

SUMMARY

Summary of Report 7/2016, relating to the Barcelona Museum of Contemporary Art Consortium, year 2013

Barcelona, 11 May 2016

The Public Audit Office for Catalonia has issued Report 7/2016, relating to the Consortium for Barcelona's Museum of Contemporary Art (MACBA), financial year 2013, in accordance with its Annual Programme of Activities.

This report, which was presented by Board Member Mr Jordi Pons i Novell, was approved by the Audit Office Board at its meeting on 5 April 2016.

The audit included a review of MACBA's fixed assets as at 31 December 2013 and its Profit and Loss Account for that financial year, to check that they had been presented in accordance with the applicable financial reporting regulatory framework and, in particular, the accounting principles and criteria contained therein, and that the activities undertaken by the Consortium during the audited period were in compliance with applicable legislation. It also included a review of the artwork collection (in the inventory of 9 March 2015) and the library collection (in the inventory of 27 July 2015), and of governmental procurement in financial year 2013.

MACBA is a consortium formed by the Spanish central Government (*Administración del Estado*), the Catalan regional Government (*Generalitat*), Barcelona City Council and the Barcelona Museum of Contemporary Art Foundation. The Museum's collection is comprised mainly of works from the holdings of the Catalan Government, the City Council and the Foundation.

In the 2013 financial year MACBA's revenues came to €12.12m and its expenditures, to €11.73m. It had a positive result as at 31 December 2013 of €0.39m. The contributions for operating expenses from the government organisations making up the Consortium totalled €8.17m.

In the Conclusions section of the report there is a summary of the main findings from the work carried out, of which the following can be highlighted:

- MACBA did not submit its accounts for the 2013 financial year to the Audit Office, in contravention of article 39.4 of the Public Audit Office Act (Act 18/2010) and article 71.3 of the Consolidated Catalan Public Finance Act.
- MACBA and the relevant officials at the Consortium's member organisations did not approve the programme-contract envisaged in the Statutes.

- Given the nature of MACBA as a consortium set up under public law and the characteristics of the venues and assets it manages, the prices charged for entry to the Museum and for renting spaces there have the legal status of official fees. According to applicable legislation and jurisprudence, MACBA cannot institute these official fees, only establish the amounts to be charged, once they have been instituted by the controlling government organisation. Furthermore, MACBA applied some charges, prices and discounts which had not been formally approved by its General Council.
- The retail prices of MACBA publications have the legal status of public charges and therefore they should have been established, modified or cancelled in 2013 by the controlling government organisation.
- In 2013 MACBA hired new members of staff without providing any proof that this was to meet urgent, non-postponable needs, as laid down by the 22nd additional provision of Spain's General Budget Act for 2013. In addition, the procedure used for selecting these employees did not fulfil the hiring principles of publicity, equality, merit, capability and transparency.
- MACBA had not publicised its official Schedule of Staff Positions (*Relació de llocs de treball*) and held several labour contracts for specific undertakings or services which, considering their characteristics, should have been included in this Schedule.
- The Consortium did not apply any staff salary reductions in cases of temporary disability sick leave. This constitutes a breach of article 9 of Royal Decree-Act 20/2012.
- MACBA procured services and supplies using low-value contracts (in many cases of a recurring nature) awarded to professional practitioners and companies. If these same supplies of services or purchases of goods had been arranged through a single contract, they could not have been awarded as low-value contracts. Instead, the open, restricted or negotiated procedures would have had to be followed, as established by legislation. In addition, some contracts arranged with private individuals could be construed as an employee relationship by the relevant authorities.

In the Conclusions section of the report various recommendations are also made which, in the view of the Audit Office, would help to improve the running of the MACBA and correct some of the issues mentioned in the Findings section.

This summary is solely for information purposes. The audit report (in Catalan and Spanish) can be consulted at www.sindicatura.cat.