putting in place⁹ the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts¹⁰ 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

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

⁷ OJ L 248, 16.9.2002, p. 1..

⁸ Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

⁹ Article 38 of Regulation (EC, Euratom) No 2343/2002.

¹⁰ The rules concerning the presentation of the accounts and accounting by EU bodies 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 rules of the Joint Undertaking.

11. The Court conducted its audit in accordance with the IFAC and ISSAI¹¹ International Auditing Standards and Codes of Ethics. Those standards require the Court to comply with ethical and professional requirements and to plan and perform the audit so as to obtain reasonable assurance as to whether the accounts are free from material misstatement and whether the underlying transactions are legal and regular.

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

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

¹¹ International Federation of Accountants (IFAC) and International Standards of Supreme Audit Institutions (ISSAI).

Opinion on the reliability of the accounts

14. In the Court's opinion, the annual accounts of the Joint Undertaking 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 rules.

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

15. The ex post audit strategy¹² of the Joint Undertaking was adopted by a Governing Board decision on 18 November 2010 and is a key control¹³ for assessing the legality and regularity of the underlying transactions. The payments made in 2011 relating to certificates of acceptance of costs issued by the National Funding Authorities (NFAs) of the Member States amounted to 6,8 million euro, which represents 45 % of the total operational payments. The implementation of the ex post audit strategy started in 2011.

16. The audit of project cost claims has been delegated to the NFAs of the Member States. The administrative agreements signed with the NFAs do not include the practical arrangements for the ex post audits. By the end of the audit (September 2012), the Joint Undertaking had not received sufficient

¹² The ENIAC Joint Undertaking's ex-post audit strategy states that the Joint Undertaking "shall seek sufficient information with respect to the ex-post audit procedure applied in the ENIAC Member States to perform an assessment of the national procedures with respect to their suitability to provide sufficient assurance with respect to the regularity and the legality of the transactions related to the ENIAC Joint Undertaking projects."

¹³ Article 12 of Regulation (EC) No 72/2008 states that the Joint Undertaking "shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls" and that it "shall carry out on-the-spot checks and financial audits among the recipients of the ENIAC Joint Undertaking's public funding. These checks and audits shall be performed either directly by the ENIAC Joint Undertaking or by ENIAC Member States on its behalf."

information relating to the audit strategies of the NFAs¹⁴ and was not in a position to assess whether the ex post audit strategy provides sufficient assurance with respect to the legality and regularity of the underlying transactions¹⁵. Furthermore, no ex post audits had been carried out by the NFAs on the grants paid up to the end of 2011.

17. The information available on the implementation of the Joint Undertaking's ex post audit strategy is not sufficient to conclude whether this key control is functioning effectively.

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

18. In the Court's opinion, except for the possible effects of the matter described in the basis for a qualified opinion in paragraphs 15 to 17, the transactions underlying the annual accounts of the Joint Undertaking for the financial year ended 31 December 2011 are, in all material respects, legal and regular.

19. The comments which follow in paragraphs 20 to 33 do not call the Court's opinions into question.

¹⁴ The Joint Undertaking had received information on audit strategies from seven out of twenty two NFAs. The documentation received for the seven NFAs is in most cases insufficient to allow the Joint Undertaking to assess the national procedures as no practical details on the audit arrangements are provided (i.e. audit approach and methodology, size of the sample, the type of financial checks to be performed by the NFAs, etc).

¹⁵ The Internal Audit Service of the European Commission has assessed the audit strategies of ENIAC's Member States. In June 2012, it has concluded that the current ex post strategy does not provide the necessary information to reach reasonable assurance. Consequently, the ex post audit strategy has been revised and transactions will be tested based on a sampling basis requesting the NFAs to detail the audit and checks performed,

COMMENTS ON THE BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the budget

20. The 2011 final budget included commitment and payment appropriations amounting to 66 million euro and 35 million euro respectively. The utilisation rates for the available commitment and payment appropriations were 97 % and 48 %¹⁶ respectively. Out of the 63,6 million euro commitment appropriations available for operational activities, 20,1 million euro were implemented as a global commitment for the first 2011 call for proposals and 42,2 million euro were implemented as a global commitment for the second 2011 call for proposals.

