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EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
CÚIRT INIÚCHÓIRÍ NA HEORPA



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Report on
the annual accounts of the European Railway Agency
for the financial year 2009

together with the Agency's replies

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INTRODUCTION

1. The European Railway Agency (hereinafter "the Agency"), located in Lille-Valenciennes, was created by Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004¹. The Agency's aim 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 safety².
2. The Agency's 2009 budget amounted to 21,0 million euro, compared with 18,0 million euro the previous year. The number of staff employed by the Agency at the end of the year was 127, compared with 113 the previous year.

STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287(1), second subparagraph of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts³ of the Agency, which comprise the "financial statements"⁴ and the "reports on implementation of the budget"⁵ for the financial year ended 31 December 2009 and the legality and regularity of the transactions underlying those accounts.

¹ OJ L 220, 21.6.2004, p. 3.

² The ***Table*** summarises the Agency's competences and activities. It is presented for information purposes.

³ These accounts are accompanied by a report on the budgetary and financial management during the year which gives inter alia an account of the rate of implementation of the appropriations with summary information on the transfers of appropriations among the various budget items.

⁴ The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in capital and the annex to the financial statements which includes the description of the significant accounting policies and other explanatory information.

⁵ The budget implementation reports comprise the budget outturn account and its annex.

4. This Statement of Assurance is addressed to the European Parliament and the Council in accordance with Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002⁶.

The Director's responsibility

5. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Agency under his own responsibility and within the limits of authorised appropriations⁷. The Director is responsible for putting in place⁸ the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts⁹ that are free from material misstatement, whether due to fraud or error, and for ensuring that the transactions underlying those accounts are legal and regular.

The Court's responsibility

6. The Court's responsibility is to provide, on the basis of its audit, a statement of assurance as to the reliability of the annual accounts of the Agency and the legality and regularity of the transactions underlying them.

7. The Court conducted its audit in accordance with the IFAC and ISSAI¹⁰ International Auditing Standards and Codes of Ethics. Those standards require

⁶ OJ L 248, 16.9.2002, p. 1.

⁷ Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 (OJ L 357, 31.12.2002, p. 80).

⁸ Article 38 of Regulation (EC, Euratom) No 2343/2002.

⁹ The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in chapter 1 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 of 9 July 2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

¹⁰ International Federation of Accountants (IFAC) and International Standards of Supreme Audit Institutions (ISSAI).

that the Court complies with ethical requirements and plans and performs the audit to obtain reasonable assurance about whether the accounts are free from material misstatement and whether the underlying transactions are legal and regular.

8. The Court's audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and about the legality and regularity of the transactions underlying them. The procedures selected depend on its audit judgement including the assessment of the risks of material misstatement of the accounts or of illegal or irregular transactions, whether due to fraud or error. In making those risk assessments internal control relevant to the entity's preparation and presentation of accounts is considered in order to design audit procedures that are appropriate in the circumstances. The Court's audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the accounts.

9. The Court believes that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinions set out below.

Opinion on the reliability of the accounts

10. In the Court's opinion, the Agency's Annual Accounts¹¹ present fairly, in all material respects, its financial position as of 31 December 2009 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation.

¹¹ The Final Annual Accounts were drawn up on 15 June 2010 and received by the Court on 2 July 2010. The Final Annual Accounts, consolidated with those of the Commission, are published in the Official Journal of the European Union by 15 November of the following year. They can be found on the following website <http://eca.europa.eu> or www.era.europa.eu.

Opinion on the legality and the regularity of the transactions underlying the accounts

11. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2009 are, in all material respects, legal and regular.

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

COMMENTS ON THE BUDGETARY AND FINANCIAL MANAGEMENT

13. As in 2008, the volume of the appropriations carried forward for Titles II and III was considerable: 1 135 000 euro or 41 % of Title II appropriations, and 3 164 000 euro or 61 % of Title III appropriations. Some 75 % of these commitments concern goods and services to be delivered in 2010.

14. The number of transfers and the large carry-overs were mainly due to cancellation and delays in procurement procedures¹², recurrent delays in the execution of payments¹³ and significant changes made to the annual work programme during the year. This situation indicated delays in the implementation of the activities financed from Titles II and III of the Agency's budget and was at odds with the budgetary principle of annuality.

15. The Agency migrated to a new accounting and budgeting system (ABAC) in April 2009. However, no centralised system for registering incoming invoices was in place. This situation did not ensure the timely recording of all invoices and contributed significantly to the delays in processing payments (see paragraph 14).

¹² More than half of the contracts were signed after November 2009.

¹³ In 2009, 75 % of payments were made outside the time-limits, with an average delay of 88 days.

16. Shortcomings in the management of the fixed assets inventory were found. Physical checks carried out in the Conference Centre in Lille showed discrepancies in the current inventory list. Items were incorrectly reported in the list or were not tagged. The exact location of the items between the two sites of Lille and Valenciennes could not always be identified. Moreover, the assets are recognised at the moment invoices are paid and not when assets are delivered and accepted.

