



Energy Community, Vienna

Auditor's report on the
Financial Statements
as of December 31, 2009

Ernst & Young
Wirtschaftsprüfungsgesellschaft m.b.H.

Energy Community, Vienna

Auditor's report on the
Financial Statements
as of December 31, 2009

Transcript 4

Ernst & Young
Wirtschaftsprüfungsgesellschaft m.b.H.
A-1220 Wien, Wagramer Straße 19, IZD-Tower

Tel.: [43] (1) 211 70
Fax: [43] (1) 216 20 77
E-Mail: Ernst.Young@at.ey.com
URL: www.ey.com/austria

INDEX OF CONTENTS

	<u>PAGE</u>
1. ENGAGEMENT AND PERFORMANCE	1
2. NOTES ON AND DISCLOSURE OF MATERIAL ITEMS IN THE FINANCIAL STATEMENTS	2
3. AUDIT SUMMARY	2
4. BESTÄTIGUNGSVERMERK	3-4
4. AUDITOR'S REPORT (TRANSLATION)	5-6

APPENDICES

STATEMENT OF FINANCIAL POSITION AS OF DECEMBER 31, 2009

STATEMENT OF FINANCIAL PERFORMANCE FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2009

CASH FLOW STATEMENT FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2009

NOTES

PRESENTATION OF BUDGET INFORMATION (IPSAS 24)

DEVELOPMENT OF INVESTMENT DONATIONS

NON-CURRENT ASSETS MOVEMENT SCHEDULE AS OF DECEMBER 31, 2009

GENERAL CONDITIONS OF CONTRACT FOR AUDITS OF ANNUAL ACCOUNTS (AAB 2009)

To the Director of the
Energy Community,
Vienna

We have audited the financial statements as of December 31, 2009 of the

Energy Community, Vienna

(referred to as "the Organization"), and report on the result of our audit as follows:

1. ENGAGEMENT AND PERFORMANCE

The Organization, represented by the Director, concluded an audit contract with us to audit the financial statements as of December 31, 2009.

The financial statements as of December 31, 2009, including the accounting system, are subject to a voluntary audit. According to Article 80 of the Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection, the Director shall, subject to approval by the Budget Committee, designate an independent External Auditor.

The objective of the audit was to examine compliance with International Public Sector Accounting Standards (IPSAS).

In performing the audit, we adhered to the applicable legal provisions in Austria and the relevant expert opinions and standards of audits. We draw your attention to the fact that the audit provides adequate assurance as to whether the financial statements are free from material misstatement. Absolute assurance cannot be achieved, since the possibility of errors is inherent in each accounting and internal controls system and since the audit is based on samples, there is an unavoidable risk that material misstatements in the financial statements are not detected. Areas which are generally covered in special engagements (e.g. detection of criminal affairs or fraudulent actions) were not included in our scope of work.

The audit was performed under the supervision of the signing auditors in February 2010 mainly at the Organization's headquarters. The audit was materially concluded by the date of this report.

Our audit is based on the audit contract concluded with the Company, an integral part of which are the General Conditions of Contract for the Public Accounting Professions issued by the Austrian Chamber of Public Accountants and Tax Advisors (refer to Appendix 2). These General Conditions of Contract do not only apply between the Company and the auditor, but also towards third parties. Section 275 of the Unternehmensgesetzbuch (Austrian Commercial Code) applies with regard to our responsibility and liability as auditor towards the Company and towards third parties.

2. NOTES ON AND DISCLOSURE OF MATERIAL ITEMS IN THE FINANCIAL STATEMENTS

All required disclosures of material items in the financial statements are included in the notes to the financial statements. We therefore refer to the related disclosures by the director in the notes to the financial statements.

3. AUDIT SUMMARY

3.1. Report on the Compliance of the Accounting and the financial statements

Based on the audit procedures performed, we confirm the compliance with IPSAS.

Under our risk and control oriented audit approach, we included in the audit - where we considered it necessary for our audit report - the internal controls in parts of the accounting process.

With regard to the compliance of the financial statements with IPSAS, we refer to our comments in the auditor's report.

3.2. Information provided

All information required was provided by the Director and by the respective employees. A letter of representation signed by the Director has been included in our working papers.

4. BESTÄTIGUNGSVERMERK *)

Bericht zum Jahresabschluss

Wir haben den beigefügten Jahresabschluss der **Energy Community, Wien**, für das Geschäftsjahr vom 1. Jänner 2009 bis zum 31. Dezember 2009 unter Einbeziehung der Buchführung geprüft. Dieser Jahresabschluss umfasst das "statement of financial position" zum 31. Dezember 2009, das "statement of financial performance" für das am 31. Dezember 2009 endende Geschäftsjahr, das "cash flow statement" sowie die "notes to the financial statements". Unsere Verantwortlichkeit und Haftung bei der Prüfung ist analog zu § 275 Abs 2 UGB (Haftungsregelung bei der Abschlussprüfung einer kleinen oder mittelgroßen Gesellschaft) gegenüber der Gesellschaft und auch gegenüber Dritten mit insgesamt 2 Millionen Euro begrenzt.

Verantwortung des gesetzlichen Vertreters für den Jahresabschluss und für die Buchführung

Der gesetzliche Vertreter der Gesellschaft ist für die Buchführung sowie für die Aufstellung und den Inhalt eines Jahresabschlusses verantwortlich, der ein möglichst getreues Bild der Vermögens-, Finanz- und Ertragslage der Gesellschaft in Übereinstimmung mit den International Public Sector Accounting Standards (IPSAS) vermittelt. Diese Verantwortung beinhaltet: Gestaltung, Umsetzung und Aufrechterhaltung eines internen Kontrollsystems, soweit dieses für die Aufstellung des Jahresabschlusses und die Vermittlung eines möglichst getreuen Bildes der Vermögens-, Finanz- und Ertragslage der Gesellschaft von Bedeutung ist, damit dieser frei von wesentlichen Fehldarstellungen, sei es auf Grund beabsichtigter oder unbeabsichtigter Fehler, ist; die Auswahl und Anwendung geeigneter Bilanzierungs- und Bewertungsmethoden; die Vornahme von Schätzungen, die unter Berücksichtigung der gegebenen Rahmenbedingungen angemessen erscheinen.

Verantwortung des Abschlussprüfers und Beschreibung von Art und Umfang der gesetzlichen Abschlussprüfung

Unsere Verantwortung besteht in der Abgabe eines Prüfungsurteils zu diesem Jahresabschluss auf der Grundlage unserer Prüfung. Wir haben unsere Prüfung unter Beachtung der in Österreich geltenden gesetzlichen Vorschriften und Grundsätze ordnungsgemäßer Abschlussprüfung durchgeführt. Diese Grundsätze erfordern, dass wir die Standesregeln einhalten und die Prüfung so planen und durchführen, dass wir uns mit hinreichender Sicherheit ein Urteil darüber bilden können, ob der Jahresabschluss frei von wesentlichen Fehldarstellungen ist.

Eine Prüfung beinhaltet die Durchführung von Prüfungshandlungen zur Erlangung von Prüfungsnachweisen hinsichtlich der Beträge und sonstigen Angaben im Jahresabschluss. Die Auswahl der Prüfungshandlungen liegt im pflichtgemäßen Ermessen des Abschlussprüfers unter Berücksichtigung seiner Einschätzung des Risikos eines Auftretens wesentlicher Fehldarstellungen, sei es auf Grund von beabsichtigten oder unbeabsichtigten Fehlern. Bei der Vornahme dieser Risikoeinschätzung berücksichtigt der Abschlussprüfer das interne Kontrollsystem, soweit es für die Aufstellung des Jahresabschlusses und die Vermittlung eines möglichst getreuen Bildes der Vermögens-, Finanz- und Ertragslage der Gesellschaft von Bedeutung ist, um unter Berücksichtigung der

Rahmenbedingungen geeignete Prüfungshandlungen festzulegen, nicht jedoch um ein Prüfungsurteil über die Wirksamkeit der internen Kontrollen der Gesellschaft abzugeben. Die Prüfung umfasst ferner die Beurteilung der Angemessenheit der angewandten Bilanzierungs- und Bewertungsmethoden und der vom gesetzlichen Vertreter vorgenommenen wesentlichen Schätzungen sowie eine Würdigung der Gesamtaussage des Jahresabschlusses.

