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**REPORT FROM THE COMMISSION**

**Member States' replies to the Court of Auditors' 2000 Annual Report**

## TABLE OF CONTENTS

1.	Introduction.....	3
2.	General analysis .....	5
2.1.	The Member States agree, variations apart, with the Court's overall findings .....	5
2.2.	A limited number of reforms and no fundamental reappraisal .....	6
3.	Sector-by-sector analysis .....	8
3.1.	Own Resources.....	8
3.2.	Common agricultural policy .....	9
3.3.	Structural measures .....	12
3.4.	Other chapters .....	14
4.	Conclusion .....	16

## 1. INTRODUCTION

1. In accordance with Article 276(3) of the Treaty and Article 89(8) of the Financial Regulation, the purpose of the Commission's follow-up report is to set out the measures it has taken in response to the observations accompanying the decisions giving discharge and other observations by Parliament concerning the implementation of expenditure, and to the comments accompanying the recommendations on discharge adopted by the Council.

Since the 1996 Dublin European Council, and in line with its conclusions on sound and efficient financial management, the Commission has requested Member States to reply to the observations made by the Court of Auditors in its Annual Report and special reports and to provide information on any corrective measures they have adopted. These measures are complementary to those taken by the Commission.

2. The Court of Auditors presented its 2000 Annual Report to the European Parliament on 13 November 2001. On the same day it presented its report to the Council Budget Committee in accordance with an agreement reached at the meeting of the Group of Personal Representatives of Foreign Ministers (PRG) on 8 June 2001, where it was decided that if the Court's observations were submitted earlier the Member States would have more time to transmit their replies to the Annual Report. For that reason, on 13 November 2001 the Commission sent a letter to all Permanent Representatives asking them to provide these replies before the end of December 2001.
3. In an attempt to provide a coherent and harmonised framework for the national contributions, the Commission's request was accompanied by a questionnaire drawn up in close collaboration with the Court of Auditors. It consisted of general questions concerned mainly with the sectors covered by shared management, a list of specific references to each Member State in the Annual Report and a summary of Statement of Assurance (SOA) errors for each Member State. This general framework created by the Commission and the Court of Auditors served a dual purpose:
  - Firstly, it would allow the Member States to give their opinion on the main observations of the Court of Auditors, since, with the exception of the information provided as part of the audits (replies to sector letters), the Member States play very little part in the preparation of the Annual Report, even though they are one of the main managers of Community appropriations. The Member States were therefore invited to submit their replies to the points in the Annual Report which concerned them directly (specific references, SOA errors), but also to comment on the Court's more general observations on the sectors covered by shared management.
  - Secondly, the Member States would be able to use their replies to add to or comment on the Commission's answers to the Court's observations. In this way their replies would provide additional information about cases relating directly to management at national level. It is also an opportunity to support or, if appropriate, challenge the Court's recommendations.

4. This report is therefore based on the contributions from the Member States. It should be pointed out that despite the creation of the general framework these contributions are still fairly heterogeneous both in form and in substance. Nevertheless, a general analysis (II) highlights the salient points of the Member States' replies, and an analysis of these replies by financial perspective heading (III) shows that some areas of activity have particularly caught the attention of the Member States.

## **2. GENERAL ANALYSIS**

Although the Member States' contributions are mainly concerned with the parts of the Annual Report which concern them most directly, a general analysis reveals two broad characteristics. Firstly, the Member States' assessment of the Court of Auditor's observations and conclusions vary. Secondly, the corrective action proposed or adopted remains largely limited to a better implementation of existing management and control systems.

### **2.1. The Member States agree, variations apart, with the Court's overall findings**

There are two types of reply: on general questions or on the observations directed towards specific Member States:

- generally speaking, the Member States do not contest the Statement of Assurance, and the overall opinion of the Court of Auditors that substantial weaknesses still persist and that further efforts are needed, including at national level. Moreover, this acceptance of the Court's conclusions applies equally to the quantitative part of the Statement of Assurance (incidence of errors) and to the results of the systems audits. Although the principal systems examined by the Court (Integrated administrative and control system – IACS in the agricultural sector, Regulation No 2064/97 in the case of the Structural Funds) were regarded as satisfactory overall, the Member States recognise that implementation of this legal framework could be improved.
- Nevertheless, when the Court's observations are directly concerned with their management, many Member States challenge the findings or conclusions of the Court. This disagreement is particularly marked in the case of errors. Although not all errors gave rise to a reply, the contributions received reveal a large number of challenges. Altogether, 109 errors were notified to the Member States, which replied to 70% of cases. In their replies the Member States challenge a third of errors in the agricultural sector and a quarter in the case of structural measures, which represents a quarter of all errors relating to Member States detected by the Court. According to their replies, the Member States disagree on the facts or on the Court's interpretation of the regulatory framework. This disagreement with the observations of the Court is to some extent in contradiction with the overall acceptance of the Statement of Assurance and the criticism of the fact that the incidence of errors remains high. In addition, some Member States consider that the SOA methodology of the Court is doubtful in two respects. They believe implicitly that the Court does not take sufficient account of their replies or comments. This is due to the fact that there is no adversarial phase as the time available is very short. More importantly, some Member States feel that the Court draws general conclusions on the basis of a minor transaction which may be affected by mistakes which are themselves very minor.

