



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 26 November 2013
(OR. en)**

16511/13

FIN 822

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 Executive Agency for Competitiveness and Innovations for the financial year 2012 together with the Agency's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the Executive Agency for Competitiveness and Innovation for the financial year 2012.

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

Encl.: Report on the annual accounts of the Executive Agency for Competitiveness and Innovation for the financial year 2012 together with the Agency'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/>.

ΕΒΡΟΠΕΪΣΚΑ ΣΜΕΤΗΑ ΠΑΛΑΤΑ
TRIBUNAL DE CUENTAS EUROPEO
EVROPSKÝ ÚČETNÍ DVŮR
DEN EUROPÆISKE REVISIONSRET
EUROPÄISCHER RECHNUNGSHOF
EUROOPA KONTROLLIKODA
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ
EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
CÚIRT INIÚCHÓIRÍ NA HEORPA



EUROPSKI REVIZORSKI SUD
CORTE DEI CONTI EUROPEA
EIROPAS REVĪZIJAS PALĀTA
EUROPOS AUDITO RŪMAI

EURÓPAI SZÁMVEVŐSZÉK
IL-QORTI EWROPEA TAL-AWDITURI
EUROPESE REKENKAMER
EUROPEJSKI TRYBUNAŁ OBRACHUNKOWY
TRIBUNAL DE CONTAS EUROPEU
CURTEA DE CONTURI EUROPEANĂ
EURÓPSKY DVOR AUDÍTOROV
EVROPSKO RAČUNSKO SODIŠČE
EUROOPAN TILINTARKASTUSTUOMIOISTUIN
EUROPEISKA REVISIONSRÄTTEN

Report on the annual accounts
of the Executive Agency for Competitiveness and Innovation
for the financial year 2012

together with the Agency's replies

INTRODUCTION

1. The Executive Agency for Competitiveness and Innovation (hereinafter “the Agency”, aka “EACI”), which is located in Brussels, is the former Intelligent Energy Executive Agency (IEEA). Its mandate and duration were modified by Commission Decision 2007/372/EC¹ amending Decision 2004/20/EC².

The Agency was established for a period beginning on 1 January 2004 and ending on 31 December 2015, to manage EU actions in the field of energy, entrepreneurship and innovation, and sustainable freight transport³.

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 (TFEU), the Court has audited:

(a) the annual accounts of the Agency, which comprise the financial statements⁴ and the reports on the implementation of the budget⁵ for the financial year ended 31 December 2012, and

¹ OJ L 140, 1.6.2007, p. 52.

² OJ L 5, 9.1.2004, p. 85.

³ ***Annex II*** summarises the Agency’s competences and activities. It is presented for information purposes.

⁴ 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.

- (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 2343/2002⁶, 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 transactions:

- (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 officer⁷; 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

⁵ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁶ OJ L 357, 31.12.2002, p. 72.

⁷ 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.

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 Council⁸ 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.

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 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

⁸ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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 Agency'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.

COMMENTS ON INTERNAL CONTROLS

11. The Agency's Internal Audit Capability (IAC) is also responsible for the Agency's ex post verifications, which form part of its internal control system. This reduces the IAC's resources for internal audit activities and means that it is not in a position to carry out independent audits in this area. This dual role is incompatible with the Internal Control Standards and International Standards for the professional practice of Internal Auditing.

OTHER COMMENTS

12. There is room for improving the recruitment procedures: selection criteria were not fully in line with those mentioned in the vacancy notice; certain selection criteria were weighted disproportionately; no threshold scores for the pre-selection phase and no maximum number of candidates for the reserve lists were set in advance; the justification for the exclusion of candidates at the final stage of the procedures was not always sufficiently documented and declarations on confidentiality and absence of conflict of interest were not always signed.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

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

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 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 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 ¹).	Completed
2011	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. 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.	Completed

¹ See paragraph 13 of the Report on the annual accounts 2010 (OJ C 366, 15.12.2011, p. 81).

