



Council of the
European Union

Brussels, 5 December 2014
(OR. en)

16461/14

FIN 933

COVER NOTE

From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	14 October 2014
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of Eurojust for the financial year 2013 together with the Eurojust's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of Eurojust for the financial year 2013.

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

Encl.: Report on the annual accounts of Eurojust for the financial year 2013 together with Eurojust'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/>.

ЕВРОПЕЙСКА СМЕТНА ПАЛАТА
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



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CORTE DEI CONTI EUROPEA
EIROPAS REVĪZIJAS PALĀTA
EUROPOS AUDITO RŪMAI

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IL-QORTI EWROPEA TAL-AWDITURI
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Report on the annual accounts of Eurojust
for the financial year 2013

together with Eurojust's replies

INTRODUCTION

1. The European Union's Judicial Cooperation Unit (hereinafter "Eurojust"), which is located in The Hague, was set up by Council Decision 2002/187/JHA² with a view to stepping up the fight against serious organised crime. Its objective is to improve the coordination of cross-border investigations and prosecutions between the Member States of the European Union, and between Member States and non-Member States³.

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 Eurojust'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 Eurojust, which comprise the financial statements⁴ and the reports on the implementation of the budget⁵ for the financial year ended 31 December 2013, and

² OJ L 63, 6.3.2002, p. 1.

³ ***Annex II*** summarises Eurojust'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. The management is responsible for the preparation and fair presentation of the annual accounts of Eurojust and the legality and regularity of the underlying transactions⁶:

- (a) The management's responsibilities in respect of Eurojust'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 Administrative Director approves the annual accounts of Eurojust 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 Eurojust 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

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

⁶ Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

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.

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 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 Eurojust 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 107 of Regulation (EU) No 1271/2013.

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, Eurojust's annual accounts present fairly, in all material respects, its financial position as at 31 December 2013 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 2013 are legal and regular in all material respects.

10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY MANAGEMENT

11. The level of committed appropriations for the different titles varied between 99 % and 98 % of total appropriations, indicating that legal commitments were made in a timely manner. However, the level of committed appropriations carried over to 2014 was high for title III (operating expenditure) at 2 341 825 euro (32 %). This was mainly the result of delays associated with the handover of internal software management to a new service provider at the year-end. Also, reimbursements of expenditure from grant schemes which were used to support "Joint Investigation Teams" were only due in 2014.

12. In 2013, the Agency made 49 budget transfers affecting 101 budget lines. This indicates weaknesses in budget planning and implementation.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

13. 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 Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 1 July 2014.

For the Court of Auditors

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)
2011	In the report for the financial year 2010, the Court noted that there was scope to reconsider the definition of respective roles and responsibilities between the Director and the College of Eurojust in order to avoid the overlap of responsibilities, currently resulting from the Founding Regulation ¹ . No corrective measures were taken in 2011.	Ongoing
2011	Eurojust has not yet adopted all Implementing Rules of the Staff Regulations ² .	Completed
2012	A framework contract for security services was signed in 2008 and amended in 2009. The amended formula to calculate prices increased them progressively up to 22 %, whereas the original framework contract had provided for a maximum increase of 4 %. The total price increase above the 4 % ceiling amounted to some 440 000 euro for the 2008 to 2012 period, of which some 68 000 euro were paid in 2012. Such a significant increase may undermine the transparency and fairness of the initial procurement procedure and distort competition.	N/A

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2012	There is room to improve the transparency of recruitment procedures. There was no evidence that questions for tests and interviews were set before the examination of the applications by the Selection Board and there is no evidence that the weighting between written tests and interviews was set before candidates' screening.	Completed

¹ Articles 28, 29, 30 and 36 of Decision 2002/187/JHA, as amended by Decisions 2003/659/JHA (OJ L 245, 29.9.2003, p. 44) and 2009/426/JHA (OJ L 138, 4.6.2009, p. 14).

² Implementing rules are missing for the following areas: "Reclassification", "Administrative inquiries and disciplinary procedure", "Part-time work", "Job-Sharing", "Middle management", "Temporary occupation of management posts", "Appraisal senior management", "Early retirement without reduction of pension rights", "Leave", "Staff Committee" and "Mission guide."