21. A lack of adequate procedures and control weaknesses were detected in the decommitment of unused appropriations. Appropriations which should have been implemented by the end of 2010 and appropriations which should have been implemented by the end of 2011 were decommitted in January 2012. The unused global commitment of 2,8 million euro on the operational activities budget line for 2010 with a final date of implementation of 31 December 2011 was not decommitted.

Calls for proposals

22. The calls for proposals organised in 2008, 2009 and 2010 resulted in signed grant agreements totalling 107,9 million euro, which represent 25 % of the maximum EU contribution to the Joint Undertaking for research activities¹⁷. In

¹⁶ The relatively low implementation rate for operational payments is explained by the fact that payments from ENIAC are triggered by the late receipt of the certificate from national authorities and by delays at the level of the Member States in signing the national grant agreement.

¹⁷ According to Article 5 of Regulation (EC) No 72/2008 and Article 11(5) of its Annex, the maximum EU contribution covering running costs and research activities of the Joint Undertaking is to be 450 million euro, of which the contribution for running costs is not to exceed 10 million euro. If part of the

2011, two calls for proposals were launched amounting to 62,3 million euro, but the signature of the grant agreements was ongoing. In 2012, two more calls for proposals were launched amounting to 84,5 million euro. During 2013, calls for proposals with a budget of 185,3 million euro (42 %) would have to be launched in order to fully use the available EU contribution of 440 million euro.

COMMENTS ON KEY CONTROLS OF THE JOINT UNDERTAKING'S SUPERVISORY AND CONTROL SYSTEMS

23. The Joint Undertaking has not yet fully implemented effective and efficient internal controls and financial information systems. This resulted in significant errors and delays in the financial reporting that were corrected before the adoption of the final accounts.

24. The Accounting Officer of the Joint Undertaking validated the financial and accounting systems (ABAC and SAP) on 20 December 2010. However, the underlying business processes which provide financial information, in particular the one providing financial information on the validation and payment of the cost claims received from the NFAs, were not validated during 2011.

OTHER MATTERS

Internal Audit Capability and the Commission's Internal Audit Service

25. Article 6(2) of the Council Regulation setting up ENIAC stipulates that the Joint Undertaking shall have an internal audit capability. However, at the end of 2011, this important element of the internal control system had not yet been set up.

26. In 2011, the Commission's Internal Audit Service carried out a risk assessment exercise. Based on the results of the risk assessment, the

contribution for the running costs is not used, it can be made available for the research activities.

strategic audit plan for 2012-2014 was presented to the Governing Board for adoption on 22 November 2011.

27. The mission charter of the Commission's Internal Audit Service was adopted by the Governing Board on 18 November 2010. However, the financial rules of the Joint Undertaking have not yet been amended to include the provision of the Framework Regulation¹⁸ referring to the powers of the Commission's internal auditor.

ENIAC Member States' contribution

28. The statutes of the ENIAC Joint Undertaking stipulate that the financial contributions from ENIAC Member States are to amount in total to at least 1,8 times¹⁹ the EU's financial contribution, while the Joint Undertaking's grants can reach a maximum of 16,7 % of the total eligible costs of the projects. For the first five calls for proposals, the financial contribution from ENIAC Member States amounted to 1,55 times the EU's financial contribution.

29. Contrary to the Statutes of ENIAC Joint Undertaking²⁰, Greece is using EU structural funds to cover its national contributions to the Greek beneficiaries of the ENIAC projects²¹ instead of providing national funding. The Joint Undertaking accepted the continuation of the Greek participation in ENIAC

¹⁸ Regulation (EC, Euratom) No 2343/2002.

