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(Information)

COURT OF AUDITORS

OPINION No 10/2005**on the draft Council Regulation amending Regulation (EC, Euratom) No 1605/2002
of 25 June 2002 on the Financial Regulation applicable to the general budget
of the European Communities***(Submitted pursuant to Article 248(4), second subparagraph, of the EC Treaty)**(2006/C 13/01)***CONTENTS**

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THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Articles 248(4) and 279 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 160C(4) and 183 thereof,

Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, and in particular Article 184 thereof, which provides for a review of the Regulation every three years,

Having regard to the Proposal for a Council Regulation amending Regulation (EC, Euratom) No 1605/2002 ⁽²⁾,

Having regard to the Council's request for an opinion on this proposal, which was submitted to the Court of Auditors on 15 July 2005,

HAS ADOPTED THE FOLLOWING OPINION:

— to justify legislative changes in relation to:

Introduction

1. The proposal presented by the Commission aims:

- to improve efficiency and transparency in the operation of the rules,
- to simplify the rules and requirements for contracts and grants in proportion to the costs and risks incurred,
- to clarify and streamline the provisions governing the various methods of management.

2. In its explanatory memorandum, the Commission declares that, since the Financial Regulation is the main legislative instrument for the implementation of the budget, its objectives must be achieved whilst maintaining the stability of the rules and, in particular, the basic principles, concepts and architecture of the Financial Regulation ⁽³⁾.

3. To that end the proposal establishes the following criteria:

- to confine the legislative changes to those problems for which there are no alternative solutions,
- not to adopt any proposal for amendment that would call into question the key elements of the Commission's reform,
- to limit to an absolute minimum any derogations from budgetary principles,
- to take into account the amendments imposed by the new sectoral regulations for the 2007-2013 period,

— the Commission's obligation to implement the budget and accomplish the prescribed policy objectives,

— the requirements of sound financial management,

— the protection of the EU's financial interests,

— the need to obtain a positive statement of assurance in the short term.

4. The Court has examined the draft regulation submitted by the Commission, taking into account the principles, objectives and criteria stated above. It considers that obtaining a positive Statement of Assurance is not a relevant criterion for guiding the revision of financial rules. Improving the Community's financial management should, however, be a criterion for determining what changes to the Financial Regulation are necessary.

5. The Court considers that in many areas the proposed adjustments and changes constitute an important step towards the simplification and flexibility necessary for effective financial management. However, for the reasons set out below, the principles and criteria that should have guided these changes were not always followed and the objectives pursued have not been fully achieved.

6. As a consequence some of the amendments proposed by the Commission are not justified and risk complicating management. On the other hand, the proposed revision does not provide solutions to certain management needs as indicated in paragraphs 21, 26, 29, 30, 32 and 39.

⁽¹⁾ OJ L 248, 16.9.2002; Corrigendum published in OJ L 25, 30.1.2003.

⁽²⁾ COM(2005) 181 final of 3 May 2005.

⁽³⁾ Financial Regulation — Council Regulation (EC, Euratom) No 1605/2002.

Stability and coherence of the financial rules

7. The previous Financial Regulation was repeatedly amended, making it incoherent, as the Court pointed out in Opinion No 4/97 ⁽¹⁾. In particular, the Court's criticisms ⁽²⁾ related to the overall inconsistency of the text and the following:

- piecemeal introduction of changes in order to resolve particular problems,
- the coexistence of several regimes and numerous derogations,
- certain fundamental financial provisions were contained in the regulations governing particular policies, measures or programmes but had not been included in the Financial Regulation and, sometimes, were incompatible with it.

In 1998, as the result of that Opinion and the inconsistencies identified, the Commission embarked on the revision procedure, which, after a great deal of interinstitutional preparation and discussion, led in 2002 to the current Regulation.

8. The Commission has recognised that some aspects (internal control standards, activity based budgeting and management) of the current Financial Regulation which is part of the process of financial management reform undertaken by this Institution have not been fully implemented and that additional effort is still required for them to function effectively ⁽³⁾. Furthermore, the other Institutions have only recently introduced some elements of that Regulation.

9. In this context, the explanatory memorandum accompanying the proposal sets out as the guiding principles for the revision, to ensure stability of rules and, in particular, of the budgetary principles as laid down in Article 2 of the Financial Regulation ⁽⁴⁾.