Eurojust (The Hague)**Competences and activities**

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Article 85 of the Treaty on the Functioning of the European Union)</i></p>	<p>Eurojust's mission is to support and strengthen coordination and cooperation between national authorities in the fight against serious cross-border crime affecting the European Union.</p>
<p>Competences of Eurojust</p> <p><i>(as defined in Articles 3, 5, 6 and 7 of Council Decision 2002/187/JHA, as amended by Decision 2003/659/JHA and Decision 2009/426/JHA)</i></p>	<p>Objectives</p> <p><i>Article 3 of Council Decision 2002/187/JHA, as amended by Decision 2003/659/JHA and Decision 2009/426/JHA</i></p> <p>In the context of investigations and prosecutions, concerning two or more Member States, of criminal behaviour referred to in Article 4 in relation to serious crime, particularly when it is organised, the objectives of Eurojust shall be:</p> <ul style="list-style-type: none"> (a) to stimulate and improve the coordination, between the competent authorities of the Member States, of investigations and prosecutions in the Member States, taking into account any request emanating from a competent authority of a Member State and any information provided by any competent body by virtue of provisions adopted within the framework of the Treaties; (b) to improve cooperation between the competent authorities of the Member States, in particular by facilitating the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effects to the principle of mutual recognition; (c) to support otherwise the competent authorities of the Member States in order to render their investigations and prosecutions more effective. <p>Tasks</p> <p><i>Article 5 of Council Decision 2002/187/JHA, as amended by Decision 2003/659/JHA and Decision 2009/426/JHA</i></p> <p>In order to accomplish its objectives, Eurojust shall fulfil its tasks:</p> <ul style="list-style-type: none"> (a) through one or more of the national members concerned in accordance with Article 6, or (b) as a College in accordance with Article 7: <ul style="list-style-type: none"> (i) when so requested by one or more of the national members concerned by a case dealt with by Eurojust, or (ii) when the case involves investigations or prosecutions which have repercussions at Union level or which might affect Member States other than those directly concerned, or (iii) when a general question relating to the achievement of its objectives is involved, or (iv) when otherwise provided for in this Decision. <p>2. When it fulfils its tasks, Eurojust shall indicate whether it is acting through one or more of the national members within the meaning of Article 6 or as a College within the meaning of Article 7.</p> <p><i>Article 6 of Council Decision 2002/187/JHA, as amended by Decision 2003/659/JHA and Decision 2009/426/JHA</i></p> <p>1. When Eurojust acts through its national members concerned, it:</p> <ul style="list-style-type: none"> (a) may ask the competent authorities of the Member States concerned, giving its reasons, to:

- (i) undertake an investigation or prosecution of specific acts,
 - (ii) accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts,
 - (iii) coordinate between the competent authorities of the Member States concerned,
 - (iv) set up a joint investigation team in keeping with the relevant cooperation instruments,
 - (v) provide it with any information that is necessary for it to carry out its tasks,
 - (vi) take special investigative measures,
 - (vii) take any other measure justified for the investigation or prosecution;
- (b) shall ensure that the competent authorities of the Member States concerned inform each other on investigations and prosecutions of which it has been informed;
- (c) shall assist the competent authorities of the Member States, at their request, in ensuring the best possible coordination of investigations and prosecutions;
- (d) shall give assistance in order to improve cooperation between the competent national authorities;
- (e) shall cooperate and consult with the European Judicial Network, including making use of and contributing to the improvement of its documentary database;
- (f) shall, in the cases referred to in Article 3(2) and (3) and with the agreement of the College, assist investigations and prosecutions concerning the competent authorities of only one Member State.

2. The Member States shall ensure that competent national authorities respond without undue delay to requests made under this Article.