¹⁹ Article 11(6)(b) of the Statutes annexed to Regulation (EC) No 72/2008.

²⁰ Article 13(1) of the Statutes annexed to Regulation (EC) No 72/2008 states that "Public funding for projects selected following calls for proposals published by the ENIAC JU shall consist of the national financial contributions from the ENIAC Member States and/or the financial contribution from the ENIAC JU. Any public support under this initiative is without prejudice to the procedural and material State aid rules when applicable".

²¹ The total budget of the Greek participation in ENIAC projects of the 2008, 2009 and 2010 calls amounts 9,7 million euro (being 4,4 million euro national funds, 1,6 million euro Joint Undertaking's contribution and the rest from the project participants).

projects but no funding is being provided by the Joint Undertaking to the Greek beneficiaries, as co-financing with another source of EU funding is not allowed²².

Annual activity report

30. According to Articles 19(4) of the Statutes of the Joint Undertaking and Article 40 of its Financial Rules, the Executive Director is required to draw up an annual activity report. The annual activity report shall indicate the results of the operations by reference to the objectives set, the risks associated with these operations, the use made of the resources provided and the efficiency and effectiveness of the internal control system. It shall also confirm that the information contained in the report presents a true and fair view except as otherwise specified in any reservations related to defined areas of revenue and expenditure.

31. The annual activity report does not include an assessment of the efficiency and effectiveness of the internal control system. The annual activity report includes the following weaknesses:

- Lack of information on the implementation of the ex-post audit strategy, which is not sufficient to conclude whether this key control is functioning effectively and should have led to a reservation.
- No information on the partial validation of the financial and accounting systems by the accounting officer is provided. The accounting officer has validated only the part that is under the Joint Undertaking's direct control but not the systems providing information from the National Funding Authorities (see paragraph 24).

²² Article 54(5) of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (OJ L 210, 31.7.2006, p. 25)

- The control weaknesses identified as regards the accounting and financial reporting did not lead to a reservation (see paragraph 23).

Follow-up of previous observations

32. During 2011 the Joint Undertaking set up a Business Continuity Plan and made progress on the formalisation of the IT security policies. Further work is required to finalise the Disaster Recovery Plan.

33. The Host State Agreement²³ between the Joint Undertaking and the Belgian authorities concerning office accommodation, privileges and immunities and other support to be provided was signed on 2 February 2012.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 15 November 2012.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

states, "An expenditure co-financed by the Funds shall not receive assistance from another Union financial instrument".

²³ Paragraph 25 of Court of Auditors' report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2010, together with the replies of the Joint Undertaking (OJ C 368, 16.12.2011, p. 48).

