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



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Report on the annual accounts of Eurojust
for the financial year 2008

together with Eurojust's replies

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INTRODUCTION

1. Eurojust, located in The Hague, was set up by Council Decision 2002/187/JHA¹ with a view to stepping up the fight against serious organised crime. Its objective is to improve the coordination of investigations and prosecutions covering the territories of several Member States of the European Union, as well as that of non-member States².
2. The Eurojust 2008 budget amounted to 24,8 million euro compared with 18,9 million euro the previous year. The number of staff employed by Eurojust at the end of the year was 222 as compared with 179 the previous year.

STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 248 of the Treaty the Court has audited the annual accounts³ of Eurojust, which comprise the “financial statements”⁴ and the “reports on implementation of the budget”⁵ for the financial year ended 31 December 2008 and the legality and regularity of the transactions underlying those accounts.

¹ Decision of 28 February 2002 setting up Eurojust (OJ L 63, 6.3.2002, p. 1).

² The ***Table*** summarises Eurojust’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 Eurojust 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 Eurojust's annual accounts 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 that

⁶ OJ L 248, 16.9.2002, p. 1.

⁷ Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 (OJ L 357, 31.12.2002, p. 80).

⁸ Article 38 of Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 (OJ L 357, 31.12.2002, p. 80).

⁹ The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in chapter 1 of Title VII of Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 (OJ L 357, 31.12.2002, p. 87) as last amended by Commission 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 Eurojust.

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

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 Eurojust's Annual Accounts¹¹ present fairly, in all material respects, its financial position as of 31 December 2008 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 30 June 2009 and received by the Court on 6 July 2009. 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. These can be found on the following website <http://eca.europa.eu> or http://www.eurojust.europa.eu/adm_budg_finance.htm.

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

11. In the Court's opinion, the transactions underlying the Eurojust's annual accounts for the financial year ended 31 December 2008 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. The level of appropriations carried forward to the following year, 3,5 million euro, was much lower than in 2007 (from 25 % to 13 % of final budget appropriations), but the level of cancellations of the appropriations carried over from the previous financial year, 1 million euro (25 % of the appropriations carried over) was high. This situation was at odds with the principle of annuality.

14. As already mentioned by the Court¹², the high rate of vacant posts (26 %) although less significant than in 2007 (33 %), still indicates shortcomings in the planning and implementation of recruitment procedures. In addition, this had implications on the use of Title I appropriations, where an amount of 1,8 million euro was transferred from appropriations for the salaries of temporary and contract staff, mostly to increase (by 238 %) the appropriations for interim staff. This situation was at odds with the principle of specification.

15. With regard to procurement, in most cases no prior estimation of the market value was done before the procedure was launched. In addition, an analysis of the register of exceptions (i.e. deviations from established policies, procedures or controls) showed recurrent and severe weaknesses at the level of the monitoring of contracts and the programming of procurements. In particular, 14 exceptions were authorised in 2008 by the Director, 11 of which allowing an irregular extension of contracts (beyond the maximum duration permitted or beyond the budgetary ceiling

¹² See paragraph 9 of the 2007 annual report (OJ C 311, 5.12.2008, p. 143).

fixed). This situation¹³ already commented on in the 2005, 2006 and 2007 Annual Reports¹⁴, seriously calls into question the capacity of the various services involved to liaise properly and indicates a lack of guidance and control by the authorising officer.

16. With regard to staff selection procedures, in general the work of selection boards was not clearly documented, since minutes or final grids for the ranking of candidates were often missing. In one case, an internal candidate was appointed on a Head of Unit post although the minimum requirements in terms of professional experience were not respected. These situations did not ensure the transparent and non-discriminatory treatment of external and internal candidates.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 8 October 2009.

For the Court of Auditors

Vítor Manuel da Silva Caldeira
President

¹³ Total value: 390 000 euros.

¹⁴ E.g. see paragraph 8 of the 2007 annual report (OJ C 311, 5.12.2008, p. 143), paragraph 8 of the 2006 annual report (OJ C 309, 19.12.2007, p. 112) and paragraph 11 of the 2005 annual report (OJ C 312, 19.12.2006, p. 69).