Wir sind der Auffassung, dass wir ausreichende und geeignete Prüfungsnachweise erlangt haben, sodass unsere Prüfung eine hinreichend sichere Grundlage für unser Prüfungsurteil darstellt.

Präfungsurteil

Unsere Prüfung hat zu keinen Einwendungen geführt. Auf Grund der bei der Prüfung gewonnenen Erkenntnisse entspricht der Jahresabschluss nach unserer Beurteilung den International Public Sector Accounting Standards (IPSAS) und vermittelt ein möglichst getreues Bild der Vermögens- und Finanzlage der Gesellschaft zum 31. Dezember 2009 sowie der Ertragslage der Gesellschaft für das Geschäftsjahr vom 1. Jänner 2009 bis zum 31. Dezember 2009.

Wien, am 16. Februar 2010

Ernst & Young
Wirtschaftsprüfungsgesellschaft m.b.H.



Mag. Elfriede Baumann
Wirtschaftsprüferin

ppa. Mag. Heidemarie Kretschmer
Wirtschaftsprüferin

*) Bei Veröffentlichung oder Weitergabe des Jahresabschlusses in einer von der bestätigten (ungekürzten deutschsprachigen) Fassung abweichenden Form (zB verkürzte Fassung oder Übersetzung) darf ohne unsere Genehmigung weder der Bestätigungsvermerk zitiert noch auf unsere Prüfung verwiesen werden.

4. AUDITOR'S REPORT *) (TRANSLATION)

Report on the Financial Statements

We have audited the accompanying financial statements of **Energy Community, Vienna**, for the financial year from January 1, 2009 to December 31, 2009. These financial statements comprise the statement of financial position as at December 31, 2009, and the statement of financial performance and cash flow statement for the year ended December 31, 2009, and the notes to the financial statements. Our responsibility and liability towards the Company and towards third parties is limited with EUR 2,000,000 in total, in application mutatis mutandis of the provisions set out in § 275 Unternehmensgesetzbuch (Austrian Commercial Code; limitation of liability as set forth for small and medium-size Corporations).

Management's Responsibility for the Financial Statements

The Company's management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (IPSAS). This responsibility includes: designing, implementing and maintaining internal control 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; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with laws and regulations applicable in Austria and in accordance with International Standards on Auditing, issued by the International Auditing and Assurance Standards Board (IAASB) of the International Federation of Accountants (IFAC). Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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 the entity's internal control. An 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 financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

Our audit did not give rise to any objections.

Based on the results of our audit in our opinion, the financial statements present fairly, in all material respects, the financial position of the entity as of December 31, 2009, and of its financial performance and its cash flows for the financial year from January 1, 2009 to December 31, 2009 in accordance with International Public Sector Accounting Standards (IPSAS).

Vienna, February 16, 2010

Ernst & Young
Wirtschaftsprüfungsgesellschaft m.b.H.

Mag. Elfriede Baumann mp
Certified Public Accountant

ppa. Mag. Heidemarie Kretschmer mp
Certified Public Accountant

- *) On disclosure or reproduction of the financial statements in a form differing from the audited original German version (e.g. shortened version and/or version translated into another language), the auditor's report may neither be quoted nor referred to without our approval.

FINANCIAL STATEMENTS

AS OF DECEMBER 31, 2009

ENERGY COMMUNITY, VIENNA

STATEMENT OF FINANCIAL POSITION as of December 31, 2009

ASSETS					EQUITY AND LIABILITIES				

STATEMENT OF FINANCIAL PERFORMANCE
for the period January 1, 2009 to December 31, 2009

	January 1, 2009 - December 31, 2009		January 1, 2008 - December 1, 2008	
	EUR	EUR	EUR	EUR
REVENUE				
1. Appropriations				
a) Appropriations of the Contracting Parties	2.996.942,00		2.548.420,00	
b) Appropriation of the Republic of Austria	146.400,00		70.924,69	
c) Allocation to investment donations	-99.140,83		-90.480,15	
d) Unused commitments 2008	338.170,84			
e) Unused commitments 2009	-453.975,59		-338.170,84	
f) Unused appropriations	-390.193,76	2.538.202,66	-184.355,16	2.006.338,54
2. Finance revenue		10.569,64		13.097,17
3. Other revenue		388,43		3.706,65
Total revenue		2.549.160,73		2.023.142,36
EXPENSES				
1. Salaries		-1.182.203,54		-1.074.099,49
2. Depreciation and Amortization				
a) of fixed intangible and tangible assets	77.597,71		51.078,08	
b) Usage of obligations dedicated for assets	-77.597,71	0,00	-51.078,08	0,00
3. Other operating expenses		-1.366.957,19		-973.242,87
Total expenses		-2.549.160,73		-2.047.342,36
SURPLUS/DEFICIT FOR THE PERIOD		0,00		-24.200,00
Release of other reserves		0,00		24.200,00
RETAINED EARNINGS		0,00		0,00

CASH FLOW STATEMENT
for the period January 1, 2009 to December 31, 2009

	<u>January 1, 2009 - December 31, 2009</u>	<u>January 1, 2008 - December 31, 2008</u>
Operating Activities		
Surplus (deficit) for the period	0,00	-24.200,00
+ depreciation on tangible and intangible assets	77.597,71	51.078,08
- Usage of investment donations	-77.597,71	-51.078,08
+/- decrease / increase in receivables and other assets	24.055,64	54.395,78
+/- decrease / increase in prepayments	-75.152,34	-14.312,79
+/- increase / decrease in Trade Payables and Other Liabilities	-58.580,53	-145.320,51
+/- increase / decrease in Deferred Income	23.517,27	2.997,00
+/- increase / decrease in unused commitments	115.804,75	338.170,84
+/- increase / decrease in unused appropriations	76.508,92	184.355,16
Cash Flows from operating activities 1)	<u>106.153,71</u>	<u>396.085,48</u>
Investing Activities		
- Purchase of fixed assets	-99.140,83	-90.480,15
Cash Flows from investing activities	<u>-99.140,83</u>	<u>-90.480,15</u>
Financing Activities		
+ Grant Contribution for assets	99.140,83	90.480,15
Cash Flows from financing activities	<u>99.140,83</u>	<u>90.480,15</u>
Cash and cash equivalents as of January 1, 2009	733.033,20	336.947,72
Net increase in cash and cash equivalents	106.153,71	396.085,48
Cash and cash equivalents as of December 31, 2009	839.186,91	733.033,20

1) Cash Flows from operating activities include interest received in the amount of TEUR 11.

NOTES
TO THE FINANCIAL STATEMENTS of
THE ENERGY COMMUNITY
for the reporting period 01 January - 31 December 2009

1. GENERAL INFORMATION

1.1. Nature of Energy Community Operations

The Energy Community stands for the process that aims to extend the EU internal energy market to the South East Europe region. The task of the Energy Community is to organise the relations between the Parties to the Treaty establishing the Energy Community and create a legal and economic framework in relation to Network Energy. The main goals are to create a stable and regulatory market framework capable of attracting investment; to create a single regulatory space for trade; to enhance security of supply; to improve the environmental situation and to develop electricity and gas market competition on a broader geographical scale.

The main institutions established under the Treaty are the Ministerial Council, the Permanent High Level Group, the Regulatory Board, the Fora, and the Secretariat.

1.2. Legal Form and Applicable Jurisdiction

By the Agreement between the Energy Community and the Republic of Austria regarding the seat of the Secretariat of the Energy Community in effect as of 1 July 2007, Austria recognizes the legal personality of the Energy Community as an international organization. Energy Community is registered in the Republic of Austria by the Federal Ministry of European and International Affairs with the assigned organization number (1010180000).

1.3. Legislation Governing Energy Community Financial Operations

The Energy Community operates under the provisions of the Treaty Establishing the Energy Community. The Treaty was signed in Athens on the 25 October 2005 and entered into force on the 1 July 2006. The Secretariat is the only permanent institution of the Energy Community established by the Treaty and operates under the rules set by the decision-making institutions of the Energy Community, namely the Ministerial Council as the Treaty's ultimate legislative organ. The responsibility for the implementation of the Energy Community Budget lies with the Director of the Secretariat.