ENIAC Joint Undertaking (Brussels)**Competences and activities**

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Art. 187 of the Treaty on the Functioning of the European Union)</i></p>	<p>The Joint Undertaking is a Community body and the implementation of its budget is therefore subject to discharge by the European Parliament taking into account, however, the specificities resulting from the nature of JTIs as public-private partnerships and in particular from the private sector contribution.</p> <p>The ENIAC Joint Undertaking was established by Council Regulation (EC) No 72/2008 of 20 December 2007 (OJ L 30 of 4.2.2008, p. 21).</p>
<p>Competences of the Joint Undertaking</p> <p><i>(Council Regulation (EC) No 72/2008)</i></p>	<p>Objectives</p> <p>The ENIAC Joint Undertaking contributes to the implementation of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) and the theme "Information and Communication Technologies" of the Specific Programme "Cooperation" . It shall, in particular:</p> <ul style="list-style-type: none"> – define and implement a Research Agenda for the development of key competences for nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications; – support the activities required for the implementation of the Research Agenda (hereinafter R&D activities), notably by awarding funding to participants in selected projects following competitive calls for proposals; – promote a public-private partnership aimed at mobilising and pooling Community, national and private efforts, increasing overall R&D investments in the field of nanoelectronics, and fostering collaboration between the public and private sectors; – ensure the efficiency and durability of the JTI on nanoelectronics; – achieve synergy and coordination of European R&D efforts in the field of nanoelectronics including the progressive integration into the ENIAC Joint Undertaking of the related activities in this field currently implemented through intergovernmental R&D schemes (EUREKA).
<p>Governance</p>	<p>Members</p> <p>At the end of 2011, the members of the ENIAC Joint Undertaking were: AENEAS representing Industry, the European Union represented by the Commission and the ENIAC member States (Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden and the United Kingdom).</p> <p>The Governing Board</p> <p>The Governing Board consists of representatives of the Members of the ENIAC Joint Undertaking and the Chairperson of the Industry and Research Committee.</p> <p>The Governing Board shall have overall responsibility for the operations of the ENIAC Joint Undertaking and shall oversee the implementation of its activities.</p> <p>The Public Authorities Board</p> <p>The Public Authorities Board consists of the public authorities of the member States of the ENIAC Joint Undertaking.</p> <p>The Industry and Research Committee</p> <p>AENEAS appoints the members of the Industry and Research Committee.</p> <p>The Executive Director</p> <p>The Executive Director is the chief executive responsible for the day-to-day management of the</p>

	<p>ENIAC Joint Undertaking and be its legal representative.</p> <p>External audit</p> <p>Court of Auditors.</p> <p>Discharge authority</p> <p>European Parliament, acting on a recommendation from the Council.</p>																														
Resources available to the Joint Undertaking in 2011	<p>Budget</p> <p>Voted 2011 budget in €:</p> <table border="1"> <thead> <tr> <th></th> <th><i>Commitments</i></th> <th><i>Payments</i></th> </tr> </thead> <tbody> <tr> <td>TITLE I- Staff</td> <td>1 488 801,72</td> <td>1 488 801,72</td> </tr> <tr> <td>TITLE II- Administrative</td> <td>1 142 898,28</td> <td>1 142 898,28</td> </tr> <tr> <td>TOTAL TITLES I & II</td> <td>2 631 700,00</td> <td>2 631 700,00</td> </tr> <tr> <td>TITLE III-Operational</td> <td>63 646 170,00</td> <td>32 426 000,00</td> </tr> <tr> <td>TOTAL TITLES I, II & III</td> <td>66 277 870,00</td> <td>35 057 700,00</td> </tr> </tbody> </table> <p>Staff at 31 December 2011</p> <table border="1"> <thead> <tr> <th></th> <th>Establishment plan 2011</th> <th>Occupied at 31.12.2011</th> </tr> </thead> <tbody> <tr> <td>Temporary staff</td> <td>6</td> <td>6</td> </tr> <tr> <td>Contract staff</td> <td>7</td> <td>7</td> </tr> <tr> <td>Total Staff</td> <td>13</td> <td>13</td> </tr> </tbody> </table> <p>Allocated to:</p> <ul style="list-style-type: none"> - Operational activities 6 - Administrative tasks 4 - Mixed tasks 3 		<i>Commitments</i>	<i>Payments</i>	TITLE I- Staff	1 488 801,72	1 488 801,72	TITLE II- Administrative	1 142 898,28	1 142 898,28	TOTAL TITLES I & II	2 631 700,00	2 631 700,00	TITLE III-Operational	63 646 170,00	32 426 000,00	TOTAL TITLES I, II & III	66 277 870,00	35 057 700,00		Establishment plan 2011	Occupied at 31.12.2011	Temporary staff	6	6	Contract staff	7	7	Total Staff	13	13
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Activities and services provided in 2011	<p>A OPERATIONAL PROGRESS TOWARDS OBJECTIVES</p> <p><i>Establishing the research agenda</i></p> <p>At the end of 2011, the total eligible costs of the projects selected for funding exceeded 1 billion euro. They cover all the R&D areas defined in the Multiannual Strategy Plan (MASP)</p> <p><i>Awarding funding to participants</i></p> <p>Since inception, the ENIAC JU has awarded 171,6 million euro to the participants, up from 109,3 million euro at the end of 2010, achieving in 2011 an 85 % increase year-on-year, demonstrating that the ENIAC JU made considerable progress.</p> <p><i>Increasing the R&D investments in nanoelectronics</i></p> <p>Approximately 47 % of the total of approximately 3 700 researchers involved in R&D on nanoelectronics in 2012 will be engaged in the projects selected for funding by the ENIAC JU, achieving synergy and coordination of the European R&D effort.</p> <p>The ENIAC JU coordinated its activities primarily with the EUREKA cluster CATERNE, co-organising the European Nanoelectronics Forum.</p> <p><i>Promoting the participation of small and medium size enterprises</i></p> <p>SMEs are leading in the ENIAC JU projects, representing 40,7 % of the participating organisations</p>																														

