

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



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 Community Plant Variety Office
for the financial year 2011

together with the Office's replies

INTRODUCTION

1. The Community Plant Variety Office (hereinafter “the Office”), which is located in Angers, was created by Council Regulation (EC) No 2100/94 of 27 July 1994¹. Its main task is to register and examine applications for the grant of Union industrial property rights for plant varieties and to ensure that the necessary technical examinations are carried out by the competent offices in the Member States².

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, the Court has audited the annual accounts³ of the Office, which comprise the "financial statements"⁴ and the "reports on the implementation of the budget"⁵ for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

¹ OJ L 227, 1.9.1994, p. 1.

² The ***Annex*** summarises the Office'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 further information on budget implementation and management.

⁴ The financial statements 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.

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

The Management's responsibility

4. As authorising officer, the President implements the revenue and expenditure of the budget in accordance with the financial rules of the Office, under his own responsibility and within the limits of the authorised appropriations⁶. The President is responsible for putting in place⁷ the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts⁸ 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 Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the Administrative Council of the Office⁹ with a statement of assurance as to the reliability of the annual accounts of the Office and the legality and regularity of the transactions underlying them.

6. The Court conducted 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 that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Office are free of material misstatement and the transactions underlying them are legal and regular.

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

⁶ Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

⁷ Article 38 of Regulation (EC, Euratom) No 2343/2002.

⁸ The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Office.

⁹ Article 111 of Regulation (EC) No 2100/94.

transactions underlying them. The procedures are selected based on the auditor's judgement, 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 assessing those risks, the auditor considers internal controls relevant to preparation and fair presentation of accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

8. The Court considers 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

9. In the Court's opinion, the Office's Annual Accounts¹⁰ present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation.

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

10. In the Court's opinion, the transactions underlying the annual accounts of the Office for the financial year ended 31 December 2011 are legal and regular in all material respects.

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

¹⁰ The Final Annual Accounts were drawn up on 18 June 2012 and received by the Court on 19 June 2012. 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.cpvo.europa.eu/main/en/home/about-the-cpvo/financing>.

COMMENTS ON THE BUDGETARY AND FINANCIAL MANAGEMENT

12. Total commitment appropriations amounted to 14,4 million euro compared with 13,1 million euro the previous year. For Title II related to administrative expenditure, an amount of 0,4 million euro or 25 % of commitment appropriations was carried forward to 2012 and 0,3 million euro or 15 % of commitment appropriations were cancelled. The high level of carry-over and cancellations is at odds with the budgetary principle of annuality.

13. Weaknesses were noted as regards the recording of four legal commitments in advance of budget commitments (18 791 euro). Purchase orders are frequently dated prior to the approval of the budget commitments.

OTHER COMMENTS

14. The Office did not adopt the Implementing Rules of the Staff Regulations as regards the engagement and use of contract staff and the temporary occupation of management posts.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

Community Plant Variety Office (Angers)**Competences and Activities**

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Extract of article 36 of the Treaty on the Functioning of the European Union)</i></p>	<p>Free movements of goods</p> <p>Such prohibitions or restrictions [the protection of industrial and commercial property] shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.</p>
<p>Competences of the Office</p> <p><i>(Council Regulation (EC) No 2100/94 & Strategic Plan 2010-2015)</i></p>	<p>Objectives</p> <p>To apply the system of European Union plant variety rights as the sole and exclusive form of European Union industrial property rights for plant varieties.</p> <p>To foster innovation in plant varieties by high quality processing of applications for Community plant variety rights at affordable costs while providing policy guidance and assistance in the exercise of these rights for the benefit of stakeholders.</p> <p>Tasks</p> <p>To decide whether to refuse or grant applications for Union plant variety rights.</p> <p>To decide on objections.</p> <p>To decide on appeals.</p> <p>To decide on the revocation or cancellation of a European Union plant variety right.</p>
<p>Governance</p>	<p>The President</p> <p>Directs the Office. He is appointed by the Council from a list of candidates proposed by the Commission after obtaining the opinion of the Administrative Council.</p> <p>The Administrative Council</p> <p>Oversees the Office's work programme and draws up rules governing the Office's working methods. It is composed of one representative of each Member State and one representative of the Commission, plus their alternates.</p> <p>Decisions regarding the grant of Community plant variety rights are adopted by Committees composed of three members of staff of the Office and by the Board of Appeal in appeal proceedings.</p> <p>Control of the legality of the Office's acts</p> <p>Review by the Commission of the legality of the acts of the Office's President in respect of which European Union law does not provide for any control on legality by another body and of the acts of the Administrative Council relating to the Office's budget.</p> <p>External audit</p> <p>Court of Auditors.</p> <p>Discharge authority</p> <p>Administrative Council.</p>
<p>Resources made available to the Office in 2011 (2010)</p>	<p>Final Budget</p> <p>14,4 (13) million euro</p> <p>Staff as at 31 December 2011</p> <p>Number of posts in the establishment plan: 46 (46)</p> <p>Posts occupied: 45 (46).</p> <p>Total staff: 45 (45), undertaking the following tasks:</p> <p>operational: 17,5 (17,5)</p> <p>administrative: 21,5 (21,5)</p> <p>mixed: 6 (6)</p>

Products and services 2011 (2010)	<p>Applications received: 3 184 (2 886)</p> <p>Rights granted: 2 584 (2 303)</p> <p>European Union rights in force at 31 December 2011: 18 907 (17 610)</p> <p>International Cooperation in Plant Variety Protection</p> <ul style="list-style-type: none"> - Contribution to enforcement of plant variety rights - Contacts and cooperation with the following organisations: European Commission (DG SANCO, Standing Committees), UPOV¹, CIOPORA², ESA³, OAPI⁴, OECD⁵, MAFF⁶ (Japan)
<p><i>Source:</i> Information supplied by the Office.</p>	

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- ¹ Union pour la Protection des Obtentions végétales.
² International Community of Breeders of Asexually Reproduced Ornamental and Fruit Plants.
³ European Seed Association.
⁴ Organisation africaine de la Propriété intellectuelle.
⁵ Organisation for Economic Co-operation and Development.
⁶ Ministry of Agriculture, Food & Fisheries (JP).

THE OFFICE'S REPLY

12. A high cancellation rate is an indication of savings made during the year. It should also be noted that the level of C8 carry-over is partly linked to the timing of events which take place at the year-end.

Furthermore, the CPVO has made significant efforts in the past years to reduce the carry over amount. The absolute amounts carried over have fallen significantly from over 1 million euro in 2008 to 450 000 in 2011. The amount of C8 credit appropriations cancelled have also fallen significantly. The Office will continue its efforts as regards year end budget estimations.

13. The Office reiterates the comment of the Court that under the current system purchase orders are only sent after approval of the commitment. The legal commitment only becomes valid once it is physically sent to the supplier, regardless of the date that the document is generated. The risk of earlier sending is negligible and indeed under the development of an e-platform for sending purchase orders, this risk will be completely eradicated.

14. The procedure for engagement and use of contract staff has been under revision by the agencies for quite some time, due to the adoption of a new decision by the Commission. The CPVO has chosen to wait until a new model decision has been agreed on in order to avoid having to adopt several decisions on the same issue. Since the CPVO is not engaging contract staff it has not been considered urgent to adopt this decision.

Concerning the decision on temporary occupation of management posts the CPVO did not consider this urgent since such a situation never has occurred in the CPVO yet. However, a draft has been prepared and is under consideration before being sent to the Commission for approval.