Pursuant to the Article 41 of the Energy Community Procedures for Establishment and Implementation of Budget, Auditing and Inspection (further Budgetary Procedures), the Accounting Officer is responsible for preparing and presenting of the Energy Community accounts.

Pursuant to the Article 37 of the above mentioned Budgetary Procedures, the Director of the Secretariat, has introduced operational rules, which provide guidelines and specify obligations of staff members of the Secretariat's that are involved in financial operations of the Energy Community.

2. ACCOUNTING POLICIES AND DETAILS TO THE FINANCIAL STATEMENTS

2.1. Accounting Policies

2. 1. 1. Legal Provisions and Financial Regulation

The accounts are kept in accordance with Procedural Act No. 2006/03 of 17 November 2006 on the Energy Community Procedures for Establishment and Implementation of Budget, Auditing and Inspection applicable to the Energy Community budget adopted by the Ministerial Council.

Article 73(4) of the Energy Community Procedures for Establishment and Implementation of Budget, Auditing and Inspection, states that the Accounting Officer of the Energy Community adopts the accounting rules and methods to be applied for the preparation and presentation of Energy Community accounts. The Accounting Officer adopted the International Public Sector Accounting Standards (IPSAS) as issued by the International Public Sector Accounting Standard Board (IPSASB) using accrual basis of accounting. The approval for the adoption of the accounting rules and methods as above followed through the Procedural Act of the Energy Community Secretariat No. 2008/01/ECS. The Energy Community Accounting Officer must establish the accounts of the previous year no later than 31 March of the current year. These accounts are then validated by the Director.

2.1.2 Accounting Principles and Statement of Compliance

The financial statements of the Energy Community are prepared in compliance with the International Public Sector Accounting Standards.

The objective of financial statements is to provide information about the financial position, performance, cash flows and changes in equity during the financial year. For an entity such as the Energy Community, the objective is also to demonstrate the accountability of the entity for the resources entrusted to it.

As their purpose is to present a true and fair view, financial statements supply relevant information to describe the nature and range of Energy Community activities, explain how it is financed and supply the information on its operations, in a manner which allows comparisons between financial years.

The accounting system of the Energy Community is laid down as to enable production of financial statements and budget accounts. These accounts are kept in euro on the basis of the calendar year. The general accounts are based on accrual accounting principle to allow for the preparation of the financial statements to establish the financial position in the form of a balance sheet as of December 31, 2009 and to measure the Energy Community financial performance for the financial year. Furthermore financial statements shall provide the information on how the Energy Community generated its cash in order to meet its payment obligations during the financial year and to indicate changes in equity.

The budget accounts give a detailed picture of the implementation of the budget. They are based on the accrual accounting principle.

Article 70 of the Energy Community Procedures for Establishment and Implementation of Budget, Auditing and Inspection sets out the accounting principles to be applied in drawing up the financial statements as follows:

- going concern;
- prudence;
- consistent accounting methods;

- comparability of information;
- materiality;
- no netting;
- fair presentation;
- accrual - based accounting.

2. 2. Statement of Financial Position

2. 2. 1. Intangible non current assets

Acquired computer software and licences are capitalised on the basis of the costs incurred to acquire and bring to use the specific software or licenses. These costs are amortised over their estimated useful lives (3 years).

Costs associated with maintaining computer software and licenses are recognised as expenses as incurred.

	Computer software and licences
Gross carrying amount at 31 December 2008	38.195
Additions	2.980
Disposals	0
Gross carrying amount at 31 December 2009	41.175
Accumulated depreciation at 31 December 2008	16.128
Depreciation charge for the year	14.052
Disposals	0
Accumulated depreciation at 31 December 2009	30.180
Net carrying amount at 31 December 2009	10.995
<i>Net carrying amount at 31 December 2008</i>	<i>22.067</i>

2. 2. 2. Tangible non current assets

	Plant and equipment
Gross carrying amount at 31 December 2008	135.679
Additions	96.160
Disposals	0
Gross carrying amount at 31 December 2009	231.840
Accumulated depreciation at 31 December 2008	48.748
Depreciation charge for the year	63.545
Disposals	0
Accumulated depreciation at 31 December 2009	112.293
Net carrying amount at 31 December 2009	119.547
<i>Net carrying amount at 31 December 2008</i>	<i>86.931</i>

All items of property, plant and equipment are stated at historic cost less depreciation and impairment. Historic cost includes expenditure that is directly attributable to the acquisition of the items.

Subsequent costs are capitalised only when it is probable that future economic benefits associated with the item will flow to the Energy Community and the cost of the item can be measured reliably. Repairs and maintenance are charged to the expenditure account during the financial period in which they are incurred.

Depreciation is calculated using the straight-line method to allocate the assets' cost to their estimated useful lives, as follows:

2. 2. 3. Depreciation rates

Type of asset	Straight-line depreciation rate
Intangible assets	33,33%
Tangible assets	20% - 33,33%

The assets' useful lives are reviewed, and adjusted if appropriate, at each balance sheet date. An asset's carrying amount is depreciated immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Gains and losses on disposals are determined by comparing proceeds with carrying amount. These are included in the statement of financial performance.

2. 2. 4. Cash & cash equivalents

Cash and cash equivalents include cash on hand and deposits held at the current account with the bank.

2. 2. 5. Receivables

Receivables are carried at original amount less impairment. Receivables are impaired when there is objective evidence that the Energy Community will not be able to collect all amounts due according to the original terms of receivables.

The majority of the accounts receivables include VAT claims against Federal Ministry of Finance of the Republic of Austria.

2. 2. 6. Prepayments

Payments in advance relate to payments made towards supplier of studies in accordance with the payment schedules stipulated in the related contracts.

2. 2. 7. Trade payables and other liabilities

Almost the entire amount of the payables of the Energy Community relate to the purchase of goods and services. Payables are recognised when goods are delivered or services received.

Other liabilities include liabilities for over time and unconsumed annual leave.

2. 2. 8. Deferred Income

The item "deferred income" contains prepaid appropriations of the Contracting Parties for the budgetary period 2010.

2.2.9. Unused Commitments

Unused Commitments of the financial year 2009 refer to legal commitments the Energy Community entered into by December 31, 2009 without having received goods or services by the end of the year. According to the Minutes of the 2nd Budget Committee meeting on the March 10, 2008 funds from the financial year in question can be used to honour these commitments in future years.

2.2.10. Unused appropriations

Unused appropriations refer to the portion of the budget that remained unused at the end of the financial year. Unused budget appropriations shall be shown as liability towards the Parties to the Treaty (minutes of the 3rd meeting of the Budget Committee of September 23, 2008).

2.2.11. Investment donations

Since the investments of EUR 130.541 were made by using the contributions of the Contracting Parties, the same amount is also shown as "investment donations". The book value as of December 31, 2009 of investments consists of the book value as of January 1, 2009 amounting to EUR 108.998 and additions amounting to EUR 99.141 reduced by depreciation of EUR 77.598.

2. 3. Statement of Financial Performance

2. 3. 1. Revenue

The Energy Community generates its revenue from the Contracting Parties' contributions to the Energy Community budget as stipulated in the Article 73 to 74 of the Treaty establishing the Energy Community. The Ministerial Council, an Institution of the Energy Community, shall adopt the budget of the Energy Community by Procedural Act every two years. The budget shall cover the operational expenses of the Energy Community necessary for the functioning of its institutions. The Parties' Contributions to the budget 2009 in accordance with Annex IV of the Treaty are presented in the table below:

	in %	in Euro
European Community	98,10	2.940.000,00
Republic of Albania	0,10	2.997,00
Republic of Croatia	0,50	14.985,00
Bosnia and Herzegovina	0,30	8.991,00
Former Yugoslav Republic of Macedonia	0,10	2.997,00
Republic of Montenegro	0,10	2.997,00
Republic of Serbia	0,70	20.979,00
United Nations Interim Administration in Kosovo	0,10	2.997,00
Total		2.996.942,00

In addition to the above contributions of the Contracting Parties, the Energy Community receives donations from the Republic Austria to cover the rental expenses of its headquarters' seat. In the financial year 2009 the donations from the Federal Ministry of Economics and Labour of the Republic of Austria amounted to EUR 146.400,00.

