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COVER NOTE

from:	Mr Vítor CALDEIRA, President of the Court of Auditors
date of receipt:	7 November 2012
to:	Mrs Erato KOZAKOU-MARCOULLIS, President of the Council of the European Union

Subject:	Report on the annual accounts of the European Railway Agency for the financial year 2011 together with the Agency's replies
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Sir,

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 European Railway Agency for the financial year 2011.

This report is accompanied by the Agency'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 European Railway Agency for the financial year 2011 together with the Agency's replies.

ЕВРОПЕЙСКА СМЕТНА ПАЛАТА
TRIBUNAL DE CUENTAS EUROPEO
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DEN EUROPÆISKE REVISIONSRET
EUROPÄISCHER RECHNUNGSHOF
EUROOPA KONTROLLIKODA
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ
EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
CÚIRT INIÚCHÓIRÍ NA HEORPA



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EUROPEISKA REVISIONSRÄTTEN

Report on the annual accounts
of the European Railway Agency
for the financial year 2011

together with the Agency's replies

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 Council¹. 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 safety².

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 accounts³ of the Agency, which comprise the "financial statements"⁴ and the "reports on the

¹ OJ L 220, 21.6.2004, p. 3.

² The **Annex** summarises the Agency's competences and activities. It is presented for information purposes.

³ 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.

⁴ 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.

implementation of the budget”⁵ 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 appropriations⁶. The Director is responsible for putting in place⁷ the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts⁸ 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 Council⁹ 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

⁵ The budget implementation reports comprise the budget outturn account and its annex.

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

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

⁸ 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.

⁹ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002.

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.

Opinion on the reliability of the accounts

9. In the Court's opinion, the Agency's Annual Accounts¹⁰ 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

¹⁰ The Final Annual Accounts were drawn up on 04 July 2012 and received by the Court on 07 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.

the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer¹¹.

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 activities¹².

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

¹¹ 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.

¹² Regulation EC/881/2004, Article 24.

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

Vítor Manuel da SILVA CALDEIRA
President

European Railway Agency (Lille/Valenciennes)**Competences and activities**

Areas of Union competence deriving from the Treaty <i>(Article 91(1) of the Treaty on the Functioning of the European Union)</i>	<p><i>"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:</i></p> <p><i>(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;</i></p> <p><i>(b) the conditions under which non-resident carriers may operate transport services within a Member State;</i></p> <p><i>(c) measures to improve transport safety;</i></p> <p><i>(d) any other appropriate provisions."</i></p>
Competences of the Agency <i>(Regulation (EC) No 881/2004 of the European Parliament and of the Council)</i>	<p>Objectives</p> <p>To contribute, on technical matters, to the implementation of the Union legislation aimed at:</p> <ul style="list-style-type: none"> – improving the competitive position of the railway systems; – developing a common approach to safety on the European railway system. <p>In order to contribute to creating a European railway area without frontiers and guaranteeing a high level of safety.</p> <p>Tasks</p> <p>1 - Address recommendations to the Commission on</p> <ul style="list-style-type: none"> – the common safety methods (CMS) and common safety targets (CSTs) provided in the Railway Safety Directive (2004/49/EC); – safety certificates and measures in the field of safety; – development of Technical specifications for Interoperability; – vocational competencies; – registration of rolling stock. <p>2 - Issue opinions on</p> <ul style="list-style-type: none"> – national safety rules; – monitoring the quality of work of notified bodies; – interoperability of the trans-European network. <p>3 - Coordination of national bodies</p> <p>Coordination of national safety authorities and national investigation bodies <i>(as described in Directive 2004/49/EC, Articles 17 and 21)</i>.</p> <p>4 - Publications and databases</p> <ul style="list-style-type: none"> – report on safety performance (every two years); – report on progress with interoperability (every two years); – public database of safety documents; – public register of documents on interoperability.
Governance	<p>Administrative Board</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>Director</p> <p>Appointed by the Administrative Board on a proposal from the Commission.</p> <p>External audit</p> <p>Court of Auditors.</p> <p>Discharge Authority</p> <p>Parliament following a recommendation from the Council.</p>

Resources made available to the Agency in 2011 (2010)	Budget 26 (24) million euro Staff at 31 December 2011 Posts listed in the establishment plan: 144 (139) Posts occupied on 31.12.2011: 140 (133) Other staff: 14 (15) Total staff: 154 (148), of which assigned to: - operational tasks: 107 (101) - administrative tasks: 47 (47)
Products and services in 2011 (2010)	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. 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. Recommendations on Safety Reporting, including Common Safety Indicators, coordination of safety authorities' and investigation bodies and reporting on safety performance in the Member States. Recommendations on safety assessment, including Common Safety Methods. Recommendations on Technical Specifications for Interoperability and their Revision. Evaluation of extension of scope and error correction. Recommendation on common criteria in regard to vocational competencies and assessment of railway staff involved in operation and maintenance. Reports on railway safety and Interoperability. Technical Opinions on national rules and monitor the work of Notified Bodies. Set up and maintenance of a series of registers for safety and interoperability. Act as the System Authority and Change Control Manager for ERTMS (European Railway Traffic Management System) assisting the Commission in evaluating ERTMS projects. Definition and compilation of the Reference Document of national rules for vehicle authorisation and classify their equivalence for cross acceptance. Accompany all recommendations with an impact assessment.

Source: Information supplied by the Agency.

THE AGENCY'S REPLY

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.