10. However, in addition to editorial changes, the draft revision contains proposals for amendments to 74 articles — 40 % of the current articles — affecting almost every title of the Regulation. The Commission proposal therefore represents a substantial recasting of the text of the Financial Regulation.

11. Furthermore, the current revision of the Financial Regulation is accompanied by three proposals for the amendment of the rules implementing the Financial Regulation which were presented or announced during 2005.

⁽¹⁾ Opinion No 4/97 on the proposal for a Council Regulation (Euratom, ECSC, EC) amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities (OJ C 57, 23.2.1998).

⁽²⁾ Opinion No 4/97, paragraph 3.

⁽³⁾ Synthesis report, COM(2005) 256 final of 15.6.2005.

⁽⁴⁾ Proposed revision Recital 5: 'The principle that other legislative acts concerning budget implementation must comply with the Financial Regulation should be reinforced'.

12. Some of the proposed amendments were initiated at the request of Commission departments in order to simplify budgetary management. However there is a risk of complicating management by introducing exceptions and derogations, particularly in the areas of agriculture and research. Other proposals are either the outcome of amendments to sectoral legislation or were provided for in the Commission's legislative proposals for the period 2007-2013 (especially the common agricultural policy (CAP) and research).

13. Under these circumstances, the Court considers that some of the principles and criteria set out by the Commission (stability of rules, legislative changes only in essential cases where there is no other solution, limiting any derogations from budgetary principles to an absolute minimum) have not been adhered to, thus complicating the financial management before the results of the important changes introduced by the current Financial Regulation have been achieved.

14. Notwithstanding that Article 184 of the Financial Regulation provides for its review every three years, there is a need to limit modifications to those which are strictly necessary, in order to maintain the stability in the financial rules.

15. The Court's Opinion focuses on Titles I to VI of the Common Provisions since the proposed amendments to Title VII 'Presentation of the Accounts and Accounting' of Part One of the Regulation (Common Provisions) and Part Three (Transitional and Final Provisions) are mostly of a technical nature and consist of updating provisions in the light of the accounting changes that have taken effect since 1 January 2005. Moreover, the proposed amendments to Part Two (Special Provisions) affect, in particular, the budgetary principles laid down in Title II of the Common Provisions.

Budgetary principles

16. The Court's Opinions No 4/97 and No 2/2001 ⁽⁵⁾ concerning the Financial Regulation both recommended stricter application of budgetary principles and limiting exceptions to the minimum. These recommendations were adopted by the Commission as a guiding principle for the current revision of the Financial Regulation.

17. However, the proposed changes affect the principles of:

- budgetary unity (Article 5a: interest generated by prefinancing),
- annuality (Article 149: the carrying over of non-differentiated EAGF ⁽⁶⁾ appropriations; Article 160a: making research appropriations available again; Articles 12 and 150: advance commitment of expenditure for humanitarian aid and the EAGF),

⁽⁵⁾ Opinion No 4/97, paragraph 16; Opinion No 2/2001 on a proposal for a Council Regulation on the Financial Regulation applicable to the general budget of the European Communities, paragraph 5 (OJ C 162, 5.6.2001).

⁽⁶⁾ European Agricultural Guarantee Fund.

- universality (Article 18: earmarking of revenue from contributions from Member States for external aid programmes and from the sale of equipment),
- specification (Article 23: transfers from the 'provisions' titles; transfers of administrative appropriations; notification procedure; Articles 26, 45 and 46: adaptations due to the abolition of the reserve relating to loans and loan guarantees to third countries),
- transparency (Article 29): extension of the deadline for publishing the budget.

18. Although some changes are due to simplification of the management of budgetary appropriations and introduce clarifications which are justified by specific circumstances (i.e. budgetary unity: interest generated by prefinancing; annuality: advance commitments to deal with humanitarian crises), the necessity of other exceptions is not always demonstrated. These issues are discussed below.

Principle of annuality

19. In Opinion No 2/2001 ⁽¹⁾ the Court expressed the view that carrying over appropriations was not desirable under the system of differentiated appropriations because its financial effect was marginal and it introduced unnecessary complications into the management systems. As a result of the approval of financial discipline measures for direct payments under the common agricultural policy ⁽²⁾, the Commission proposes that the possibility of carry-over should be extended to include non-differentiated appropriations (Article 149). This exception is not justified because the amounts concerned are small and could therefore easily be absorbed by the budget for the next financial year.