## **2.2. A limited number of reforms and no fundamental reappraisal**

Given the proportion of the Community budget to which shared management applies, finding a solution to the problems detected by the Court of Auditors is largely a matter for action at national level. The Member States were therefore asked to describe the corrective action adopted or planned, whether they were one-off measures or more directed towards the implementation of management and control systems. The Member States also wanted to widen the scope of their comments by proposing reforms which they felt were necessary at Community level.

### *2.2.1. National reforms and corrective measures*

It should be remembered first of all that the disagreements between the Member States and the Court of Auditors mean that action has not been taken on all the problems raised.

Where the Member States accept the Court's criticism three main types of action have been taken:

- Upgrading of management and control systems where these were non-existent, incomplete or ineffective. Thus, in the agricultural sector the introduction of the IACS (Integrated administrative and control system) is continuing, with, for example, the establishment or improvement of the instruments needed for it to operate properly (databases such as the olive cultivation register in Greece, the stepping-up of on-the-spot checks in the Netherlands, and improvement of the herd register in Ireland, etc.). Similarly, several Member States which regularly have problems with the supplementary levy on milk adopted measures in response to the criticism of the Court of Auditors (Greece, Italy).
- Clarification measures to improve the application of existing procedures. Many Member States have provided manuals, legal interpretation and training time to ensure that Community regulations are uniformly and effectively applied. These measures are regularly accompanied by a clarification of responsibilities within national administrations and a review of internal procedures to improve their efficiency. Measures were adopted to this effect, for example, in relation to the checks to be carried out in connection with the Structural Funds (implementation of Regulation 2064/97 in France, Sweden and the Netherlands) or the application of anti-dumping duties (Portugal, United Kingdom, Sweden).
- In a few cases, the Member States conducted a more radical review of their domestic legislation. In response to repeated observations from the Court of Auditors, for example, national regulations leading to deductions affecting direct agricultural aid were repealed in Greece and Sweden.
- Among the measures planned or adopted by the Member States, one of the most interesting is a special initiative in the Netherlands which is examining a Bill to clarify and organise the chain of responsibility between the central Government and the bodies in charge of managing Community funds. This Bill is based on three essential provisions, namely the Government's general right to information about the funds administered, the power of the Government to give instructions to public bodies responsible for administering funds, and its power to adopt

corrective measures where the State may be held responsible for the management of these public bodies.

### *2.2.2. Specific reforms planned at Community level*

The Member States' replies suggest that the Community regulations are broadly satisfactory and provide a framework which is generally felt to be adequate. Nevertheless, some Member States would like to see a number of specific reforms undertaken, particularly where a review of the existing regulations is already planned. In the agriculture sector this is the case particularly of the common organisation of the markets in fruit and vegetables (France and Portugal) and sheep and goats (United Kingdom). In the case of staffing costs, several Member States expressed positions which they wanted to be taken into account, such as the recognition of merit in remuneration (France), reconsideration of the principle of lifelong employment (Sweden) or recruitment procedures (Germany). However, these calls generally come from a small number of Member States and there does not seem to be a majority in favour of any particular specific action.

Finally, several Member States have expressed a particular interest in the Commission's reform process, especially the recasting of the Financial Regulation. Although the Member States' contributions do not comment directly on the Commission proposal, it is expected to lead to a significant improvement in the situation and to the elimination of some of the weaknesses highlighted by the Court of Auditors.

### *2.2.3. Strengthening the Commission's coordinating role in the sectors to which shared management applies*

Most Member States feel that a substantial proportion of the problems and mistakes found in national management result from the complexity of the Community regulatory framework. This complexity, to which some Member States would add instability, is felt to increase the risk of misinterpretation and hence irregular practices. The majority of Member States therefore insist on the need for two further measures:

- Simplification and clarification of Community regulations to make the task of the managing bodies and the final recipients easier. From this point of view, the recent reform of the AICS regulations is considered, if not a good example, at least an important step in the right direction. It is significant that the texts which are most often criticised by the Member States are also those whose implementation is most often criticised by the Court of Auditors and which are central to the Member States' replies to the Annual Report (anti-dumping duties, AICS, standards and control methods laid down by Regulation 2064/97).
- In tandem with this call for simplification, many Member States expect the Commission's help in the form of interpretation, coordination, and information, for example as to best practice. Greater involvement by the Commission in shared management would ensure that the existing rules were applied in a more uniform and satisfactory manner.