(30,5 % are universities and research institutes and 28,8 % large industrial companies).

B FUNCTIONAL PERFORMANCE

The membership of the ENIAC JU did not change in 2011.

The organisation progressed greatly:

- moved to the White Atrium building, installed its new offices and IT infrastructure
- recruited and integrated new team members
- transferred smoothly to the CIRCABC repository
- structured its document management
- established procedures for its new tasks
- progressed in closing grant agreements
- performed and accounted for more than 1 400 payments since autonomy
- executed the first technical reviews for the on-going projects
- issued and brought to conclusion 2 calls for proposals in one year
- refined and reported Key Performance Indicators
- performed large scale public events, produced smaller scale publications and well-received press releases

IMPLEMENTATION OF THE 2011 BUDGET

At the end of the year, the ENIAC JU had committed all appropriations for the projects arising from Calls 2011_1 (Call 4) and 2011_2 (Call 5) and had implemented 48,09 % of the operational payments.

Source: Information supplied by the Joint Undertaking.

Replies of the Joint Undertaking

15 - 17. Already from 2010, the ENIAC JU engaged, together with the ARTEMIS JU, in a process of collecting the relevant information regarding the audit procedures in the ENIAC member States. In 2011, in line with the strategic audit plan, the Internal Audit Service of the Commission (IAS), acting as internal auditor of the Joint Undertaking, has started a consultancy engagement on assessing whether the execution of audit strategies already in existence in the ENIAC member States can provide reasonable assurance,

IAS has only finished the assessment in 2012, concluding that this approach will not provide the necessary information to reach reasonable assurance, Consequently, the ENIAC JU defined and started executing its own ex-post audit plan that shall be completed before the end of the year.

21. The ENIAC JU suffered from a lack of resources at the end of 2012 and executed the decommitment too late. Actions have been taken to avoid any future recurrence, in particular executing the hiring plan, defining a detailed procedure for managing the year end closure, and setting hard deadlines.

23. The ENIAC JU has strong reasons to consider that all its financial operations are regular and reliable. Detailed plans for monitoring accounting have been put in place, but serious difficulties have been encountered in running appropriately the financial and accounting systems. This situation has been aggravated by the lack of adequate training programmes, inexistent procedures applicable to our case and insufficient user support available. Nonetheless, all errors mentioned in connection with this finding have been solved, as shown in the previous replies. The ENIAC JU will continue dedicating serious efforts to overcome the difficulties and accelerate the progress.

24. On 20 December 2010¹, after only three month of implementing the own budget, the accounting officer had validated the financial and accounting systems put in place at the ENIAC JU, and included a number of recommendations in his validation decision.