20. The Court also stated its opposition to permitting decommitted appropriations to be made available again ⁽³⁾. It considered that such an exception to the general rule was unnecessary because any needs in terms of appropriations could be covered by new commitment appropriations. The proposal reduces the possibility of making appropriations available again in the case of the Structural Funds, but opens up the possibility for research (Article 160a). The Court considers that exceptions of this kind are not justified because the budgetary amendments and the management mechanisms already provided under the current rules are sufficient to cope with all eventual needs.

Principle of universality

21. There are no proposals for amendments to deal with the known problems in the context of buildings policy. Contrary to the principle laid down in Article 7 of the Financial Regulation, commitment appropriations for transactions relating to purchase

or construction of buildings do not cover the total cost of the legal commitments entered into, because administrative appropriations are non-differentiated appropriations under Article 179 of the same Regulation. The Court therefore reiterates its recommendation ⁽⁴⁾ that differentiated appropriations should be used for this type of operation.

22. As regards exceptions to the universality principle (assigned revenue), the Court recommended in Opinion No 2/2001 ⁽⁵⁾ that marginal cases should not be treated as exceptions and should be handled in accordance with the general provisions. In the Court's opinion, the proposed amendment on the earmarking of revenue resulting from the sale of vehicles, equipment and installations or apparatus, equipment and material for scientific and technical use (Article 18(1)(ea)) is a marginal case for which there is no justification.

Principle of specification

23. The proposed amendment to Article 23(1)(b) abolishes all limits for transfers of administrative appropriations from one title (policy area) to another, provided that the expenditure in question is of the same nature. Contrary to the principles of the Commission reform, the proposal breaks the link between the activity-based budget and activity-based management, so reducing the reform to a simple change in the presentation of the budget. In fact, the proposal does not take into account the fact that when administrative appropriations are granted by the budgetary authority for the management of activities specific to individual policy areas (budget titles) they are related to specific objectives. The Court recommends the Council and the Parliament to consider in the context of ABB/ABM whether such a decision should remain one for the budgetary authority.

Principle of transparency

24. The proposed amendment of Article 29 extends the deadline for publication of the budget by one month compared with the current Regulation. The Court considers that any extension of the deadline for publishing the budget is contrary to the principle of transparency and may add to the difficulty of adequate management.

Establishment and structure of the budget

25. The proposed amendments (Article 46) aim to distinguish the information that is part of the budget from other accompanying information that is included in the preliminary draft budget and intended as supporting information for the budgetary authority. The Court takes a positive view of this distinction, which particularly affects the implementation schedules for payment appropriations. However, it is of the opinion that, taking into account the expected effect, this information should be provided for in Article 33 of the Financial Regulation.

⁽¹⁾ Paragraph 7.

⁽²⁾ OJ L 270, 21.10.2003.

⁽³⁾ Paragraph 54.

⁽⁴⁾ Opinion No 4/97, Annex, paragraph 2.18.

⁽⁵⁾ Paragraph 9.

26. The Court also considers that this part of the Financial Regulation could have been more radically simplified by:

- eliminating the possibility of negative reserves, which impede the clear and accurate presentation of precisely calculated budgetary appropriations and contravenes the principle of transparency,
- increasing the flexibility necessary for managing staff so as to enable the Institutions, within a budgetary allocation of staff costs, to choose the most appropriate mix of staff and to recruit those with the necessary skills for certain functions,
- revising the budgetary nomenclature to one where the smallest subdivision would be the chapter so as to allow greater management flexibility thereby avoiding the burden of transfers below that level.

Implementation of the budget

27. The proposed changes to Title IV of the Financial Regulation aim, in particular:

- to clarify and define more precisely the roles and responsibilities of the persons involved in the various methods of implementing the budget: shared, decentralised, joint, centralised and indirect management (Articles 52 to 57),
- to define clearly the responsibilities of the Authorising Officers and Accounting Officers in respect of accounting information (Articles 60 and 61),
- to align the rules on the financial responsibility of the financial actors more precisely with the rules laid down in the provisions concerning persons employed by the Communities (Article 66),
- to ensure better protection of the financial interests of the Community via the strengthening of the rules for the recovery of amounts receivable (Articles 72 and 73).