2. 3. 2. Expenses

Expenses arising from the purchase of goods and services are recognised when the supplies are delivered and accepted by the Energy Community or the services are rendered. They are valued at cost.

Administrative and operating expenses of the Energy Community of the financial year 2009 consist of the following main items:

- staff expenses EUR 1.182.204
- expenses of conferences and seminars of EUR 183.212
- refunding of travel expenses to conference participants of EUR 206.470
- expenses for studies, research and consulting EUR 2.702

2. 4. Statement of Comparison of Budget and Actual Amounts

2. 4. 1. Budget and Budgetary Period

The Ministerial Council of the Energy Community adopted the Energy Community Budget for 2009 on the 18 December 2007 through the Procedural Act No. 2007/05/MC-EnC. Budget 2009 was adopted as a component of the bi-annual budget of the Energy Community covering the financial years 2008-2009.

The budget shall cover the expenses considered necessary for the functioning of the Energy Community and its relevant institutions.

The budgetary period covered in this report extends from 1 January 2009 until 31 December 2009 with the approved budget amounting to EUR 2,996.942.

2. 4. 2. Budgetary Basis

The budget of the Energy Community of the financial year 2009 is based on a modified accrual basis. The statement of financial performance differs from the budget in the following areas:

1. Fixed assets are expensed completely in the year of acquisition.
2. Rental expenses of the headquarters' seat are financed by donations from the Federal Ministry of Economics and Labour of the Republic of Austria who is not a Contracting Party to the Treaty establishing the Energy Community. For that reason, the approved budget to cover operational expenditures of the Energy Community by way of annual contributions of the Parties to the Energy Community includes only appropriations for rental expenses in excess of the donations of the Republic of Austria.
3. Liabilities for overtime and unconsumed annual leave are not financed by contributions of the Contracting Parties.

2. 4. 3. Classification and Presentation of Budgetary Items

Classification format adopted for the presentation of approved budget follows the economic nature of budget expenditures. Budget expenditures are structured as to present budgeted amounts for the following budget lines:

4. Human Resources
5. Travel Expenses
6. Office
7. Other Costs, Services

Each of these budget lines is subdivided in individual budget positions.

2. 4. 4. Scope of the Budget

According to the Article 4 of the Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection the budget is the instrument which for each financial year forecasts and authorises the revenue and expenditure considered necessary for the functioning of the Energy Community and its relevant institutions: the Ministerial Council, the Permanent High Level Group, the Regulatory Board, the Fora and the Secretariat of the Energy Community.

2. 4. 5. Changes from Initial to Adjusted Budget

According to article 17(3) of the Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection, the director shall take decisions on transfers of appropriations (excluding human resources budget line) within the lines of the budget within the total limit of 10% of the appropriations for the financial year. Other transfers (e.g. between budget lines) have to receive the preliminary agreement of the Budget Committee.

Changes between the initial and adjusted budget are a consequence of transfers within the budget.

2. 4. 6. Actual Amounts on Comparable Basis

Actual Amounts on Comparable Basis represent expenses for deliveries of goods and services incurred during the current financial year chargeable to the budget 2009.

2. 4. 7. Commitments 2009

Legal Commitments encompass the value of legally binding contracts the Energy Community entered into up to the 31 December 2009, for which the deliveries of goods and services are outstanding at the year end, and therefore could not be included in Actual Amounts on Comparable Basis.

In its Minutes of Meeting dated 10 March 2008 the Budget Committee "considered that funds from the preceding year can be used to honor the commitments made but not paid during this year". The above extract from the Minutes authorizes the Energy Community to use the budget 2009 during the next financial years as goods are delivered and services are rendered regarding legal commitments entered into during the financial year 2009. As a consequence, the unused budget 2009 shall be understood as the final budget reduced by both actual amounts on comparable basis and unused commitments 2009.

2. 4. 8. Difference Budget Amounts v. Actual Amounts on Comparable Basis

2. 4. 8. 1. Human Resources

Budget Line Human Resources covers expenses for salaries of the Secretariat's staff which represent all-inclusive employee remuneration with no other benefits attached. This Budget Line shows utilization of 96%. The unused portion arises from temporarily vacancy of 3 positions in the course of 2009, together with the commencement of one position during the 2nd Quarter.

2. 4. 8. 2. Travel Expenses

This item covers travel expenses of the Energy Community's staff related to rendering technical assistance to the contracting parties along with the participation at meetings and conferences organized at different locations outside the Secretariat's headquarters. Level of utilization reached 88,37%.

2. 4. 8. 3. Office Costs

Budget Line Office includes expenses for acquisitions of fixed assets, as well as, among others, expenses for telephone, cleaning, maintenance and repair, and rental expenses (not borne by the Republic of Austria).

Taking into account unused commitments 2009 amounting to EUR 6.464,59, the unused budget for this budget line amounts to some 94,31%.

2. 4. 8. 4. Other Costs, Services

2. 4. 8. 4. 1. Advertising and Communications

Advertising and Communications expenses relate to Energy Community publications aimed at distribution to the interested public in order to promote operations and institutions of the Energy Community throughout the region of its scope of activities and beyond. Similarly, all material related to public relations together with representation is covered by this budget line.

Under consideration of Commitments 2009 utilization in this budget position will reach 42,01%.

2. 4. 8. 4. 2. Studies, Research and Consulting

Budget Line Studies, Research and Consulting allocate funds for ECRB related studies, as well as for the studies required by the Energy Community Secretariat.

This Budget line contains unused commitments amounting to EUR 445.390. The ECRB contracted an amount of EUR 292.422,00 and the Energy Community Secretariat further EUR 149.500,00 in studies. The remainder of EUR 3.468,00 relates to a study contracted in 2008 but will be finalized in 2010.

All studies included in the unused commitments 2009 were approved in the budget 2009, however, delivery will be effected in course of 2010. As a consequence of these unused commitments, budget utilization 2009 for Studies, Research and Consulting will reach 99,58%.

2. 4. 8. 4. 3. Cost of outsourced services (IT, payroll)

Outsourced services relate to consulting and maintenance work provided in relation to Energy Community web server, intranet, computer equipment and implemented software. Outsourced payroll and travel administration services are budgeted to this budget position. Utilization of 89,48% shows optimal planning of the funds for these costs.

2. 4. 8. 4. 4. Costs of Audit, Legal and Financial Advice

Almost two thirds of the expenses estimated under this budget position relate to the costs of annual audit of Energy Community financial statements. The remaining amount forecasts costs of possible legal and financial advice as required by the Energy Community Secretariat and its other institutions. The forecast for annual audit was utilized in full whereas legal and financial advice requirements remained at moderate levels leading to the overall utilization of 79,42%.

2. 4. 8. 4. 5. Financial Services (bank)

This budget position forecasts the costs of bank charges and fees in relation to the current bank account the Energy Community held with *Raiffeisenlandesbank NÖ-Wien AG*. In the course of its regular business the Energy Community reimburses travel costs to participants at conferences and meetings organized by its institutions. They mainly come from non EU countries to which bank transfers are subject to relatively high fee rates, making those fees the main cost driver of this budget position. Utilization of 78,88% in comparison to the budget results from the total number of reimbursements executed during the year which in turn is a function of the number of meetings and conferences organized.

2. 4. 8. 4. 6. Conference Costs

Conference costs relate to expenses incurred for conference and meeting facilities, technical equipment and catering. The utilization amounts to 70,47% - this is due to synergies of costs for back-to-back planned events and partially to contribution by other institutions (TAIEX, EBRD etc.).

2. 4. 8. 4. 7. Refunding

Refunding represents the reimbursement of travel expenses to the eligible participants at the meetings organized by the institutions of the Energy Community. Utilization of this budget position follows the pattern of utilization of the Budget Position Conference Costs. Utilization of 66,87% is a result of less than expected reimbursement requests received.

