



Council of the
European Union

Brussels, 5 December 2014
(OR. en)

16492/14

FIN 964

COVER NOTE

From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	21 November 2014
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2013 together with the Joint Undertaking's replies

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

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

Encl.: Report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2013 together with the Joint Undertaking'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



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
ENIAC Joint Undertaking
for the financial year 2013

together with the Joint Undertaking's replies

CONTENTS

	Paragraph
<u>Introduction</u>	1 - 5
<u>Information in support of the statement of assurance</u>	6
<u>Statement of assurance</u>	7 - 19
Opinion on the reliability of the accounts	12
Basis for a qualified opinion on the legality and regularity of the underlying transactions	13 - 17
Qualified opinion on the legality and regularity of the transactions underlying the accounts	18
Comments on budgetary and financial management	20 - 21
Implementation of the budget	20
Calls for proposals	21
Other matters	22 - 29
Legal framework	22
Internal audit function and the Commission's Internal Audit Service	23 - 24
Monitoring and reporting of research results	25
Conflicts of interest	26 - 27
The Commission's Second Interim Evaluation	28 - 29

INTRODUCTION

1. The European Joint Undertaking for the implementation of the Joint Technology Initiative on Nanoelectronics (ENIAC Joint Undertaking), located in Brussels, was set up in December 2007¹ for a period of 10 years and has worked autonomously since 2010.
2. The main objective of the Joint Undertaking is to define and implement a “research agenda” for the development of key competences for nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications².
3. The founding members of the Joint Undertaking are the European Union, represented by the Commission, certain EU Member States (Belgium, Germany, Estonia, Ireland, Greece, Spain, France, Italy, the Netherlands, Poland, Portugal, Sweden and the United Kingdom) and the Association for European Nanoelectronics Activities (AENEAS). Other Member States and associated countries, as well as any other country or legal entity capable of making a substantial financial contribution to the achievement of the Joint Undertaking’s objectives, may become members of the ENIAC Joint Undertaking.
4. The maximum EU contribution to the ENIAC Joint Undertaking, to cover running costs and research activities, is 450 million euro to be paid from the budget of the Seventh Framework Programme³. AENEAS is to make a

¹ Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking (OJ L 30, 4.2.2008, p. 21).

² The ***Annex*** summarises the Joint Undertaking’s competences, activities and available resources. It is presented for information purposes.

³ The Seventh Framework Programme, adopted by Decision No 1982/2006/EC of the European Parliament and of the Council (OJ L 412, 30.12.2006, p. 1), brings all the research-related EU initiatives together under one roof and plays a crucial

maximum contribution of 30 million euro to the running costs of the Joint Undertaking. ENIAC Member States are to make in-kind contributions to the running costs (by facilitating the implementation of projects), and to provide financial contributions of at least 1,8 times the EU contribution. Research organisations participating in projects are also to provide in-kind contributions, which must be at least equal to the combined contributions of the Commission and the Member States.

5. The ENIAC and ARTEMIS Joint Undertakings⁴ were merged to create the Electronic Components and Systems for European Leadership Joint Technology Initiative (ECSEL JTI)⁵. In addition to combining the ENIAC initiative on nano-electronics and the ARTEMIS initiative on embedded systems, ECSEL JTI will also incorporate research and innovation on smart systems. ECSEL JTI started in June 2014 and will run for 10 years. Nevertheless this report has been produced on a going-concern principle.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

6. The audit approach taken by the Court comprises analytical audit procedures, testing of transactions at the level of the Joint Undertaking and an assessment of key controls of the supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

role in achieving the goals of growth, competitiveness and employment. It is also a key pillar for the European Research Area.

⁴ ARTEMIS Joint Undertaking was set up in Council Regulation (EC) No 74/2008 of 20 December 2007” (OJ L 30, 4.2.2008, p. 52) is to define and implement a “research agenda” for the development of key technologies for embedded computing systems.

⁵ The ECSEL Joint Undertaking was set up by Council Regulation (EU) No 561/2014 of 6 May 2014 (OJ L 169, 7.6.2014, p. 152).

STATEMENT OF ASSURANCE

7. 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 ENIAC Joint Undertaking, which comprise the financial statements⁶ and the reports on the implementation of the budget⁷ for the financial year ended 31 December 2013, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

8. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002⁸, the management is responsible for the preparation and fair presentation of the annual accounts of the Joint Undertaking and the legality and regularity of the underlying transactions.

- (a) The management's responsibilities in respect of the Joint Undertaking'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 officer⁹, and making accounting estimates that are reasonable in the

⁶ These include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets, a summary of the significant accounting policies and other explanatory notes.