These clarifications and the increased precision are positive steps towards improving financial management. However, the Court considers them to be insufficient as regards the following aspects.

Methods of implementing the budget

28. Most of the description of roles and responsibilities of persons involved in the various methods of implementing the budget was already in the current Financial Regulation and the sectoral regulations and has now been consolidated in the Commission proposal. While the Court welcomes the Commission's initiative in trying to systematise this information, it considers that it would have been appropriate for the Commission to take this opportunity to make provision for an integrated Community internal control framework ⁽¹⁾ in the Financial Regulation.

Role of the Accounting Officer: reliability of the accounts

29. The Court welcomes the Commission proposal to clarify, the roles and responsibilities of the various financial actors in respect of the establishment of the accounts by providing for certificates to be delivered by the Authorising Officers by delegation and by the Accounting Officers as follows:

- the Authorising Officers by delegation shall report to their Institutions on the performance of their duties in the form of an annual activity report together with financial and management information and a declaration of assurance certifying that the information contained in the report presents a true and fair view ⁽²⁾,
- the Accounting Officers of the Institutions and by analogy of the Community bodies, shall prepare the accounts on the basis of information provided and certified by the Authorising Officers. The final accounts drawn up under Article 129 (2) and (3) shall be accompanied by a certificate established by the Accounting Officer, by which he declares that they were prepared in accordance with Title VII of the Financial Regulation and with the accounting principles, rules and methods set out in annex to the financial statements ⁽³⁾,
- the Commission's Accounting Officer shall furthermore prepare the final consolidated accounts on the basis of the information presented by the other Institutions. The final consolidated accounts shall be accompanied by a certificate established by the Commission's Accounting Officer, by which he/she declares that they were prepared in accordance with Title VII and with the accounting principles, rules and methods set out in annex to the financial statements ⁽⁴⁾.

⁽¹⁾ Opinion No 2/2004.

⁽²⁾ Commission proposal on Article 60(7).

⁽³⁾ Commission proposal on Article 61(2a).

⁽⁴⁾ Commission proposal on Article 129(2a).

30. According to Article 61(1)(e) of the current Financial Regulation, the Accounting Officers are responsible for validating the systems laid down by the Authorising Officers to supply or justify accounting information. In order for the Accounting Officers to be in a position to certify that the accounts present a true and fair view as provided by Article 123 of the current Financial Regulation, such validation should cover the effective functioning of systems over the period concerned and thus the reliability of the data produced and not only the introduction or modification of such systems as is the current practice. There is a risk that, in the case of the Institutions' accounts ⁽¹⁾, drawing up the accounts may become limited to simple mechanical compilation, the result of accounting procedures established for this purpose, or, in the case of the consolidated accounts, the process will be one of simple aggregation, instead of consolidation. The Court considers that Article 61(1)(e) of the Financial Regulation should clarify that the Accounting Officers are empowered to validate the effective functioning of such systems.

31. The Commission proposes (Article 185), that the role of the Commission's internal auditor services is henceforth limited to certifying that the agencies' internal audit function operates in accordance with international audit standards. Given the requirement to consolidate the Community bodies' accounts with those of the Institutions, this situation entails loss of the direct independent information currently available to the Commission in respect of the reliability of these agencies' accounts, despite their drawing administrative subsidies from the Commission budget and, in some cases, managing sizeable operational appropriations.

Responsibilities of the financial actors

32. The proposed amendment to Article 66 relegates to the Staff Regulations the requirement on liability for payment of compensation. The Court has already given the opinion ⁽²⁾ that the provisions and mechanisms laid down in the Staff Regulations do not deal adequately with the issue of the financial actors' liability for payment of compensation. In order to ensure that the rules are effectively applied without over-burdening Community management with procedural rules that aim to protect the financial actors responsible, the invoking of their liability for payment of compensation should be subject to the principle of proportionality. A distinction should therefore be made between: intentional/fraudulent behaviour, serious negligence, simple negligence and error. The circumstances governing the action of financial actors — such as the resources that are available to them to fulfil their obligations — should also be taken into account.

Interinstitutional cooperation

33. Without wishing to call into question the legislative stability required for the basic principles and rules of budgetary and financial management, the Court considers that more advantage could be taken of interinstitutional cooperation, in order to avoid

unnecessary bureaucracy, for the small Institutions in particular. Thus, a common irregularities panel covering several Institutions could be introduced.