2. 4. 8. 4. 8. Training and Seminars (Internal and External)

The overall envisaged amount for this budget position amounts to EUR 150,000. This budget position makes provisions for further human resources measures forecasted to amount to some EUR 30.000,00. The remaining amount is reserved for any needed seminar organized on ad hoc basis. During 2009 Energy Community employed several trainees and one seconded person whose remunerations were financed from this budget position. Other costs included various training fees for the staff of the Secretariat. There were no need for ad hoc organized seminars and the utilization remained on the levels of 53,14 %.

2. 4. 9. Explanatory Notes - Reconciliation of Actual Amounts on a Comparable Basis and Actual Amounts in the Financial Statements

Energy Community Financial Statements are prepared on the accrual basis of accounting and the Budget is prepared on the modified accrual basis (see title 2.4.2.).

The Table 1 as annexed to this Notes (Annex 1) represents reconciliation of Actual Budget Amounts on a Comparable Basis and Actual Amounts in the financial Statements for total expenses.

Column 2: Expenditures regarding legal commitments 2008

The Energy Community continues to spend budget from previous years in future years through the mechanism of unused legal commitments as approved by the Budget Committee (see heading 2. 2. 9.).

Column 3: Differences between Actual Amounts in the Financial Statements and Actual Budget Amounts**Note 1**

In the approved budget costs for seconded staff and trainees are budgeted within Budget Line Other Costs and Services, under the Budget Position Training and Seminar Costs. Classification of expenses in the financial statements of the Energy Community follows the economic nature of expenses where costs for seconded staff and employed trainees shall be presented as staff expenses due to their employment status regulated by the Energy Community Staff Regulations. For that reasons the amount of EUR 28.200 is reclassified between Budget Lines Human Resources and Other Costs and Services for the purpose of reconciliation with the Statement of Financial Performance.

Note 2

Amount of EUR 4.838,58 represents expenses for unconsumed annual leave and overtime Energy Community staff accrued in the course of the financial year 2009. However, these expenses are not covered by the approved budget.

Note 3

Actual rental expenses for Energy Community premises amounted to EUR 158.760,00 in the current financial year. The Republic of Austria as a host country refunded the majority of these expenses through monthly donations that amounted to EUR 146.400,00 in 2009. These donations represent the difference between rental expenses as charged to the Energy Community budget and the statement of financial performance.

Note 4

The Budget Position Office Equipment and Communications within the Budget Line Office includes purchase of fixed assets. Budgeted amounts for these items represent total acquisition cost of fixed assets of the financial year in question.

Due to the accrual-based accounting, the statement of financial performance on the other hand shows depreciation expenses resulting from the allocation of acquisition cost of the fixed assets over their useful lives.

Signature of the Accounting Officer of the Energy Community

By her signature, the Accounting Officer certifies the correctness of all statements made above to the extent they fall within her responsibility as spelt out by the Energy Community's Budgetary Procedures.



Emica Divic

16.02.2010

Signature of the Director of the Energy Community

Slavtcho Neykov

16.02.2010

TRANSLATION

ENERGY COMMUNITY

Reconciliation of Actual Budget Amounts on a Comparable Basis and Actual Amounts in the Financial Statements Budget on Modified Accrual Basis Financial Statements on Accrual Basis (Classification of Expenditures by Economic Nature)

	Actual Amounts 2009 - Expenditures charged to the Budget 2009	Actual Amounts 2009 - Expenditures regarding legal commitments 2008	Differences between Actual Amounts in the Financial Statements and Actual Budget Amounts	Actual Amounts Statement of Financial Performance	Note
	1	2	3	1 + 2 + 3	
1. HUMAN RESOURCES					
Salary Costs	1.146.585,60			1.146.585,60	
Others (accident insurance)	2.579,36			2.579,36	
Secondment			10.000,00	10.000,00	1
Traineeship			18.200,00	18.200,00	1
Change of liabilities for overtime and unconsumed annual leave			4.838,58	4.838,58	2
Subtotal Human Resources	1.149.164,96		33.038,58	1.182.203,54	
2. TRAVEL EXPENSES					
Daily Subsistence Allowance	67.395,90			67.395,90	
Travel Expenses (tickets, accommodation, other travel expenses)	138.503,37			138.503,37	
Subtotal Travel Expenses	205.899,27		0,00	205.899,27	
3. OFFICE					
Office rent	12.360,00		146.400,00	158.760,00	3
Office, equipment and communications (IT)	56.493,11	42.647,70	-99.140,81	0,00	4
Consumables (including IT expenditures)	83.092,27	2.500,00		85.592,27	
Other Services (Telephone, Fax, Communications)	60.496,70			60.496,70	
Subtotal Office	212.442,08	45.147,70	47.259,19	304.848,97	
4. OTHER COSTS, SERVICES					
Advertising & Communication (incl. Representation)	15.647,05			15.647,05	
Studies, research and consulting	2.701,68	259.878,00		262.379,68	
Costs of outsourced services (IT etc.) and IT consulting	75.162,37	16.648,08		91.810,45	
Costs of Audit, Legal and Financial Advice	23.824,57			23.824,57	
Financial Services (bank)	9.465,93			9.465,93	
Conference Costs	183.212,01			183.212,01	
Refunding	206.470,10			206.470,10	
Training and seminar costs	78.742,02	12.857,14	-28.200,00	63.399,16	1
Subtotal Other costs, services	595.225,73	289.183,22	-28.200,00	856.208,95	
Subtotal Other Operating Expenses	1.013.567,08	334.330,92	19.059,19	1.366.957,19	
TOTAL EXPENSES	2.162.732,04	334.330,92	52.097,77	2.549.160,73	

ENERGY COMMUNITY

2009 Statement of Comparison of Budget and Actual Amounts Budget on Modified Accrual Basis (Classification of Expenditures by Economic Nature)

Note: The budget and accounting basis is different. This Statement of Comparison of Budget and Actual Amounts is prepared on the budget basis.

	Budgeted Amounts			Actual Amounts on Comparable Basis	Difference:		Commitments 2009	Actual Amounts on Comparable Basis + Commitments 2009	Actual Amounts on Comparable Basis + Commitments 2009 %
	Initial Budget	Budget Transfers	Adjusted Budget		Adjusted Budget vs. Actual Amounts	Adjusted Budget vs. Actual Amounts %			
	1	2	3	4	5	6	7	8	%
			1 + 2		3 - 4			4 + 7	
1. HUMAN RESOURCES									
Salary Costs	1,194,420.00		1,194,420.00	1,146,585.60	47,834.40	96.00%		1,146,585.60	96.00%
Others (accident insurance)	2,652.00		2,652.00	2,579.36	72.64	97.26%		2,579.36	97.26%
Subtotal Human Resources	1,197,072.00		1,197,072.00	1,149,164.96	47,907.04	96.00%	0.00	1,149,164.96	96.00%
2. TRAVEL EXPENSES									
Daily Subsistence Allowance	64,800.00	3,000.00	67,800.00	67,395.90	404.10	99.40%		67,395.90	99.40%
Travel Expenses (tickets, accommodation, other travel expenses)	168,192.00	-3,000.00	165,192.00	138,503.37	26,688.63	83.84%		138,503.37	83.84%
Subtotal Travel Expenses	232,992.00		232,992.00	205,899.27	27,092.73	88.37%	0.00	205,899.27	88.37%
3. OFFICE									
Office rent		15,000.00	15,000.00	12,360.00	2,640.00	82.40%		12,360.00	82.40%
Office, equipment and communications (IT)	48,000.00	20,000.00	68,000.00	56,493.11	11,506.89	83.08%	6,464.59	62,957.70	92.58%
Consumables (including IT expenditures)	92,103.00	-8,800.00	83,303.00	83,092.27	210.73	99.75%		83,092.27	99.75%
Other Services (Telephone, Fax, Communications)	72,000.00	-6,200.00	65,800.00	60,496.70	5,303.30	91.94%		60,496.70	91.94%
Subtotal Office	212,103.00		232,103.00	212,442.08	19,660.92	91.53%	6,464.59	218,906.67	94.31%
4. OTHER COSTS, SERVICES									
Advertising & Communication (incl. Representation)	60,000.00	-20,000.00	40,000.00	15,647.05	24,352.95	39.12%	1,155.00	16,802.05	42.01%
Studies, research and consulting	450,000.00		450,000.00	2,701.68	447,298.32	0.60%	445,390.00	448,091.68	99.58%
Costs of outsourced services (IT etc.) and IT consulting	84,000.00		84,000.00	75,162.37	8,837.63	89.48%		75,162.37	89.48%
Costs of Audit, Legal and Financial Advice	30,000.00		30,000.00	23,824.57	6,175.43	79.42%		23,824.57	79.42%
Financial Services (bank)	12,000.00		12,000.00	9,465.93	2,534.07	78.88%		9,465.93	78.88%
Conference Costs	260,000.00		260,000.00	183,212.01	76,787.99	70.47%		183,212.01	70.47%
Refunding	308,775.00		308,775.00	206,470.10	102,304.90	66.87%		206,470.10	66.87%
Training and seminar costs	150,000.00		150,000.00	78,742.02	71,257.98	52.49%	966.00	79,708.02	53.14%
Subtotal Other costs, services	1,354,775.00		1,334,775.00	595,225.73	739,549.27	44.59%	447,511.00	1,042,736.73	78.12%
Subtotal Other Operating Expenses	1,799,870.00		1,799,870.00	1,013,567.08	786,302.92	56.31%	453,975.59	1,467,542.67	81.54%
TOTAL EXPENSES	2,996,942.00		2,996,942.00	2,162,732.04	834,209.96	72.16%	453,975.59	2,616,707.63	87.31%

