

THE COURT'S STATEMENT OF ASSURANCE PROVIDED TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

(2009/C 273/02)

- I. Pursuant to the provisions of Article 248 of the Treaty the Court has audited
- (a) the 'Annual Accounts of the European Communities' which comprise the 'Consolidated financial statements' ⁽¹⁾ and the 'Consolidated reports on implementation of the budget' ⁽²⁾ for the financial year ended 31 December 2008; and
 - (b) the legality and regularity of the transactions underlying those accounts.

Management's responsibility

II. In accordance with Articles 268 to 280 of the Treaty and the Financial Regulation, management ⁽³⁾ is responsible for the preparation and fair presentation of the 'Annual Accounts of the European Communities' and the legality and regularity of the transactions underlying them:

- (a) Management's responsibility in respect of the 'Annual Accounts of the European Communities' 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, on the basis of the accounting rules adopted by the Commission's accounting officer ⁽⁴⁾; and making accounting estimates that are reasonable in the circumstances. According to Article 129 of the Financial Regulation, the Commission approves the 'Annual Accounts of the European Communities' after the Commission's accounting officer has consolidated them on the basis of the information presented by the other institutions ⁽⁵⁾ and bodies ⁽⁶⁾ and established a note, accompanying the consolidated accounts, declaring, *inter alia*, that he has reasonable assurance that they present a true and fair view of the financial position of the European Communities in all material aspects.
- (b) The way in which management exercises its responsibility for legality and regularity of underlying transactions depends on the method of implementation of the budget. In the case of direct centralised management, implementation tasks are performed by the Commission's departments. Under shared management, implementation tasks are delegated to Member States, under decentralised management to third countries and under indirect centralised management to other bodies. In the case of joint management, implementation tasks are shared between the Commission and international organisations (Article 53 to 57 of the Financial Regulation). Implementation tasks have to comply with the principle of sound financial management, requiring designing, implementing and maintaining effective and efficient internal control including adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used. Regardless of the method of implementation applied, the Commission bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts of the European Communities (Article 274 of the Treaty).

⁽¹⁾ The 'Consolidated Financial Statements' comprise the balance sheet, the economic outturn account, the cash flow table, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes (including segment reporting).

⁽²⁾ The 'Consolidated Reports on Implementation of the Budget' comprise the consolidated reports on implementation of the budget and a summary of budgetary principles and other explanatory notes.

⁽³⁾ At the level of the European Institutions and bodies management includes the Members of the Institutions, Directors of the Agencies, Authorising Officers by delegation and sub-delegation, Accounting Officers and the leading staff of financial, audit or control units. At the level of Member and Beneficiary States, management includes Authorising Officers, Accounting Officers and the leading staff of paying authorities, certifying bodies and implementing agencies.

⁽⁴⁾ The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board. In accordance with the Financial Regulation, the 'Consolidated Financial Statements' for the 2008 financial year are prepared (as they have been since the 2005 financial year) on the basis of these accounting rules adopted by the Commission's accounting officer, which adapt accruals based accounting principles to the specific environment of the Communities, while the 'Consolidated Reports on Implementation of the Budget' continue to be primarily based on cash movements.

⁽⁵⁾ Before the adoption of the Annual Accounts by the institutions, the different accounting officers sign them off, thereby certifying that they have a reasonable assurance that the accounts present a true and fair view of the financial situation of the institution (Article 61 of the Financial Regulation).

⁽⁶⁾ The Annual Accounts are drawn up by the respective directors and sent to the Commission's accounting officer together with the opinion of the management board concerned. In addition, the respective accounting officers sign them off, thereby certifying that they have a reasonable assurance that the accounts present a true and fair view of the financial situation of the bodies (Article 61 of the Financial Regulation).

Auditor's responsibility

III. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions, in so far as these are applicable in the European Community context. These standards require that the Court plans and performs the audit to obtain reasonable assurance whether the 'Annual Accounts of the European Communities' are free from material misstatement and the transactions underlying them are legal and regular.

IV. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the consolidated accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Communities, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the preparation and fair presentation of the consolidated accounts, and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the consolidated accounts and the annual activity reports.

V. In the context of 'Revenue', the Court's audit of Value Added Tax (VAT)- and Gross National Income (GNI)-based own resources takes as its starting point the receipt by the Commission of the macroeconomic aggregates prepared by the Member States, and then assesses the Commission's systems for processing the data until they are included in the final accounts and the contributions by the Member States have been received. For traditional own resources, the Court examines the accounts of the customs authorities and analyses the flow of duties under custom surveillance until the amounts are recorded in the final accounts and received by the Commission.

VI. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for its statement of assurance.

Opinion on the reliability of the accounts

VII. In the Court's opinion, the 'Annual Accounts of the European Communities' present fairly, in all material respects, the financial position of the Communities as of 31 December 2008, and the results of their operations and cash flows for the year then ended, in accordance with the provisions of the Financial Regulation and the accounting rules adopted by the Commission's accounting officer.

VIII. Without calling into question the opinion expressed in paragraph VII, the Court notes that weaknesses in the accounting systems, which are partly due to the complex legal and financial framework, still put at risk the quality of financial information of certain Directorates-General of the Commission (in particular for pre-financing, the related cut-off and for invoices/cost claims) as well as for the fixed assets of the European Satellite Programme Galileo.

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

IX. In the Court's opinion, 'Revenue', commitments for all policy groups and payments underlying the accounts for the year ended 31 December 2008 for the policy groups 'Education and Citizenship' and 'Administrative and other expenditure' in all material respects are legal and regular.

X. In the Court's opinion,

- (a) payments underlying the accounts for the year ended 31 December 2008 for the policy group 'Agriculture and natural resources', except for Rural Development, in all material respects are legal and regular. For this policy group, the integrated administrative and control system (IACS) generally continues to be effective. Issues need to be addressed in certain areas, in particular for Rural Development, for limiting the risk of irregular expenditure; and
- (b) payments underlying the accounts for the year ended 31 December 2008 for the policy group 'Economic and financial affairs', except for the Sixth Framework Programme for research and technological development (FP6) expenditure in this policy group, in all material respects are legal and regular. For this policy group, the supervisory and control systems in the policy area 'Enterprise', mostly due to weaknesses concerning FP6, are partially effective in preventing or detecting and correcting errors.

XI. In the Court's opinion, payments underlying the accounts for the year ended 31 December 2008 for the policy groups 'Cohesion', 'Research, energy and transport' and 'External aid, development and enlargement' are materially affected by error, although to different levels. For the above policy groups, except 'Cohesion', supervisory and control systems are partially effective in preventing or detecting and correcting the reimbursement of overstated or ineligible costs. For the policy group 'Cohesion', Member States' systems for correcting errors found by national controls are, in most cases, at least partially effective.

XII. The Court reiterates that complicated or unclear legal requirements (such as eligibility rules) have a significant impact on legality and regularity of transactions underlying the expenditure in the policy groups of 'Agriculture and natural resources', in particular Rural Development, 'Cohesion', 'Research, energy and transport' and 'Economic and financial affairs', in particular for FP6 spending.

XIII. The Court notes further progress in the Commission's supervisory and control systems, in particular concerning the impact of the reservations on the assurance given in the declarations by the Directors-General; and a greater consistency of these declarations with the Court's findings. However, the Court notes that the Commission is not yet able to demonstrate that its actions to improve supervisory and control systems have been effective in mitigating the risk of error in the policy groups and activities mentioned in paragraphs X and XI.

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