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THE EUROPEAN UNION**

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COVER NOTE

From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	5 November 2013
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2012 together with the Office's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2012.

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

Encl.: Report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2012 together with the Office's replies.¹

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

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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 Office of the Body of European Regulators for Electronic Communications
for the financial year 2012

together with the Office's replies

INTRODUCTION

1. The Office of the Body of European Regulators for Electronic Communications, hereinafter “the Office”, which is located in Riga, was established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council¹. The Office’s main task is to provide professional and administrative support services to the Body of European Regulators for Electronic Communications (BEREC) and, under the 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 framework².

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 (TFEU), the Court has audited:

¹ OJ L 337, 18.12.2009, p. 1.

² **Annex II** summarises the Office’s competences and activities. It is presented for information purposes.

- (a) the annual accounts of the Office, which comprise the financial statements³ and the reports on the implementation of the budget⁴ for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002⁵, the management is responsible for the preparation and fair presentation of the annual accounts of the Office and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Office'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 officer⁶; making accounting estimates that are reasonable in the circumstances. The Administrative Manager approves the annual accounts of the Office after its accounting officer has prepared them on the basis of all available

³ 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.

⁴ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ 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.

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 Office 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 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

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council⁷ 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 Office are free from material misstatement and the transactions underlying them are legal and regular.

6. 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

⁷ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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.

7. 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

8. In the Court's opinion, the Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 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

9. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2012 are legal and regular in all material respects.

10. The comments which follow do not call the Court's opinions into question and should be considered in the light of the fact that 2012 was the Office's first year of operations and that the establishing of all its procedures is still ongoing.

COMMENTS ON THE RELIABILITY OF ACCOUNTS

11. The Office's accounting system was still not validated by the Accounting Officer.

COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS

12. Committed appropriations carried over amounting to 61 500 euro (10 % of the total committed appropriations carried over) did not correspond to legal commitments and were thus irregular.

COMMENTS ON INTERNAL CONTROLS

13. The Office had not yet implemented the Internal Control Standards on 'Objectives and performance indicators' (ICS 5), 'Process and procedures' (ICS 8), 'Document management' (ICS 11) and 'Information and Communication' (ICS 12).

14. There is no procedure related to the registration and disposal of fixed assets and no physical inventory has been performed.

15. Procedures concerning the establishment, approval and recording of exceptions and deviations from policies and procedures have not been implemented.

COMMENTS ON BUDGETARY MANAGEMENT

16. Some 101 000 euro, 45 % of the committed appropriations carried over from 2011, were cancelled. Appropriations for 2012 of 545 000 euro, 17 % of total 2012 appropriations, were not used and also had to be cancelled. The level of carryovers of committed appropriations to 2013 was high at 611 000 euro or 19 % of the total. This indicates difficulties in the planning and/or implementation of the Office's activities. The carry-overs for 2012 were mostly related to delayed recruitments and the absence of an effective policy to

ensure the timely presentation and reimbursement of mission costs claimed by experts.

17. There is considerable room for improving the preparation, execution and documentation of procurement procedures. As an example, award procedures did not give sufficient attention to the price quality ratio and general award criteria had not been further broken down into sub criteria to allow a clear and comparable evaluation of the offers.

OTHER COMMENTS

18. The recruitment procedures examined showed significant shortcomings affecting transparency: 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; nomination and changes in the composition of the selection board were not approved by the Appointing Authority.

19. Most of the Office's staff have an administrative or support function and do not travel, but all have been provided with a mobile phone with a monthly limit up to approximately 50 euro. There are no controls to monitor private use.

20. The Office does not have a treasury policy. At the end of 2012, all cash (1,6 million euro) was held in one bank (BBB rating⁸).

FOLLOW UP OF PREVIOUS YEAR'S COMMENTS

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

⁸ According to a note from the Commission's accounting officer dated 27.10.2008, the minimum short term rating should be A-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 15 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

ANNEX I***Follow-up of previous year's comments***

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	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.	Completed
2011	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.	Ongoing
2011	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.	Completed (register of invoices) Ongoing (register of exceptions)
2011	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.	Ongoing

ANNEX II

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

Competences and activities

Areas of Union competence deriving from the Treaty <i>(Article 114 of the Treaty on the Functioning of the European Union)</i>	Approximation of laws in the field of electronic communications.
Competences of the Office <i>(Regulation (EC) No 1211/2009 of the European Parliament and of the Council)</i>	The Office's powers are defined in Regulation (EC) No 1211/2009. The Office referred to in Article 6 shall provide administrative and professional support services to BEREC. It shall perform its functions under the guidance of the Board of Regulators.
Governance	The Office comprises: (a) a Management Committee , (b) an Administrative Manager , which share between themselves all administrative and financial responsibilities, including the responsibilities for the staff. However, only the Management Committee is responsible for the appointment of staff (Article 7(4)). 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 2012".
Resources made available to the Office in 2012	Final Budget: 3,1 million euro (amended budget 1/2012) Staff as at 31 December 2012: 22
Products and services in 2012	Under the guidance of the Board of Regulators, the Office has provided the following services: <ul style="list-style-type: none"> – Professional and administrative support services to BEREC. – Collection of information from NRAs and exchange and transmission of information. – Dissemination of regulatory best practices among NRAs within the EU and to third parties. – Assistance to the Chair in the preparation of the work of the Board of Regulators and the Management Committee of the Office. – Support to the Expert Working Groups set up by the Board of Regulators.

Source: Information supplied by the Office.