DEVELOPMENT OF INVESTMENT DONATIONS

	January 1, 2009	additions	usage	December 31, 2009
	EUR	EUR	EUR	EUR
Investment Donations				
Software and licenses	22.067,06	2.980,02	14.052,30	10.994,78
Plant and equipment	86.931,35	96.160,81	63.545,41	119.546,75
	108.998,41	99.140,83	77.597,71	130.541,53

Non-current assets movement schedule as of December 31, 2009

FIXED ASSETS

I. Intangible assets

Software and licenses

38.195,00	2.980,02	41.175,02	30.180,24	10.994,78	22.067,06	14.052,30
-----------	----------	-----------	-----------	-----------	-----------	-----------

II. Tangible assets

Plant and equipment

135.679,19	96.160,81	231.840,00	112.293,25	119.546,75	86.931,35	63.545,41
173.874,19	99.140,83	273.015,02	142.473,49	130.541,53	108.998,41	77.597,71



General Conditions of Contract for Audits of Annual Accounts (AAB 2009)

Laid down by the Working Group for Fees and Conditions of Contract of the Chamber of Public Accountants and Tax Advisors, recommended for use by the Board of the Chamber of Public Accountants and Tax Advisors in its decision of March 8, 2000, and revised by the Working Group for Fees and Conditions of Contract on May 23, 2002, on October 21, 2004, on December 18, 2006, on August 31, 2007, on February 26, 2008 as well as on June 30, 2009.

Preamble and General Points

(1) The General Conditions of Contract for the professions in the field of public accounting are divided into four sections: Section I deals with contracts for services, excluding contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions; Section II deals with contracts for rendering services in the field of bookkeeping, payroll accounting and administration and assessment of taxes and contributions; Section III covers contracts not regarded as contracts for the rendering of services, while Section IV is devoted to consumer business covered by the Austrian Consumer Act.

(2) In the event that individual provisions of these General Conditions of Contract are void, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid provision that is as close as possible to the desired objective.

(3) The person entitled to exercise profession in the field of public accounting shall be obliged to render the services negotiated in accordance with the principles of due professional care and conduct. He/she shall have the right to engage suitable staff for the execution of the contract. This shall apply to all sections of The General Conditions of Contract.

(4) Finally, foreign law shall only be taken into account by the person entitled to exercise the profession, if this has been explicitly agreed upon in writing. This shall apply to all sections of the General Conditions of Contract.

(5) The work prepared in the offices of the person entitled to exercise the profession may, at the discretion of the person entitled to exercise the profession, be carried out with or without using electronic data processing. In case electronic data processing is used, the client – not the person entitled to exercise the profession – is obliged to effect the registrations or notifications required under the relevant provisions of the Data Protection Act.

(6) The client undertakes not to employ staff of the person entitled to exercise the profession during and within one year after termination of the contractual relationship, either in his/her company or in an associated company, failing which he/she shall be obliged to pay the person entitled to exercise the profession the amount of the annual salary of the employee taken over.

SECTION I

1. Scope

(1) The General Conditions of Contract in Section I shall apply to contracts concerning (statutory and voluntary) audits with or without auditor's certificate, expert opinions, court expert opinions, preparation of annual financial statements and other financial statements, tax consultancy and other services to be rendered within the framework of a contract for the rendering of services, excluding bookkeeping, payroll accounting and the administration and assessment of payroll-related taxes and contributions.

(2) The General Conditions of Contract shall apply, if their use has been explicitly or tacitly agreed upon. Furthermore, in the absence of another agreement, they shall be used for reference to facilitate interpretation.

(3) Point 8 shall also apply to third parties whose services, in certain cases, may be enlisted by the contractor for the execution of the contract.

2. Scope and Execution of Contract

(1) Reference shall be made to Items 3 and 4 of the Preamble.

(2) Should the legal situation change subsequent to delivering a final professional statement, the person entitled to exercise the profession shall not be obliged to inform the client of changes or of the consequences thereof. This shall also apply to the completed parts of a contract.

(3) An application submitted by the person entitled to exercise the profession to an authority (e.g. tax office, social security institution) by electronic means, shall be regarded as neither signed by the person entitled to exercise the profession nor by the person authorized to submit such an application.

3. Client's Obligation to Provide Information and Submit Complete Set of Documents

(1) The client shall make sure that all documents required for the execution of the contract be placed in good time and without special request at the disposal of the person entitled to exercise the profession and that he/she be informed of all events and circumstances which may be of significance for the execution of the contract. This shall also apply to documents, events and circumstances which become known only after the person entitled to exercise the profession has commenced his/her work.

(2) The client shall confirm in writing that all documents submitted, all information provided and explanations given in the context of audits, expert opinions and expert services are complete. This statement may be made on the forms specifically designed for this purpose.

(3) If the client fails to disclose considerable risks in connection with the preparation of annual financial statements and other statements, the contractor shall not be obliged to render any compensation in this respect.

4. Maintenance of Independence

The client shall be obliged to take all measures to make sure that the independence of the employees of the person entitled to exercise the profession be maintained and shall refrain from jeopardizing their independence in any way. In particular, this shall apply to offers of employment and to offers to accept contracts on their own account.

5. Reporting Requirements

(1) In the absence of an agreement to the contrary, a written report shall be drawn up in the case of audits and expert opinions.

(2) All information and opinions of the person entitled to exercise the profession and his employees shall only be binding provided they are set down or confirmed in writing. Written opinions shall only be those on which there is a company signature. Written opinions shall in no circumstances be information sent electronically, specifically not via e-mail.

(3) Transmission errors cannot be excluded when information and data is transmitted electronically. The person entitled to exercise the profession and his employees shall not be liable for losses which arise as a result of electronic transmission. Electronic transmission shall be exclusively at the client's risk. The client is aware that confidentiality is not guaranteed when the Internet is used. Furthermore, amendments or supplements to documents transmitted shall only be permissible subject to explicit approval.

(4) Receipt and forwarding of information to the person entitled to exercise the profession and his employees are not always guaranteed when the telephone is used, in particular in conjunction with automatic telephone answering systems, fax, e-mail and other electronic means of communication. As a result, instructions and important information shall only be deemed to have been received by the person entitled to exercise the profession provided they are also received in writing, unless explicit confirmation of receipt is provided in individual instances. Automatic confirmation that items have been transmitted and read shall not as such

constitute explicit confirmations of receipt. This shall apply in particular to the transmission of decisions and other information relating to deadlines. As a result, critical and important notifications must be sent to the person entitled to exercise the profession by post or courier. Delivery of documents to employees outside the firm's offices shall not count as delivery.