### **3. SECTOR-BY-SECTOR ANALYSIS**

#### **3.1. Own Resources**

On the own resources front, there are two particular points in the annual report which concern the Member States - anti-dumping measures and the keeping of the separate account (B account).

##### *3.1.1. Anti-dumping duties*

The Court highlighted shortcomings in a number of Member States, particularly in relation to inspections, the retroactive collection of duties and inadequate follow-up to mutual assistance messages.

In general, the Member States have accepted the criticisms levelled by the Court and announced measures to rectify the main problems detected. Ireland, however, has pointed to an inspection by the Commission which concluded that its practices were satisfactory.

Over the last two years, France has decided to devote more of its customs operations to the monitoring of anti-dumping duties. The United Kingdom, Germany and Portugal have also decided to take steps to rectify problems detected by the Courts of Auditors, for example by reviewing internal procedures. This should serve to tighten up the management and recovery of anti-dumping duties (United Kingdom), to step up inspections, making greater use of risk analysis (Portugal) and to improve the handling of messages received under the mutual assistance arrangements (Germany, United Kingdom). At the same time, a training and information drive should help reduce the number of problems encountered. Meanwhile, Sweden has decided to clarify the breakdown of responsibilities for the retroactive collection of anti-dumping duties within its national and regional government departments.

Italy, however, feels that the inspections it carries out are effective.

The Netherlands points out that it has not received the guidance it requested on the application of anti-dumping duties in the event of successive sales.

##### *3.1.2. Separate account*

The Court's observations focus on two main aspects. It found shortcomings in the keeping of the separate account, while also criticising the way in which certain amounts are booked to the B account. On this point the Court warned that infringement proceedings could be opened against a number of Member States.

The attitudes of the Member States in question vary:

Some of them accept the criticisms and have taken or intend to take remedial action. For example, the United Kingdom reports on an improvement plan that should resolve the problems detected by 31 March 2002. The Netherlands is reviewing its accounting methods in order to determine how it fails to comply with the legislation and whether this has led to delays in making funds available to the Commission.



Denmark on the other hand feels that its accounting practices do not contravene Community legislation and puts forward an interpretation of the legislation, in particular Regulations 1552/89 and 1150/2000, which differs from that of the Commission and the Court of Auditors. Denmark disagrees with the Court's views, arguing that customs debts arising from transit operations should remain in the B account for as long as the amounts in question have not been recovered. It is a view shared by Austria and Germany, which are particularly concerned that Member States should not be required to transfer funds that they have not yet collected. Infringement proceedings are currently in motion against Germany regarding the keeping of the separate account, but the German authorities feel that their practice is in line with the regulations.

### *3.1.3. VAT*

Only two Member States have expressed views on VAT-related matters, namely Germany and Italy, which were cited in a Commission report in connection with problems in the collection of VAT. Italy did not refer to this specific point, but mentioned the difficulties in administrative cooperation arising from the complexity of existing legislation, which needed amending. Such amendments are, moreover, in the pipeline.

Germany, however, was keen to reiterate its position regarding the Commission's statements. In particular, it challenges the validity of the theoretical calculation of recoverable VAT underlying the Commission's analysis, as the indicator used creates a substantial discrepancy between the amount of theoretical VAT calculated and the amount which can in fact be collected.

## **3.2. Common agricultural policy**

### *3.2.1. Integrated Administration and Control System (IACS)*

All the Member States agree with the Court that the IACS is a good system that is vital to the sound management of agricultural expenditure in the areas it covers. However, several Member States feel that improvements are needed to make the system easier to implement at national level. Five of them (Denmark, France, Netherlands, Sweden and the United Kingdom) consider that further simplification measures should be taken to make the rules easier to interpret and hence to avoid some of the errors detected at national level. Two Member States (France and the Netherlands) suggest that the Commission should provide more assistance and be more closely involved in its coordinating capacity.

A number of Member States have reported on action taken to remedy the shortcomings detected by the Court, for example the Netherlands has stepped up on-the-spot inspections and made improvements to databases, while Austria has established a central server and improved its system for administering rural development expenditure.