17. The Agency decided to modify the place of origin for three members of staff retroactively and to grant a correction to their annual return trip allowance for all the years since their recruitment¹⁴. For the staff concerned, the conditions of the Staff Regulations¹⁵ and their implementing rules¹⁶ were not complied with. There was not sufficient documentation to justify these changes of place of origin and the related retroactive payments made.

This Report was adopted by Chamber IV, headed by Mr Igors LUDBORŽS, Member of the Court of Auditors, in Luxembourg at its meeting of 14 and 16 September 2010.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

¹⁴ The total impact is 28 258 euro for retroactive payments since 2005 and around 11 300 euro annually from 2010 onwards.

¹⁵ In particular, Article 7(3) of Annex VII to the Staff Regulations.

¹⁶ Commission Decision C(2004) 1364.

Table - European Railway Agency (Lille/Valenciennes)

Areas of Union competence deriving from the Treaty	Competences of the Agency as defined in Regulation (EC) No 881/2004 of the European Parliament and of the Council		Governance	Resources available to the Agency in 2009 (Data for 2008)	Activities and services provided in 2009
<p>For the purpose of implementing Article 90, and taking into account the distinctive features of transport, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:</p> <p>(a) 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;</p> <p>(b) the conditions under which non-resident carriers may operate transport services within a Member State;</p> <p>(c) measures to improve transport safety;</p> <p>(d) any other appropriate provisions.</p> <p><i>Article 91(1) of the Treaty on the Functioning of the European Union</i></p>	<p>Objectives</p> <p>To contribute, on technical matters, to the implementation of the Union legislation aimed at:</p> <p>- Improving the competitive position of the railway systems,</p> <p>- Developing a common approach to safety on the European railway system,</p> <p>in order to contribute to creating a European railway area without frontiers and guaranteeing a high level of safety.</p>	<p>Tasks:</p> <p><u>1 - Address recommendations to the Commission on</u></p> <ul style="list-style-type: none"> - the common safety methods (CMS) and common safety targets (CSTs) provided in the Railway Safety Directive (2004/49/EC); - safety certificates and measures in the field of safety; - development of Technical specifications for Interoperability; - monitoring interoperability; - certification of maintenance workshops; - vocational competencies; - registration of rolling stock. <p><u>2 - Issue opinions on</u></p> <ul style="list-style-type: none"> - national safety rules; - monitoring the quality of work of notified bodies; - interoperability of the trans-European network. <p><u>3 - Coordination of national bodies</u></p> <ul style="list-style-type: none"> - coordination of national safety authorities and national investigation bodies (as described in Directive 2004/49/EC, Articles 17 and 21). <p><u>4 - Publications and databases</u></p> <ul style="list-style-type: none"> - report on safety performance (every two years); - report on progress with interoperability (every two years); - public database of safety documents; - public register of documents on interoperability. 	<p><u>1 - Administrative Board</u></p> <p>Comprises one representative from each Member State, four representatives from the Commission and six representatives, without the right to vote, from the professional sectors concerned.</p> <p><u>2 - Director</u></p> <p>Appointed by the Administrative Board on a proposal from the Commission.</p> <p><u>3 - External audit</u></p> <p>Court of Auditors.</p> <p><u>4 - Discharge Authority</u></p> <p>Parliament following a recommendation from the Council.</p>	<p>Budget</p> <p>21 million euro (18 million euro)</p> <p>Staff at 31 December 2009</p> <p>Posts listed in the establishment plan: 124 (116)</p> <p>Posts occupied on 31.12.2009: 113 (106)</p> <p>Other staff: 14 (7)</p> <p>Total staff: 127 (113)</p> <p>of which assigned to:</p> <ul style="list-style-type: none"> - operational tasks: 84 (69) - administrative tasks: 43 (44) 	<p>Recommendations relating to Safety Certification, including the migration to a single Union safety certificate, recommendations for a Union model of a train driver licence and register, certification of maintenance workshops and entities in charge of maintenance.</p> <p>Recommendations in respect of safety regulation, including evaluating the way national safety rules are made available, examination of the transposition of the Railway Safety Directive in the Member States.</p> <p>Recommendations relating to Safety Reporting, including Common Safety Indicators, coordination of safety authorities' and investigation bodies and reporting on safety performance in the Member States.</p> <p>Recommendations on safety assessment, including Common Safety Methods.</p> <p>Drafting Recommendations for Technical Specifications for Interoperability and their Revision, including evaluation of extension of scope and error correction.</p> <p>Publish a report on interoperability and provide Technical Opinions on national rules and monitor the work of Notified Bodies.</p> <p>Set up and maintain a series of registers for Interoperability.</p> <p>Act as the System Authority and Change Control Manager for ERTMS assisting the Commission in evaluating ERTMS projects.</p> <p>Define and compile the Reference Document of national rules for vehicle authorisation.</p> <p>Accompany all recommendations with an impact assessment.</p>

Source: Information supplied by the Agency.