Table - Eurojust (The Hague)

Areas of competence deriving from the Treaty on European Union	Competences of Eurojust as defined in Council Decision 2002/187/JHA		Governance	Resources made available to Eurojust in 2008 (Data for 2007)	Products and services supplied in 2008 (Data for 2007)
<p>Third pillar body created by Council Decision.</p> <p>The Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice.</p> <p>The Council encourages cooperation through Eurojust by enabling it to facilitate proper coordination between the Member States' national prosecuting authorities.</p> <p><i>(Extracts from Articles 29 and 31)</i></p> <p>Eurojust's main areas of responsibility are the same as Europol's, that is, the fight against terrorism, organised crime, in particular drug-trafficking, illegal immigration, illicit vehicle trafficking, trafficking in human beings, the counterfeiting of money, trafficking in radioactive substances, computer crime, acts detrimental to the Union's financial interests and money-laundering.</p>	<p style="text-align: center;"><u>Objectives</u></p> <p>Article 3 Eurojust Decision</p> <ul style="list-style-type: none"> - To stimulate and improve the coordination, between the competent national authorities of the Member States, of investigations and prosecutions. - To improve cooperation, in particular by facilitating the exchange of information, mutual legal assistance and the implementation of extradition requests. - To support the competent authorities of the Member States in order to render their investigations and prosecutions more effective. - To provide support with procedures involving a Member State and a non-member State. - To provide support with procedures involving a Member State and the Community. 	<p style="text-align: center;"><u>Tasks</u></p> <p>Articles 5, 6 and 7 Eurojust Decision</p> <p>To organise cooperation between the various national legal systems, Eurojust acts:</p> <ul style="list-style-type: none"> - through its national members; or - as a College. <p>If the competent authorities of the Member State concerned decide not to respond to the requests which Eurojust has issued as a College, they shall inform Eurojust of the reasons for their decision.</p>	<p>1 - The College is responsible for the organisation and operation of Eurojust.</p> <p>2 - 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 of equivalent competence.</p> <p>3 - The College elects its President from among the national members.</p> <p>4 - The Joint Supervisory Body checks the processing of personal data.</p> <p>5 - The Administrative Director is unanimously appointed by the College.</p> <p>6 - External audit Court of Auditors.</p> <p>7 - Discharge authority Parliament acting on a recommendation by the Council.</p>	<p>Budget</p> <p>24,8 Million euro (18,9).</p> <p>Staff by 31 December 2008</p> <p>175 (147) planned in the EP From which occupied: 130 (98)</p> <p>+</p> <p>43 (32) other positions: (12 contract agents, 12 seconded national experts, 19 interims)</p> <p>49 others (National members, Liaison prosecutors, deputies and assistants)</p> <p>Total staff: 222 (179)</p> <p>Operational tasks: 117 (95) Administrative tasks: 80 (65) Combined tasks: 25 (19)</p>	<p>Number of meetings: 131 (91) Standard meetings: 168 (236) Complex cases: 1 025 (849)</p> <p>Total number of cases: 1 193 (1 085)</p> <p>Fraud: 810 Fraud %: 68 % (69 %)</p> <p>Drug trafficking: 223 (207) Drug trafficking %: 19 % (19 %)</p> <p>Terrorism: 23 (23) Terrorism %: 2 % (2 %)</p> <p>Murder: 86 (80) Murder %: 7 % (7 %)</p> <p>Trafficking in human beings: 83 (71) Trafficking in human beings: 7 % (7 %)</p>

Source: Information supplied by Eurojust.



EUROJUST REPLIES TO THE OBSERVATIONS OF THE COURT OF AUDITORS ON THE ANNUAL ACCOUNTS OF 2008

13. Half of the 1 million euro cancelled was due to external factors relating to host state obligations and casework coordination. Eurojust will endeavour to have a clearer picture from external parties in 2009, thus reducing cancellations of appropriations.
14. Eurojust continues to address the shortcomings in recruitment procedures.-The number of interim staff has been drastically reduced and therefore the need for transfer of appropriations greatly decreased as a result. Such a high transfer will therefore not be necessary in 2009.
15. All procedures launched since then do provide for an estimate value. The setting up of a planning system in 2009 has resulted in a better programming of the procurement process. In addition, a procurement action plan is being implemented which addresses the weaknesses identified by the Court.
16. Eurojust is addressing the weaknesses relating to the minutes and final grids. In addition, the situation addressed by the Court has since been regularised and a new recruitment procedure will be launched in 2009.