Article 7 of Council Decision 2002/187/JHA, as amended by Decision 2003/659/JHA and Decision 2009/426/JHA

1. When Eurojust acts as a College, it:

- (a) may in relation to the types of crime and the offences referred to in Article 4(1) ask the competent authorities of the Member States concerned, giving its reasons:
- (i) to undertake an investigation or prosecution of specific acts,
 - (ii) to accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts,
 - (iii) to coordinate between the competent authorities of the Member States concerned,
 - (iv) to set up a joint investigation team in keeping with the relevant cooperation instruments,
 - (v) to provide it with any information that is necessary for it to carry out its tasks;
- (b) shall ensure that the competent authorities of the Member States inform each other of investigations and prosecutions of which it has been informed and which have repercussions at Union level or which might affect Member States other than those directly concerned;
- (c) shall assist the competent authorities of the Member States, at their request, in ensuring the best possible coordination of investigations and prosecutions;
- (d) shall give assistance in order to improve cooperation between the competent authorities of the Member States, in particular on the basis of Europol's analysis;
- (e) shall cooperate and consult with the European Judicial Network, including making use of and contributing to the improvement of its documentary database;
- (f) may assist Europol, in particular by providing it with opinions based on analyses carried out by Europol;
- (g) may supply logistical support in the cases referred to in points (a), (c) and (d). Such logistical support may include assistance for translation, interpretation and the organisation of coordination meetings.

2. Where two or more national members cannot agree on how to resolve a case of conflict of jurisdiction as regards the undertaking of investigations or prosecution pursuant to Article 6 and in particular Article 6(1)(c), the College shall be asked to issue a written non-binding opinion on the case, provided the matter could not

	<p>be resolved through mutual agreement between the competent national authorities concerned. The opinion of the College shall be promptly forwarded to the Member States concerned. This paragraph is without prejudice to paragraph 1(a)(ii).</p> <p>3. Notwithstanding the provisions contained in any instruments adopted by the European Union regarding judicial cooperation, a competent authority may report to Eurojust recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, and request the College to issue a written non-binding opinion on the matter, provided it could not be resolved through mutual agreement between the competent national authorities or through the involvement of the national members concerned. The opinion of the College shall be promptly forwarded to the Member States concerned.</p>
<p>Governance</p> <p><i>(Articles 2, 9, 23, 28, 29 and 36 of Eurojust Decision 2002/187/JHA; Article 3 of the Rules of Procedure of Eurojust)</i></p>	<p>College</p> <p>The College is responsible for the organisation and operation of Eurojust. The College is composed of National Members who are seconded by each Member State in accordance with its legal system and who are prosecutors, judges or police officers. The College elects its President from among the National Members.</p> <p>Director</p> <p>The Administrative Director is appointed by the College acting by a two-thirds majority.</p> <p>The Joint Supervisory Body</p> <p>Supervises the processing of personal data.</p> <p>External audit</p> <p>European Court of Auditors.</p> <p>Discharge authority</p> <p>European Parliament acting on a Recommendation from the Council acting by qualified majority.</p>
<p>Resources made available to Eurojust in 2013 (2012)</p>	<p>Final budget</p> <p>32,4 (33,3) million euro including assigned revenue</p> <p>Staff as at 31 December 2013</p> <p>National Members: 28 (of which 2 based in Member States) <i>(27, of which 2 based in Member States)</i></p> <p>Deputy National Members: 20 (of which 11 based in Member States) <i>(17, of which 10 based in Member States)</i></p> <p>Assistants to National Members: 21 (of which 8 based in Member States) <i>(22, of which 11 based in Member States)</i></p> <p>Temporary staff: 203 <i>(188)</i></p> <p>Contract staff: 27 <i>(29)</i></p> <p>Seconded national experts: 14 <i>(18)</i></p>
<p>Products and services provided in 2013 (2012)</p>	<p>Number of coordination meetings: 206 (194)</p> <p>Total number of cases: 1 576 (1 533)</p> <p>Deception and fraud: 472 <i>(382)¹</i></p> <p>(Mobile) organised crime: 264 <i>(231)¹</i></p> <p>Drug trafficking: 248 <i>(263)¹</i></p> <p>Money laundering: 202 <i>(144)¹</i></p> <p>Illegal immigration and trafficking in human beings: 110 <i>(89)¹</i></p> <p>Corruption: 56 <i>(30)¹</i></p> <p>Cybercrime: 29 <i>(42)¹</i></p> <p>Terrorism: 17 <i>(32)¹</i></p>

	Criminal offences affecting the EU's financial interests: 15 (27) ¹
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¹ The crime list used for the classification of the cases reflects the Eurojust priority crime types in 2013.

Source: Annex supplied by Eurojust.