(5) The client agrees to being sent recurrent general tax law and general commercial law information by the person entitled to exercise the profession via electronic means. This shall not apply to unsolicited information in accordance with § 107 of the Austrian Telecommunications Act (TKG).

6. Protection of Intellectual Property of the Person Entitled to Exercise the Profession

(1) The client shall be obliged to ensure that reports, expert opinions, organizational plans, drafts, drawings, calculations and the like, issued by the person entitled to exercise the profession, be used only for the purpose specified in the contract (e.g. pursuant to Section 44 Para. 3 Austrian Income Tax Act 1988). Furthermore, professional statements made by the person entitled to exercise the profession may be passed on to a third party for use only with the written consent of the person entitled to exercise the profession.

(2) The use of professional statements made by the person entitled to exercise the profession for promotional purposes shall not be permitted; a violation of this provision shall give the person entitled to exercise the profession the right to terminate without notice to the client all contracts not yet executed.

(3) The person entitled to exercise the profession shall retain the copyright on his/her work. Permission to use the work shall be subject to the written consent by the person entitled to exercise the profession.

7. Correction of Errors

(1) The person entitled to exercise the profession shall have the right and shall be obliged to correct all errors and inaccuracies in his/her professional statement which subsequently come to light and shall be obliged to inform the client thereof without delay. He/she shall also have the right to inform a third party acquainted with the original statement of the change.

(2) The client has the right to have all errors corrected free of charge, if the contractor can be held responsible for them; this right will expire six months after completion of the services rendered by the person entitled to exercise the profession and/or – in cases where a written statement has not been delivered – six months after the person entitled to exercise the profession has completed the work that gives cause to complaint.

(3) If the contractor fails to correct errors which have come to light, the client shall have the right to demand a reduction in price. The extent to which additional claims for damages can be asserted is stipulated under Point 8.

8. Liability

(1) The person entitled to exercise the profession shall only be liable for violating intentionally or by gross negligence the contractual duties and obligations entered into.

(2) In cases of gross negligence, the maximum liability for damages due from the appointed person entitled to exercise the profession is tenfold the minimum insurance sum of the professional liability insurance according to Section 11 of the Act on Professions in the Field of Public Accounting (WTBG) in the currently valid version.

(3) Any action for damages may only be brought within six months after those entitled to assert a claim have gained knowledge of the damage, but not later than three years after the occurrence of the (primary) loss following the incident upon which the claim is based, unless other statutory limitation periods are laid down in other legal provisions.

(4) Should Section 275 of the Austrian Business Enterprise Code (Commercial Code, UGB) be mandatorily applicable, the liability provisions pursuant to Section 275 shall apply where these represent mandatory law, even in cases where several persons have participated in the execution of the contract or where several activities requiring compensation have taken place, irrespective of whether other participants have acted with intent.

(5) In cases where a formal audit certificate is issued, the applicable limitation period shall commence at the latest at the time of issue of said audit certificate.

(6) If activities are carried out by enlisting the services of a third party, e.g. a data-processing company, and the client is informed thereof, any warranty claims and claims for damages which arise against the third party according to law and in accordance with the conditions of the third party,

shall be deemed as having been passed on to the client. The person entitled to exercise the profession shall only be liable for fault in choosing the third party.

(7) The person entitled to exercise the profession shall not be liable to a third party, if his/her professional statements are passed on by the client without the approval or knowledge of the person entitled to exercise the profession.

(8) The above provisions shall apply not only vis-à-vis the client but also vis-à-vis third parties, if the person entitled to exercise the profession, in exceptional cases, should be liable for his/her work. The maximum sum of liability shall be valid only once for all parties injured, including the compensation claims of the client, even if several persons (the client and a third party or several third parties) have been wronged; the claims of the aggrieved parties shall be satisfied in the order in which the claims have been raised.

9. Secrecy, Data Protection

(1) According to Section 91 WTBG the person entitled to exercise the profession shall be obliged to maintain secrecy in all matters that become known to him/her in connection with his work for the client, unless the client releases him/her from this duty or he/she is bound by law to deliver a statement.

(2) The person entitled to exercise the profession shall be permitted to hand on reports, expert opinions and other written statements pertaining to the results of his/her services to third parties only with the permission of the client, unless he/she is required to do so by law.

(3) The person entitled to exercise the profession is authorized to process personal data entrusted to him/her within the framework of the purpose of the contract or to have them processed by a third party according to Point 8 Item 5. The person entitled to exercise the profession shall guarantee that according to Section 15 of the Data Protection Act secrecy be maintained. According to Section 11 of the Data Protection Act the material made available to the person entitled to exercise the profession (data carrier, data, control numbers, analyses and programs) as well as all results obtained as a result of the work provided shall be returned to the client, unless the client has requested in writing that the material and/or results be transferred to a third party. The person entitled to exercise the profession shall be obliged to take measures to ensure that the client can meet his/her obligation to provide information according to Section 26 of the Data Protection Act. The client's instructions required for this purpose shall be given in writing to the person entitled to exercise the profession. Unless a fee has been negotiated for providing such information, the client shall be charged only the actual efforts undertaken. The client shall meet his/her obligation to provide information to those concerned and/or to register in the data processing register, unless the contrary has been explicitly agreed in writing.

10. Termination

(1) Unless otherwise agreed in writing or stipulated by force of law, either contractual partner shall have the right to terminate the contract at any time with immediate effect. The fee shall be calculated according to Point 12.

(2) However, a continuing agreement (even with a flat fee) – always to be presumed in case of doubt – may, without good reason (cf. Section 88 Item 4 WTBG), only be terminated at the end of the calendar month by observing a period of notice of three months, unless otherwise agreed in writing.

(3) Except for cases listed in Item 5, in case of termination of a continuing agreement only those tasks shall be part of the list of jobs to be completed and finished that can be completed fully or to the largest part within the period of notice, with financial statements and annual income tax returns being deemed to be subject to successful completion within two months calculated from the balance sheet date. In this case the above-mentioned jobs actually have to be completed within a reasonable period of time, if all documents and records required are provided without delay and if no good reason within the meaning of Section 88 Paragraph 4 WTBG is cited.

(4) In case of a termination according to Item 2 the client shall be informed in writing within one month which assignments at the time of termination are considered to be part of the work to be completed.

(5) If the client is not informed within this period about the assignments still to be carried out, the continuing agreement shall be deemed terminated upon completion of the tasks under way at the date when the notice of termination is served.

(6) Should it happen that in case of a continuing agreement as defined under Items 2 and 3 – for whatever reason – more than two similar jobs which are usually completed only once a year (e.g. financial statements or annual tax returns etc.) are to be completed, any such jobs exceeding this

number shall be regarded as assignments to be completed only with the client's explicit consent. If applicable, the client shall be informed of this explicitly in the statement pursuant to Item 4.

11. Default in Acceptance and Failure to Cooperate on the part of the Client

If the client defaults on acceptance of the services rendered by the person entitled to exercise the profession or fails to carry out a task incumbent on him/her either according to Point 3 or imposed on him/her in another way, the person entitled to exercise the profession shall have the right to terminate the contract without prior notice. His/her fees shall be calculated according to Point 12. Default in acceptance or failure to cooperate on the part of the client shall also justify a claim for compensation made by the person entitled to exercise the profession for the extra time and labor hereby expended as well as for the damage caused, if the person entitled to exercise the profession does not invoke his/her right to terminate the contract.

12. Entitlement to Fee

(1) If the contract fails to be executed (e.g. due to termination), the person entitled to exercise the profession shall be entitled to the negotiated fee, provided he/she was prepared to render the services and was prevented from so doing by circumstances caused by the client (Section 1168 of the Civil Code (ABGB)); in this case the person entitled to exercise the profession need not deduct the amount he/she obtained or could have obtained through alternative use of his/her own professional services or those of his/her employees.

(2) If the client fails to cooperate and the assignment cannot be carried out because of lack of cooperation, person entitled to exercise the profession shall also have the right to set a reasonable grace period on the understanding that, if this grace period expires without results, the contract shall be deemed cancelled and the consequences indicated in Item 1) shall apply.

