



Council of the
European Union

Brussels, 1 December 2017
(OR. en)

15016/17

FIN 775

COVER NOTE

From:	Mr Klaus-Heiner LEHNE, President of the European Court of Auditors
date of receipt:	28 November 2017
To:	Mr Märt KIVINE, President of the Council of the European Union
Subject:	Report on the annual accounts of the European Union Agency for Railways for the financial year 2016 together with the Agency's reply

Delegations will find attached the European Court of Auditors' report on the annual accounts of the European Union Agency for Railways for the financial year 2016.

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

Encl.: Report on the annual accounts of the European Union Agency for Railways for the financial year 2016 together with the Agency's reply.¹

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



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts
of the European Union Agency for Railways
for the financial year 2016

together with the Agency's reply

INTRODUCTION

1. The European Union Agency for Railways (hereinafter “the Agency”, aka “ERA”), which is located in Lille and Valenciennes, was created by Regulation (EC) No 881/2004 of the European Parliament and of the Council, which was replaced by Regulation (EU) 2016/796 of the European Parliament and of the Council¹. The Agency's task is to enhance the level of interoperability of railway systems and to develop a common approach to safety in order to contribute to creating a more competitive European railway sector with a high level of safety.
2. The **Table** below presents key figures for the Agency².

TABLE : KEY FIGURES FOR THE AGENCY

	2015	2016
Budget (million euro)	26,3	27,5
Total staff as at 31 December ³	157	155

Source: data provided by the Agency.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. 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 and an analysis of management representations.

¹ OJ L 220, 21.6.2004, p. 3, and OJ L 138, 26.5.2016, p. 1. In accordance with the latter Regulation, the Agency’s original name, the European Railway Agency, was changed to the European Union Agency for Railways.

² More information on the Agency's competences and activities is available on its website: www.era.europa.eu.

³ Staff includes officials, temporary and contract staff and seconded national experts.

OPINION

4. We have audited:

- (a) the 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 2016, and
- (b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

Reliability of the accounts*Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

Legality and regularity of the transactions underlying the accounts**Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

⁴ The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

⁵ The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

Payments*Opinion on the legality and regularity of payments underlying the accounts*

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

Responsibilities of management and those charged with governance

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

Auditor's responsibilities for the audit of the accounts and underlying transactions

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if,

individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation⁶.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

16. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the ***Annex***.

⁶ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA,
Member of the Court of Auditors, in Luxembourg at its meeting of 12 September 2017.

For the Court of Auditors

Klaus-Heiner LEHNE

President

Follow-up of previous years' comments

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2013	<p>According to the Agency's founding regulation¹, staff shall consist of:</p> <ul style="list-style-type: none"> • temporary employees recruited by the Agency for a maximum of five years from among professionals from the railways sector on the basis of their qualifications and experience in the field of railway safety and interoperability; • officials assigned or seconded by the Commission or Member States for a maximum of five years; and • other servants to carry out implementing or secretarial tasks. <p>At the end of 2013, 136 temporary employees were working for the Agency. The founding regulation also stipulates that during the first ten years of the Agency's operations, the five-year period for them may be extended by up to a maximum of a further three years when required to guarantee business continuity. The Agency used this option as standard practice until mid-2013. Furthermore, in the period from September 2013 to March 2014, the Agency re-employed four temporary employees (for an eight-year period) whose contracts with ERA had ended in 2013 after the maximum eight-year period.</p> <p>In 2013 the Agency adopted a new decision in agreement with its Administrative Board and the Commission, according to which temporary employees can have indefinite contracts. The proposal for a revised founding regulation for ERA includes similar provisions but it is unclear if and when this will be adopted by Parliament and Council.</p>	Completed²

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2013	The Agency is located in Lille and Valenciennes. As the Court mentioned in its Specific Annual Report for the financial year 2006, it is likely that costs could be reduced if all operations were centralised in one location. This might also facilitate a comprehensive seat agreement with the host Member State thereby clarifying the conditions under which the Agency and its staff operate.	Ongoing

¹ Article 24(3) of Regulation (EC) No 881/2004, of the European Parliament and of the Council (OJ L 220, 21.6.2004, p. 3).

² Regulation (EU) 2016/796 of the European Parliament and of the Council (OJ L 138, 26.5.2016, p. 1), replacing Regulation 881/2004, addressed the Court's observation concerning the staffing arrangements of the agency.

THE AGENCY'S REPLY

The Agency has taken note of the Court's report.