In 2011, the ENIAC JU went through a period of frequent changes, caused by moving to new premises, using a completely new IT infrastructure for its financial transactions, executing the recruiting process that considerably increased the census and experiencing a strong increase in the overall level of activity. Consequently, the financial circuits underwent a strong and continuous evolution. Although the internal control systems continue being strengthened and optimized, a complementary validation became possible in 2012, once the circuits and systems stabilized after the first full budgetary exercise managed autonomously. This has been done on 25 June 2012, also including an analysis of the main activities and administrative processes carried out by the ENIAC JU to support the financial management systems.

25. The IAC function has been set up on 7 February 2011 in the 13th Governing Board meeting, being fulfilled by the Internal Audit Service of the Commission (IAS). The IAS has informed the ENIAC JU on 6 October 2011 that the provision of IAC services "would unfortunately need to be suspended for the time being", due to pending discussions within the services of the Commission. As no progress has been achieved in unblocking this function, the ENIAC JU decided in 2012 to assign a member of its own staff to the IAC function as per decision ENIAC-ED-88-12 of 25 April 2012.

27. The amendment of the Framework Financial Regulation falls under the competence of the Commission which is currently in the process of preparing the alignment of the existing Framework Financial Regulation with the new EU General Financial Regulation. The ENIAC JU shall adopt the revised version as soon as available.

¹ The ENIAC JU acquired the capacity to implement its own budget in September 2010.

28. The ENIAC JU contributions to any participant in the projects arising from a given call for proposals must be exactly the same percentage of the total eligible costs that participant incurs. The percentage contribution of the ENIAC member States is limited to the difference between the maximum state aid intensity specified in the Commission Regulation (EC) No 800/2008 and the ENIAC JU contribution. For example, if the ENIAC JU percentage is 16,7 %, then the ENIAC member State will vary from 8,3 % (in the case of a state aid of max. 25 %, for a large enterprise in an experimental development) to 83,3 % (for a University). The average aid intensity that the ENIAC member State can contribute is unpredictable, depending on the type of R&D performed, the status of the participants, and the amounts each of them engages. Noticing that the average departed from the specified ratio of 1,8, the EC proposed in 2012 to reduce the ENIAC JU contribution to 15 %, although this also resulted in a reduction of the total R&D volume, in contradiction with the overall objective to increase the R&D investments.

29. The condition under which Greece has been participating in the programme is not contradicting the ENIAC JU statutes. The aim and general objectives of the programme consist in achieving synergies and coordination for ensuring a wide participation in the projects.

In that context, and entirely in line with the Statutes, there are in the programme a number of legal entities which are legitimate members of a consortium after signing the accession form defined in the JU Grant Agreement template, although they do not receive any JU funding or did not sign any national grant agreement. This is the case for legal entities receiving regional financial support, or located in countries that are not ENIAC member States.

Prohibiting the participation of legal entities from ENIAC member States on such grounds would constitute discrimination with respect to the participants from non ENIAC member States, who have no obligation to disclose their sources of national funding, if any. This would contradict the overall objectives of the programme.

31. The Annual Activity Report 2011 contains a detailed analysis of the efficiency and effectiveness of the ICS in chapter 3.1. The status of the ex-post audit activities is included in paragraph 3.1.14. The status of the validation of the financial and

accounting systems was unchanged with respect to the previous year, for the reasons listed under paragraph 24.

Since the ENIAC JU Statutes² stipulate in the Article 19(4) that "The Annual Activity Report shall be presented by the executive director together with the annual accounts and the balance sheets.", the ENIAC JU considers that the reservations formulated and included in the latter documents also apply to the former, and will not duplicate them.

32. On 28 January 2011, the ENIAC JU has finalised and validated its business continuity plan and set up a specific financial circuit for ensuring continuity in case of crisis. The latter provisions constitute the Disaster Recovery Plan that is not elaborated as a separate document.

This plan is submitted to periodic reviews and improvements, the last review taking into account the important evolutions throughout 2011 has been finalized on 20 April 2012, including further detailed provisions addressing disaster recovery.

² Council Regulation (EC) No 72/2008 (OJ L 30, 4.2.2008, p. 21).