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

<p>Areas of Union competence deriving from the Treaty on the Functioning of the European Union (TFEU)</p>	<p>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, and in particular combating climate change.</p> <p><i>(Article 191 of the TFEU)</i></p> <p>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.</p> <p><i>(Article 173 of the TFEU)</i></p> <p>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.</p> <p><i>(Articles 91(1) and 100(2) of the TFEU)</i></p> <p>4. Union policy on energy shall aim to ensure the functioning of the energy market; ensure security of energy supply in the Union; promote energy efficiency and energy saving and the development of new and renewable forms of energy; and promote the interconnection of energy networks.</p> <p><i>(Article 194(1) of the TFEU)</i></p>
<p>Competences of the Agency</p> <p><i>(as defined in Commission Decision 2004/20/EC, amended by Decision 2007/372/EC)</i></p>	<p>Objectives</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 of the European Parliament and of the Council), notably with the programmes Intelligent Energy - Europe (IEE) and Entrepreneurship and Innovation (EIP). 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. The measures taken in the framework of the Lisbon strategy also include the second Marco Polo (MP) programme (Regulation (EC) No 1692/2006 of the European Parliament and of the Council). The main objectives are to reduce congestion, improve the environmental performance of the transport system and to enhance inter-modal transport, thereby contributing to efficient and sustainable transport systems and to competitiveness and innovation, especially of SMEs. 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>Tasks</p> <p>Implementing the EU programmes according to the delegations received from the Commission:</p> <ul style="list-style-type: none"> - to manage all phases in the lifetime of specific projects, - to carry out all operations necessary to manage the EU programmes, in particular budget implementation including awarding of contracts and grants, - 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, - 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).
Governance	<p>Steering Committee</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>Director</p> <p>Appointed by the European Commission.</p> <p>External audit</p> <p>European Court of Auditors.</p> <p>Discharge authority</p> <p>European Parliament, acting on a recommendation by the Council.</p>
Resources made available to the Agency in 2012 (2011)	<p>Budget</p> <p><i>Operational budget</i></p> <p>The 241,34 (229,6) million euro planned (100 % general budget of the EU) were committed and 129,5 million euro paid. The EACI implements the operational budget under the responsibility of the Commission:</p> <ul style="list-style-type: none"> - for IEE 83,87 (83,8) million euro, - for EIP-eco-innovation 35 (38,1) million euro, - for EIP-Networks 57,4 (50,9) million euro, - for MP 65,07 (56,8) million euro. <p><i>Administrative budget</i></p> <p>16,4 (15,6) million euro (100 % EU subsidy) for the administrative budget for which the EACI is autonomous.</p> <p>Staff at 31 December 2012</p> <ul style="list-style-type: none"> - Total staff: 162 (159) posts planned, of which 156 (156) occupied, - TA posts: 37 (37) planned, of which 37 (33) occupied, - Contract staff: 125 (122) posts planned, of which 119 (123) occupied.
Products and services 2012	<p>EACI is responsible for the management of Union actions in the fields of energy, entrepreneurship and innovation (including eco-innovation), and sustainable freight transport under the following Union programmes:</p> <ul style="list-style-type: none"> - the following parts of the Competitiveness and Innovation Framework programme: Intelligent Energy Europe programme II (2007-2013), project management and animation activities of the Enterprise Europe Network, IPR-projects and Eco-innovation first application and market replication projects, - the Marco Polo I (2003-2006) and II (2007-2013) programmes, - the Intelligent Energy Europe I programme (2003-2006). <p>Intelligent Energy Europe (IEE)</p> <p><i>Key activities</i></p> <ul style="list-style-type: none"> - For the Intelligent Energy Europe programme (IEE), 433 applications were received in response to the 2012 call for proposals, involving nearly 4 000 organisations from 32 countries, and a total of 67 proposals were selected for funding; - regarding the 2011 call, following the evaluation of 280 proposals, 48 projects were successfully negotiated; - in January the Agency held the most popular IEE information day thus far, with 780 participants from 31 countries. In addition the Agency participated in 21 other info days in the Member States. It also answered more than 1 300 enquiries sent to the IEE mailbox,

80 % of them in less than five days.

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 a budget of approximately 200 million euro for the 2008-2013 period.

In 2012 efforts were concentrated on:

- completion of the implementation of the 2011 call for proposals: negotiations were completed by end of November 2012; 47 contracts were signed;
- new call for proposals: the call launched in April 2012 and closed in September attracted 284 proposals. Central evaluation took place from 19 November to 7 December 2012;
- for the first time in the programme, an eco-innovators day was organised in November in Brussels with more than 200 participants. With the help of a tool used by the Enterprise Europe Network, a business matchmaking event was organised that resulted in 120 meetings between the participants, i.e. manufacturers, marketing experts, salespersons, innovators, opinion multipliers, etc., from across Europe.

Marco Polo programme

Key activities

- in relation to Marco Polo, the European info day in June attracted 172 participants (and a further 115 live web stream viewers). On this occasion, no less than 36 bilateral meetings with potential Marco Polo beneficiaries were organised;
- the 2012 call was published on 20 June and closed on 19 October. Fifty four proposals were received. The pre-evaluations took place between 19 and 27 November;
- as regards the 2011 call, out of the 50 proposals received, 18 projects were successfully negotiated. The Award Decision was adopted on 20 July (after approval by DG MOVE);
- management of on-going projects: 35 on-site verification visits took place in respect of 32 projects.

EIP programme - Enterprise Europe Network

The programme is made up of more than 600 partner organisations in more than 50 countries, including the 27 EU Member States. In addition to project management tasks for 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 interactive communication among the network partners.

A new IT system for the Network ('Merlin') was gradually rolled-out during 2012, preparing for a major release in 2013.

Source: Information supplied by the Agency.