⁷ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

⁸ OJ L 357, 31.12.2002, p. 72.

⁹ 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

circumstances. The Director approves the annual accounts of the Joint Undertaking 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 Joint Undertaking 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

9. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council¹⁰ 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 Joint Undertaking are free from material misstatement and the underlying transactions are legal and regular.

10. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the

Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

¹⁰ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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.

11. 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

12. In the Court's opinion, , the Joint Undertaking'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 rules and the accounting rules adopted by the Commission's accounting officer.

Basis for a qualified opinion on the legality and regularity of the underlying transactions

13. The Joint Undertaking's *ex-post* audit strategy¹¹ was adopted by a Governing Board decision on 18 November 2010 and is a key tool¹² for

¹¹ The *ex-post* audit strategy states that the Joint Undertaking "shall seek sufficient information with respect to the *ex-post* audit procedure applied in the ENIAC Member States to perform an assessment of the national procedures with respect to their suitability to provide sufficient assurance with respect to the regularity and the legality of the transactions related to the ENIAC Joint Undertaking projects".

assessing the legality and regularity of the underlying transactions. The payments made in 2013 against certificates of acceptance of costs issued by the national funding authorities (NFAs) of the Member States amounted to 17 million euro, which represents 50 % of the 34,4 million euro in operational payments.

14. The administrative agreements established between the Joint Undertaking and the NFAs of the Member States provide in principle that the NFAs will perform audits on behalf of the Joint Undertaking. The Joint Undertaking's *ex-post* audit strategy relies heavily on the NFAs to audit project cost claims.

15. In 2013, the audits performed by NFAs covered 32 % of beneficiaries from the 2008 call 1, representing 61 % of accepted costs. However, the Joint Undertaking did not assess the quality of these audits.

16. The Joint Undertaking itself carried out a limited review of cost claims¹³ and concluded in its annual activity report that the error rate is below 2 %. This limited review is not sufficient to give assurance on the error rate reported by the Joint Undertaking.

17. The Court is unable to conclude whether the *ex-post* audit key control is functioning effectively.

Qualified opinion on the legality and regularity of the transactions underlying the accounts

¹² Article 12 of Regulation (EC) No 72/2008 states that it "shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls" and that it "shall carry out on-the-spot checks and financial audits among the recipients of the ENIAC Joint Undertaking's public funding. These checks and audits shall be performed either directly by the ENIAC Joint Undertaking or by ENIAC Member States on its behalf."

¹³ The limited review exercise consisted of inviting the NFAs to confirm a sample of cost claims.

18. In the Court's opinion, except for the possible effects of the matter described in the basis for a qualified opinion in paragraphs 16 to 17, the transactions underlying the annual accounts of the Joint Undertaking for the financial year ended 31 December 2013 are, in all material respects, legal and regular.

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

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the budget

20. The initial 2013 operational budget included commitment appropriations amounting to 115,6 million euro and payment appropriations amounting to 59,7 million euro. At the end of the year the Governing Board adopted an amending budget increasing commitment appropriations to 170 million euro¹⁴ and decreasing payment appropriations to 36,1 million euro. The implementation rate for operational commitment appropriations was 100 % and was 95 % for payment appropriations.

Calls for proposals

21. The last two calls for proposals were launched in 2013 and enabled the Joint Undertaking to use the remaining 170 million euro.

OTHER MATTERS

Legal framework

22. The new Financial Regulation applicable to the general budget of the Union¹⁵ was adopted on 25 October 2012 and took effect from 1 January

¹⁴ The Joint Undertaking saved 4,4 million euro of the authorised amount (10 million euro) to cover running costs and transferred it to the operational budget.

¹⁵ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget

2013¹⁶. However, the model financial regulation for public-private partnership bodies referred to in Article 209 of the new Financial Regulation¹⁷ did not enter into force until 8 February 2014. Because of the merger into ECSEL Joint Undertaking, the financial rules of the Joint Undertaking have not been amended to reflect these changes.

Internal audit function and the Commission's Internal Audit Service

23. In 2013, the Commission's Internal Audit Service audited the adequacy and effectiveness of the Grant Management process and concluded that the procedures in place are providing enough assurance. The two main recommendations included in the report, dealing with the setting up of a documented process for selecting experts and control over access rights, were addressed by the Joint Undertaking.

24. ENIAC along with the Clean Sky, ARTEMIS, FCH and IMI Joint Undertakings was the subject of an IT Risk Assessment on the common IT infrastructures they share by the Commission Internal Audit Service (IAS)¹⁸.