Procurement

34. The amendments proposed in the area of procurement aim, amongst other things, to adapt the rules of the Financial Regulation to the provisions of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of the procedures for the award of public works contracts, public supply contracts and public service contracts ⁽³⁾ (the Directive). In the case of exclusion criteria, the adaptation also simplifies and relaxes the documentary requirements for tenderers (Article 93).

35. The amendments also aim to:

- dispense with the requirement for each Institution to keep its own database concerning tenderers excluded from participation in a procurement procedure (Article 95), by providing for the possibility of several Institutions sharing a common database,
- extend to other fields the simplified regime for appointing experts in the research area (Article 97),
- clarify the cases where procurement procedures may be suspended or the performance of contracts halted in the event of fraud (Article 103).

36. As the Court states in Opinion No 3/2005 ⁽⁴⁾, it takes a favourable view of the modernisation and simplification of public procurement procedures, but considers that this simplification should follow the terms of the Directive more strictly and exclude the possibility of awarding authorities making use of unjustified discretionary powers.

Cases of exclusion

37. The Directive differentiates between exclusion criteria on the basis of their severity and allows the least important criteria to be disregarded by the Member States. It specifies that rules are necessary on this point ⁽⁵⁾. The Court considers that the requirement in Article 93 for an analysis of risks to be carried out by the contracting authority is insufficient and recommends that further clarification be included in the Financial Regulation itself or in its implementing rules.

⁽³⁾ OJ L 134, 30.4.2004.

⁽⁴⁾ Opinion No 3/2005 on the draft Regulation (EC) of the Commission amending Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, paragraphs 7 to 14 (OJ C 124, 23.5.2005).

⁽⁵⁾ The end of Article 45(2), 'Member States shall specify, in accordance with their national law and having regard for Community law, the implementing conditions for this paragraph'.

⁽¹⁾ Annual Report 2003, paragraph 1.26 (OJ C 293, 30.11.2004).

⁽²⁾ Opinion No 4/97, Annex, paragraph 5.20; Opinion No 2/2001, paragraph 24.

The appointment of experts

38. The proposal aims to extend the simplified scheme for appointing experts in the research field to other areas by amending the provisions on procurement. However, the simplified scheme for research ⁽¹⁾ concerns the recruitment and appointment of experts. These procedures are closer to the rules on the recruitment of other Community employees than to those on public contracts. In actual fact, as the explanatory memorandum accompanying the draft regulation recognises, awarding a contract only on the basis of candidates' capabilities without any consideration for price (proposed amendments to Article 97(2) of the Financial Regulation) diverges from the principles of the Directive and the Financial Regulation itself as regards service contracts.

Interinstitutional cooperation

39. The creation of common databases of cases of exclusion to be shared between different Institutions (proposed amendment to Article 95 of the Financial Regulation) is an example of inter-institutional cooperation. It would be useful to envisage other possibilities of intensifying such cooperation covering the Institutions and Community bodies in order to avoid unnecessary repetition of administrative work. The possibility of utilising contracts concluded by other Institutions or bodies under certain conditions and/or quantitative limits that safeguard the principles of competition and equality of opportunity should be examined. For contracts covering a number of Institutions, the possibility of delegating some of the contracting authority's responsibilities (namely, the opening and evaluation of tenders) to another Institution or body could also be envisaged.

Grants

40. The amendments proposed to the articles under this title include:

- widening the concept of grants to include equity investments/participations which have an aid function but which usually constitute assets of the Institutions (Article 108),
- the possibility of significant exceptions to the non-profit principle (Article 109),
- the possibility of derogations from the principle of non-cumulation of aid financed by several budget headings when the basic acts so provide (Article 111),
- clarifications and explanations regarding actual practice,
- simplification with regard to management of aid (flat-rate amounts) (Article 113a), obligations of beneficiaries and management procedures (exclusion situations, evaluation of applications, application of the principles concerning procurement) (Articles 114, 116 and 120).

⁽¹⁾ Regulation (EC, Euratom) No 1605/2002, Article 160, and Regulation (EC) No 2321/2002, Article 11 (OJ L 355, 30.12.2002).

41. The Court welcomes the clarifications, explanations and simplifications proposed, but considers that some of the exceptions and derogations to the non-profit and non-cumulation principles and in the procurement context are not really justified, because:

- (a) they could entail additional risks and complicate management;
- (b) verification might be problematic in some cases;
- (c) simpler solutions could have been found.

