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European Union

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## COVER NOTE

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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 the Office of the Body of European Regulators for Electronic Communications for the financial year 2013 together with the Office's replies

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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 2013.

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

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Encl.: Report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2013 together with the Office's replies.<sup>1</sup>

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<sup>1</sup> 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

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EUROOPAN TILINTARKASTUSTUOMIOISTUIN  
EUROPEISKA REVISIONSRÄTTEN

Report on the annual accounts  
of the Office of the Body of European Regulators for Electronic Communications  
for the financial year 2013

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 Council<sup>1</sup>. 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 framework<sup>2</sup>.

## **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:

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<sup>1</sup> OJ L 337, 18.12.2009, p. 1.

<sup>2</sup> ***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 statements<sup>3</sup> and the reports on the implementation of the budget<sup>4</sup> for the financial year ended 31 December 2013, and
- (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 the Office and the legality and regularity of the underlying transactions<sup>5</sup>:

- (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 officer<sup>6</sup>; 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 information and established a note to accompany the accounts in which he

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<sup>3</sup> 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.

<sup>4</sup> These comprise the budgetary outturn account and the annex to the budgetary outturn account.

<sup>5</sup> Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

<sup>6</sup> 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.

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 Council<sup>7</sup> 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 transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor

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<sup>7</sup> Article 107 of Regulation (EU) No 1271/2013.

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 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. Budget implementation rates improved considerably, which indicates better planning and more timely implementation of activities. Although the level of cancelled carry-overs from 2012 is still relatively high at 28 % (2012: 45 %),

carry-overs of committed appropriations decreased to 461 983 euro or 13 % (2012: 611 223 euro or 19 %). Carry-overs were mostly related to contracts signed in the second half of 2013 for planned activities in 2013 and 2014.

### **OTHER COMMENTS**

12. Of the 1 183 reimbursements for experts made in 2013, 1 078 were late. Where payments were late, they were overdue by an average delay of 78 days in the first half of 2013 as compared with 33 days in the second half of 2013.

### **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*

ANNEX I*Follow-up of previous years' comments*

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
<b>2011</b>	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 carry-overs were therefore irregular.	<b>Completed</b>
<b>2011</b>	The Office had not yet adopted and implemented all the internal control standards. Notably, no register of exceptions was introduced.	<b>Completed (register of exceptions) Ongoing (internal control standards)</b>
<b>2011</b>	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.	<b>Completed</b>
<b>2012</b>	The Office's accounting system was still not validated by the Accounting Officer.	<b>Completed</b>
<b>2012</b>	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.	<b>Completed</b>



Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
<b>2012</b>	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).	<b>Ongoing</b>
<b>2012</b>	There is no procedure related to the registration and disposal of fixed assets and no physical inventory has been performed.	<b>Completed</b>
<b>2012</b>	Procedures concerning the establishment, approval and recording of exceptions and deviations from policies and procedures have not been implemented.	<b>Completed</b>
<b>2012</b>	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 carry-overs 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.	<b>Ongoing</b>
<b>2012</b>	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.	<b>Completed</b>

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
<b>2012</b>	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.	<b>Completed</b>
<b>2012</b>	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.	<b>Completed</b>
<b>2012</b>	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 rating <sup>1</sup> ).	<b>Completed</b>

<sup>1</sup> According to a note from the Commission's accounting officer dated 27.10.2008, the minimum short term rating should be A-1.

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

**Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 114 of the Treaty on the Functioning of the European Union)</i></p>	<p>Approximation of laws in the field of electronic communications.</p>
<p><b>Competences of the Office</b></p> <p><i>(Regulation (EC) No 1211/2009 of the European Parliament and of the Council)</i></p>	<p>The Office's powers are defined in Regulation (EC) No 1211/2009 of the European Parliament and of the Council.</p> <p>The Office referred to in Article 6 shall provide administrative and professional support services to BEREC.</p> <p>It shall perform its functions under the guidance of the Board of Regulators.</p>
<p><b>Governance</b></p>	<p>The Office comprises:</p> <p>(a) a <b>Management Committee</b>,</p> <p>(b) an <b>Administrative Manager</b>,</p> <p>which share between them all administrative and financial responsibilities, including the responsibilities for the staff.</p> <p>However, only the Management Committee is responsible for the appointment of staff (Article 7(4)).</p> <p>Guidance on the services and products specified in the "Products and services in 2013" section is provided by the Board of Regulators.</p> <p><b>Internal audit</b></p> <p>European Commission's internal audit service (IAS).</p> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Discharge authority</b></p> <p>European Parliament, acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Office in 2013 (2012)</b></p>	<p><b>Final Budget:</b> 3 557 218,93 euro (amended budget 1/2013 and including internal assigned revenue)</p> <p><b>Staff as at 31 December:</b> 25 (22)</p>

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<b>Products and services in 2013</b>	Under the guidance of the Board of Regulators, the Office provided the following services: <ul style="list-style-type: none"><li>- Professional and administrative support services to BEREC.</li><li>- Collection of information from NRAs and exchange and transmission of information.</li><li>- Dissemination of regulatory best practices among NRAs within the EU and to third parties.</li><li>- Assistance to the Chair in the preparation of the work of the Board of Regulators and the Management Committee of the Office.</li><li>- Support to the Expert Working Groups set up by the Board of Regulators.</li></ul>
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*Source:* Annex supplied by the Office.

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