Monitoring and reporting of research results

25. The Seventh Framework Programme (FP7) establishes a monitoring and reporting system related to the protection, dissemination and transfer of the research results¹⁹. The Joint Undertaking has developed procedures to

of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

¹⁶ Article 214 of Regulation No 966/2012 with the exemptions referred to.

¹⁷ OJ L 38, 7.2.2014, p. 2.

¹⁸ The Final Report dated 22 November 2013 noted the need to formalise IT security policy and include detailed procedures/controls in future contracts with IT service providers.

¹⁹ Article 7 of Decision No 1982/2006 of the European Parliament and the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration

monitor the protection and dissemination of research results at different stages of the projects, but this monitoring requires further development to fully meet the provisions of the Decision²⁰.

Conflicts of interest

26. ENIAC has set up comprehensive measures to prevent conflicts of interest and published them on its website.

27. Further improvements should be considered such as setting up a database to include all information related to conflicts of interest.

The Commission's Second Interim Evaluation²¹

28. The Commission's Second Interim Evaluation was carried out from September 2012 to February 2013 to assess the ENIAC and ARTEMIS Joint Undertakings in terms of relevance, effectiveness, efficiency and research quality.

29. The report was issued in May 2013 and contained several recommendations to the ENIAC Joint Undertaking, in particular regarding the efficiency of the project reviews, the measures to be taken to improve the match of the project portfolio to strategic European aims and the appropriate metrics for measuring the impact and success of ENIAC projects.

activities (2007-2013) states that the Commission shall continually and systematically monitor the implementation of the Seventh Framework Programme and its specific programmes and regularly report and disseminate the results of this monitoring.

²⁰ See the observation referring to the integration of results achieved in research projects into the Commission's communication and dissemination system, included in the 2012 Annual Progress Report from the Commission to the European Parliament and the Council on the activities of the Joint Technology Initiative Joint Undertakings (SWD (2013) 539 final).

²¹ Second Interim Evaluation of the ARTEMIS and ENIAC Joint Technology Initiatives of May 2013.

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 21 October 2014.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

ENIAC Joint Undertaking (Brussels)

Competences and activities

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Articles 187 and 188 of the Treaty on the Functioning of the European Union)</i></p>	<p>Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme provides for a Community contribution to the establishment of long-term public-private partnerships in the form of Joint Technology Initiatives which could be implemented through Joint Undertakings within the meaning of Article 187 of the Treaty.</p> <p>Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking.</p>
<p>Competences of the Joint Undertaking</p> <p><i>(Council Regulation (EC) No 72/2008)</i></p>	<p><u>Objectives</u></p> <p>The ENIAC Joint Undertaking contributes to the implementation of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) and the theme "Information and Communication Technologies" of the specific "Cooperation" programme implementing the Seventh Framework Programme (2007-2013) of the European Community for research, technological development and demonstration activities. It shall, in particular:</p> <ul style="list-style-type: none"> - define and implement a research agenda for the development of key competences for nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications; - support the activities required for the implementation of the research agenda (R&D activities), notably by awarding funding to participants in selected projects following competitive calls for proposals; - promote a public-private partnership aiming at mobilising and pooling Community, national and private efforts, increasing overall R&D investments in the field of nanoelectronics, and fostering collaboration between the public and private sectors; - ensure the efficiency and durability of the JTI on nanoelectronics; - achieve synergy and coordination of European R&D efforts in the field of nanoelectronics including the progressive integration into the ENIAC Joint Undertaking of the related activities in this field currently implemented through intergovernmental R&D schemes (EUREKA).
<p>Governance</p>	<ul style="list-style-type: none"> - The JU's governing body is the Governing Board. The executive team is led by an Executive Director. Industry is represented in the Industry and Research Committee and by the association AENEAS as founding member. The Commission, representing the Union, the Member States and associated countries make up the Public Authorities Board.
<p>Resources available to the Joint Undertaking in 2013</p>	<p>Budget</p> <p>172 608 748,19 euro for commitments</p> <p>36 609 726,23 euro for payments</p> <p>Staff at 31 December 2013</p> <p>15 posts provided for in the establishment plan (7 temporary staff and 8 contract staff), of which 15 posts were occupied; these were allocated to: operational activities (6); administrative tasks (5); mixed tasks (4).</p>
<p>Activities and services provided in 2013</p>	<p>See the ENIAC Joint Undertaking annual activity report for 2013 at www.eniac.eu</p>

Source: Information supplied by the ENIAC Joint Undertaking.