The non-profit principle

42. The current implementing rules already provide some exceptions to the non-profit principle. These have been included in the proposed amendments to Articles 109 and 113a:

- scholarships paid to private individuals,
- prizes awarded in competitions,
- actions with the objective of reinforcing the financial capacity of beneficiaries,
- reimbursement of a specified proportion, flat rates and lump sums.

43. In a previous Opinion ⁽²⁾, the Court has already pointed out the difficulty of verifying compliance with the non-profit principle in cases where organisations obtain grants from multiple sources.

44. Moreover, the amendment to Article 109 proposes to apply the non-profit principle at the level of an action rather than at the level of each beneficiary individually. The Court considers that such a change will open up the possibility for abuse in the context of multipartner actions. As a consequence it will in future be permissible for grants towards multipartner actions to generate profits for some beneficiaries.

45. In addition, only part of the strict conditions imposed by the current implementing rules as regards certain exceptions has been included in the proposed amendments:

- a rule excluding the grant of surplus revenue to the members of beneficiary organisations, leading to their personal enrichment,
- a limitation, in the case of flat-rate amounts, to contributions lower than 5 000 euro,

as the Commission intends to provide more detail in the implementing rules.

⁽²⁾ Opinion No 2/2001, comments to Article 102(2) (OJ C 162, 5.6.2001).

Non-cumulation principle

46. The Commission justifies the possibility of a measure being awarded several grants of aid from the Community budget (Article 111) on grounds of the situation prevailing in the area of structural measures and trans-European networks. This exception is subject to a rule excluding double financing of the same costs.

47. However, recent audits by the Court on this subject identified the risk of aid exceeding 100 % of the costs funded and, in the area of research, non compliance with the applicable threshold for State aid ⁽¹⁾. The cumulation of aid may also, in fact, entail a duplication of administrative work, contrary to the objective of simplifying management, in particular where differences exist in the eligibility criteria.

48. The Court concludes that it would be preferable to continue to apply the principle of 'one measure — one Community aid':

- by providing that the rate of subsidy may cover aspects of several Community policies — provided that the rate does not exceed 100 % of the eligible costs incurred and/or the thresholds applicable under the State aid rules,
- by improving interdepartmental coordination of Community interventions.

Procurement contracts

49. Lastly, the Court considers that the proposed amendment to Article 120(1) is not justified. Where implementation of a measure makes it necessary for the beneficiary to award contracts, taking into account the Community funding, it is, in fact, normal to require compliance with the principles set out in Title V of the

Financial Regulation (namely, equal treatment for all tenderers, competition and transparency). On this basis the implementing rules should provide for simplified procedures depending on the size of the contract.

Conclusion

50. As the previous financial management reform is too recent to have been able to achieve all its objectives, there is no justification for the scale of the revision proposed by the Commission. The extent of the revision and the contents of some amendments risk complicating management unnecessarily.

51. This applies particularly in the case of the new exceptions to budgetary principles that have been introduced in response to difficulties experienced by some Commission departments and as a result of amendments to sectoral regulations. The Court considers that most of these needs could be resolved within the framework of the current Financial Regulation.

52. The steps taken to simplify financial management in the areas of procurement and grants and the effort made to protect the Communities' financial interests (proposed amendments concerning recoveries, suspension or implementation of contracts, sanctions) represent progress towards better financial management.

53. Nevertheless, the proposed revision does not provide the solution to certain management needs (flexibility in the management of employees, transactions involving the purchase/construction of buildings, clarification of the responsibilities of the financial actors). In other cases, the amendments proposed are not radical enough to resolve the problems to which they are trying to respond (methods of implementing the budget, role of the Accounting Officer). Furthermore, the Court considers that greater use should have been made of the possibilities of interinstitutional cooperation.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 7 December 2005.

For the Court of Auditors
Hubert WEBER
President

⁽¹⁾ Community framework for State aid for Research & Development (OJ C 83, 11.4.1986), revised in 1996 (OJ C 45, 17.2.1996) and 1998 (OJ C 48, 13.2.1998). Its applicability was extended to 30 June 2002 and 31 December 2005, by Commission Communications 2001/C 78/15 and 2002/C 111/03 respectively.