(3) If the person entitled to exercise the profession terminates the contract without good reason and at an inopportune moment, he/she shall compensate the client for the damage caused according to Point 8.

(4) If the client – having been made aware of the legal situation – agrees that the person entitled to exercise the profession duly completes the task, the work shall be completed accordingly.

13. Fee

(1) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved.

(2) Proper understanding between the person entitled to exercise the profession and their principals is most effectively achieved by clearly expressed remuneration agreements.

(3) The smallest service unit which may be charged is a quarter of an hour.

(4) Travel time to the extent required is also charged in most cases.

(5) Study of documents which, in terms of their nature and extent, may prove necessary for preparation of the person entitled to exercise the profession in his/her own office may also be charged as a special item

(6) Should a remuneration already agreed upon prove inadequate as a result of the subsequent occurrence of special circumstances or special requirements of the principal, additional negotiations for the agreement of a more suitable remuneration are usual. This also usually applies where inadequate fixed sum remunerations are concerned.

(7) Persons entitled to exercise the profession also include charges for supplementary costs and value-added (turnover) tax in addition to the above.

(8) Supplementary costs also include documented or flatrate cash expenses, travelling expenses (first class for train journeys, sleeping car (wagon lits) if necessary, dietary requirements, mileage allowance, photocopy costs and similar supplementary costs.

(9) Should particular third party liabilities be involved, the necessary insurance premiums also count as supplementary costs.

(10) Personnel and material expenses for the preparation of reports, expertises and similar documents are also viewed as supplementary costs.

(11) For the execution of a commission wherein mutual conclusion involves several persons entitled to exercise the profession, each of the latter will charge his/her own remuneration.

(12) Remunerations and advance payments required are due immediately after receipt of their written claim should no other agreements exist. Where payments of remuneration are made later than 14 days after the due date, default interest may be charged. Where mutual business transactions are concerned, a default interest rate of 8% above the base rate is agreed upon (Cf. Section 352 of the Austrian Business Enterprise Code (Commercial Code, UGB)).

(13) Time limitation is in accordance with Section 1486 of the Austrian Civil Code (ABGB), starting at the time of conclusion of the service involved or a later rendering of accounts after an appropriate time-limit.

(14) An objection may be raised in writing against bills presented by the appointed trustee up to 4 weeks after the date of presentation. Otherwise the bill is considered as accepted. Filing of a bill in the accounting system of the recipient is also considered as acceptance.

(15) Application of § 934 ABGB (Austrian Civil Code) within the meaning of § 351 Austrian Business Enterprise Code (Commercial Code, UGB), i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

14. Other Provisions

(1) In addition to the reasonable rate or fee charged, the person entitled to exercise the profession shall have the right to claim reimbursement of expenses. He/she can ask for advance payments and can make delivery of the results of his/her (continued) work dependent on satisfactory fulfillment of his/her demands. In this context reference shall be made to the legal right of retention (Section 471 of the Civil Code (ABGB), Section 369 of the Austrian Business Enterprise Code (Commercial Code, UGB)). If the right of retention is wrongfully exercised, the person entitled to exercise the profession shall be liable only in case of gross negligence up to the outstanding amount of his/her fee. As regards standing orders, the provision of further services may be denied until payment of previous services has been effected. This shall analogously apply if services are rendered in installments and fee installments are outstanding.

(2) After all the data to be archived, which has been prepared by the public accountant and tax advisor, has been delivered to the client or to the succeeding public accountant and tax advisor, the person entitled to exercise the profession shall be entitled to delete the data in question.

(3) With the exception of obvious essential errors, a complaint concerning the work of the person entitled to exercise the profession shall not justify the retention of remuneration owed in accordance with Item 1.

(4) Offsetting the remuneration claims made by the person entitled to exercise the profession in accordance with Item 1 shall only be permitted, if the demands are uncontested and legally valid.

(5) At the request and expense of the client, the person entitled to exercise the profession shall hand over all documents received from the client within the scope of his/her activities. However, this shall not apply to correspondence between the person entitled to exercise the profession and his/her client, to original documents in his/her possession or to documents which have to be kept in accordance with the directive on money laundering. The person entitled to exercise the profession may make or retain copies or duplicates of the documents to be returned to the client. The client shall be obliged to bear these expenses in so far as these copies or duplicates may be required as a proof of the orderly execution of all professional duties by the person entitled to exercise the profession.

(6) The client shall fetch the documents handed over to the person entitled to exercise the profession within three months after the work has been completed. If the client fails to do so, the person entitled to exercise the profession shall have the right to return them to the client at the cost of the client or to charge safe custody charges, if the person entitled to exercise the profession can prove that he/she has asked the client twice to pick up the documents handed over.

(7) The person entitled to exercise the profession shall have the right to compensation of any fees that are due by use of any available deposited funds, clearing balances, trust funds or other liquid resources at his/her disposal even if these funds are explicitly intended for safe keeping, if the client had to reckon with a counterclaim of the person entitled to exercise the profession.

(8) To safeguard an existing or future fee payable, the person entitled to exercise the profession shall have the right to transfer a balance held by the client with the tax office or another balance held by the client in connection with charges and contributions, to a trust account. In this case the client shall be informed about the transfer. Subsequently, the amount secured may be collected either after agreement has been reached with the client or after enforceability by execution has been declared.

15. Applicable Law, Place of Performance, Jurisdiction

- (1) The contract, its execution and the claims resulting from it shall be exclusively governed by Austrian law.
- (2) The place of performance shall be the place of business of the person entitled to exercise the profession.
- (3) In case of disputes, the court of the place of performance shall be the competent court.

16. Supplementary Provisions for Audits

- (1) For statutory audits of financial statements which are carried out in order to issue a formal audit certificate (e.g. Section 268 and the following sections of the Company Code), the purpose of the contract, unless otherwise agreed to in writing, shall not be to investigate whether regulations concerning tax laws or specific regulations, e.g. price fixing, restriction of competition and foreign exchange regulations have been adhered to. Neither shall the purpose of the statutory audit of financial statements be to investigate whether the business is run in an economical, efficient and expedient manner. Within the framework of a statutory audit of a financial statement there shall be no obligation to detect the falsification of accounts or other irregularities.
- (2) When a qualified or unqualified audit certificate is issued within the scope of a statutory audit of the annual financial statement, the audit certificate issued shall be appropriate for the respective type of business organization.
- (3) If financial statements are published together with the audit certificate, they shall only be published in the form confirmed or explicitly permitted by the auditor.
- (4) If the auditor revokes his/her audit certificate, the further use thereof shall no longer be permitted. If the financial statements have been published with the audit certificate, the revocation thereof shall also be published.
- (5) For other statutory and voluntary audits of financial statements as well as for other audits, the above principles shall apply accordingly.

Ernst & Young

Assurance | Tax | Transactions | Advisory

Ernst & Young in Österreich

Ernst & Young ist einer der Marktführer in den Bereichen Wirtschaftsprüfung, Steuerberatung, Transaktionsberatung sowie Risiko- und Managementberatung. Unsere rund 500 Mitarbeiterinnen und Mitarbeiter sind durch gemeinsame Werte und unseren hohen Qualitätsanspruch verbunden. Gemeinsam mit den 135.000 Kollegen der internationalen Ernst & Young-Organisation betreuen wir unsere Klienten überall auf der Welt. Das gemeinsame Ziel aller Mitarbeiterinnen und Mitarbeiter ist es, unter Einsatz all ihrer Fähigkeiten das Potenzial unserer Klienten zu entfalten.

Weitere Informationen finden Sie unter

www.ey.com/austria

© 2009 Ernst & Young

Wirtschaftsprüfungsgesellschaft m.b.H.

All Rights Reserved.

Der Name Ernst & Young bzw. „wir“ bezieht sich in diesem Firmenprofil auf alle österreichischen Mitgliedsunternehmen von Ernst & Young Global Limited (EYG), eine Gesellschaft mit beschränkter Haftung nach britischem Recht. Jedes EYG-Mitgliedsunternehmen ist rechtlich selbstständig und unabhängig und haftet nicht für das Handeln und Unterlassen der jeweils anderen Mitgliedsunternehmen.

