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COVER NOTE

From:	Mr Klaus-Heiner LEHNE, President of the European Court of Auditors
date of receipt:	4 November 2016
To:	Mr Peter KAZIMIR, President of the Council of the European Union
Subject:	Report on the annual accounts of the European Railway Agency for the financial year 2015 together with the Agency's reply

Delegations will find attached the European Court of Auditors' report on the annual accounts of the European Railway Agency for the financial year 2015.

This report is accompanied by the Agency's reply and will shortly be published in the *Official Journal of the European Union*.

Encl.: Report on the annual accounts of the European Railway Agency for the financial year 2015 together with the Agency's reply.¹

¹ In English only. The other languages of this report are available on the European Court of Auditors' website: <http://eca.europa.eu/>.



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts
of the European Railway Agency
for the financial year 2015

together with the Agency's reply

INTRODUCTION

1. The European Railway Agency (hereinafter “the Agency”, aka “ERA”), which is located in Lille and Valenciennes, was created by Regulation (EC) No 881/2004 of the European Parliament and of the Council². 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.

2. **Table 1** presents key figures for the Agency³.

TABLE 1: KEY FIGURES FOR THE AGENCY

	2014	2015
Budget (million euro)	25,7	26,3
Total staff as at 31 December ⁴	159	157

Source: data provided by the Agency.

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 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 (TFEU), the Court has audited:

² OJ L 220, 21.6.2004, p. 3.

³ More information on the Agency's competences and activities is available on its website: www.era.europa.eu.

⁴ Staff includes officials, temporary and contract staff and seconded national experts.

- (a) the annual accounts of the Agency, which comprise the financial statements⁵ and the reports on the implementation of the budget⁶ for the financial year ended 31 December 2015, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

5. The management is responsible for the preparation and fair presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions⁷:
- (a) The management's responsibilities in respect of the Agency's annual accounts include designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies on the basis of the accounting rules adopted by the Commission's accounting officer⁸; making accounting estimates that are reasonable in the circumstances. The Director approves the annual accounts of the Agency after its accounting officer has prepared them on the basis of all available information and established a note to accompany the accounts in which he declares, inter alia, that he has reasonable assurance that they present a true and fair view of the financial position of the Agency in all material respects.
 - (b) The management's responsibilities in respect of the legality and regularity of the underlying transactions and compliance with the principle of sound financial management consist of designing, implementing and maintaining an effective and efficient internal control system

⁵ These include the balance sheet and the statement of financial performance, the cash flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

⁶ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁷ Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

⁸ The accounting rules adopted by the Commission's accounting officer are derived from the International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, where relevant, the International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

comprising adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used.

The auditor's responsibility

6. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council⁹ with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions. The Court conducts 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 the Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

7. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the underlying transactions. The procedures selected depend on the auditor's judgement, which is based on an assessment of the risks of material misstatement of the accounts and material non-compliance by the underlying transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor considers any internal controls relevant to the preparation and fair presentation of the accounts, as well as the supervisory and control systems that are implemented to ensure the legality and regularity of underlying transactions, and designs audit procedures that are appropriate in the circumstances. The audit also entails evaluating the appropriateness of accounting policies, the reasonableness of accounting estimates and the overall presentation of the accounts. In preparing this report and Statement of Assurance, the Court considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208 (4) of the EU Financial Regulation¹⁰.

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

⁹ Article 107 of Regulation (EU) No 1271/2013.

¹⁰ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

Opinion on the reliability of the accounts

9. In the Court's opinion, the Agency's annual accounts present fairly, in all material respects, its financial position as at 31 December 2015 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.

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

10. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2015 are legal and regular in all material respects.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

11. An overview of the corrective actions taken in response to the Court's comments from previous years is provided in **Annex I**.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 13 September 2016.

For the Court of Auditors

(s) Vítor Manuel da SILVA CALDEIRA
President

Follow-up of previous years' comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
<p>2013</p>	<p>According to the Agency's founding regulation¹¹, staff shall consist of:</p> <ul style="list-style-type: none"> • temporary employees recruited by the Agency for a maximum of five years from among professionals from the railways sector on the basis of their qualifications and experience in the field of railway safety and interoperability; • officials assigned or seconded by the Commission or Member States for a maximum of five years; and • other servants to carry out implementing or secretarial tasks. <p>At the end of 2013, 136 temporary employees were working for the Agency. The founding regulation also stipulates that during the first ten years of the Agency's operations, the five-year period for them may be extended by up to a maximum of a further three years when required to guarantee business continuity. The Agency used this option as standard practice until mid-2013. Furthermore, in the period from September 2013 to March 2014, the Agency re-employed four temporary employees (for an eight-year period) whose contracts with ERA had ended in 2013 after the maximum eight-year period.</p>	<p>Ongoing</p>

¹¹ Article 24(3) of Regulation (EC) No 881/2004, of the European Parliament and of the Council (OJ L 220, 21.6.2004, p. 3).

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
	<p>In 2013 the Agency adopted a new decision in agreement with its Administrative Board and the Commission, according to which temporary employees can have indefinite contracts. The proposal for a revised founding regulation for ERA includes similar provisions but it is unclear if and when this will be adopted by Parliament and Council.</p>	
2013	<p>The Agency is located in Lille and Valenciennes. As the Court mentioned in its Specific Annual Report for the financial year 2006, it is likely that costs could be reduced if all operations were centralised in one location. This might also facilitate a comprehensive seat agreement with the host Member State thereby clarifying the conditions under which the Agency and its staff operate.</p>	Ongoing
2014	<p>The overall level of committed appropriations was high at 97 %. However, there was also a high level of committed appropriations carried over for the operational budget (title III) at 2,2 million euro, i.e. 37,7 % (2013: 1,6 million euro, i.e. 25 %) due to delayed operational projects (safety, European Railways Traffic Management System - ERTMS) and delayed IT projects. This situation is at odds with the budgetary principle of annuality.</p>	N/A
2014	<p>When implementing a multiple framework contract on ERTMS project follow-up, the Agency reopened a competition procedure for the award of a specific contract. However, both the excessive weighting of quality and the high maximum contract value in the reopening tender resulted in financial offers close to the maximum contract value. This is in contradiction with the objective of reopening a competition procedure, which is to ensure competition on price.</p>	N/A

THE AGENCY'S REPLY

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