### 3.2.2. Clearance of accounts

In the chapter on clearance of accounts, the Court of Auditors analyses the decisions taken by the Commission, but also reports on problems arising at national level. In a number of significant cases the Member States in question disagree with the Commission's views:

- The flax sector has come under particular scrutiny from both the Court of Auditors and the discharge authority. Besides cases of fraud, one of the points raised concerns the growing of flax in the United Kingdom. The authorities there do not agree with the Court's conclusions, particularly as regards the ineligibility of the flax variety grown on its territory. They believe they have fully complied with the rules on experimental varieties, including the tests required for inclusion in the common catalogue of plant varieties. Regarding the lack of outlets for this crop, the United Kingdom points out that restrictions on cultivated areas were introduced only by Regulation 1673/2000. Spain did not wish to make any direct comment on the Courts of Auditors' observations, stating simply that it was in the process of drafting replies to the Commission's proposal for a financial correction and to the report by OLAF.
- Paying agencies. The Courts found that some of these bodies had excessive levels of error, a view contested by some Member States. France, for example, argues that the Court has counted what were in fact warnings, i.e. the detection of irregularities leading to administrative investigations, as errors. The Court also found that some bodies were failing to recover debts. The United Kingdom reports that it has taken remedial action in this field, while Spain claims that the Court's criticism is unjustified, pointing to a positive audit conducted by the Commission.
- Inspections performed and audit trails. The Court found problems in inspections in the Member States and in the handling of these cases by the Commission, particularly as regards flat-rate corrections. While not replying to this specific point, Denmark disagreed with the Court's appraisal of its inspections on export refunds. However, Denmark also reported that the problems underlying the Court's observation had been rectified as a result of specific measures. Portugal acknowledges the Court's criticisms and has adopted the necessary measures, in particular to upgrade its inspections (sheep and goat register, creation of a unified control system for Community aid, establishment of a system for registering and identifying bovine animals, which was recognised as operational in March 2001). Greece has taken steps to change the means by which it pays direct aid (bank transfers) in order to provide a satisfactory audit trail.

### 3.2.3. Follow-up of previous observations

On the question of the common organisation of the market in sheepmeat and goatmeat, a number of Member States, such as France and the United Kingdom, have expressed satisfaction with the reforms launched by the Commission. Those Member States which have replied seem to agree with the change in the system for setting aid, which will now be on a flat-rate basis.

There appear to be mixed views on the common organisation of the market in fruit and vegetables. Some Member States (France, Portugal) agree with the Court's assessment that the system needs to be reformed once again. France wants to resolve the problems of competitiveness, while Portugal believes that producers' organisations should be given a bigger role. However, the Netherlands has merely taken note of the Court's observations and argues that the 1996 reform has achieved the objective of reducing expenditure on withdrawals. Finally, Spain disagrees with some of the Court's criticisms, particularly as regards inadequate controls and certain inconsistencies (contradiction between withdrawal aid and production aid).

In reply to the Special Report on potato and cereal starch, the Netherlands feels its inspection arrangements are adequate.

#### *3.2.4. Other agricultural matters*

Budgetary management falls mainly within the Commission's sphere of responsibility. Nevertheless, some Member States have taken the opportunity to express their views on the additional milk levy (reduction in advance payments). Portugal feels that the Court's observation relating to it should be seen in context, as it concerns only a very small proportion of localised production in the Azores, which, as it happens, does not give rise to the collection of additional milk levies. Greece stresses the progress it has made: 92% of the amounts due in 2000 were collected. Spain considers that it has no problems in this sector and recalls that it has brought an action before the Court of Justice concerning the amount of the financial corrections decided on by the Commission.

#### *3.2.5. Specific appraisal in the context of the Statement of Assurance - Errors*

The Member States are mentioned on a number of occasions in the specific observations in the context of the Statement of Assurance. In fact, the Court of Auditors summarises the finding of the audit it conducted on a sample of transactions.

In all, the Member States have replied to 53 of the 68 substantive errors found by the Court. Their replies fall into three different categories:

##### *3.2.5.1. In some cases the Member States challenge all or some of the Court of Auditors' conclusions.*

Of the 53 replies received, 18 challenge all or some of the Court's observations. In these 18 cases, the Member States contradict the Court's findings or its interpretation of the relevant legislation:

- The Member States call into question the accuracy of the facts. Regarding the overstatement of agricultural areas, for example (6 cases), some Member States feel that the Court of Auditors failed to take all the relevant parameters into consideration or itself committed errors (taking account of hedges, changes in land use), or they express their reservations on the grounds that they still have to verify the auditors' conclusions. In other cases they challenge the Court's findings outright. For example, France considers that it did impose appropriate penalties for a delay in the supply of food aid to Russia, while Portugal claims that it did carry out the requisite number of inspections in the olive oil sector.

- The Member States feel they have complied with Community legislation. Some Member States adopt a different interpretation of Community legislation from that of the Court and therefore feel that certain transactions are not tainted by errors. Examples include the cases relating to aid for dried fodder and bananas in France and the deduction for land surveys in Sweden.

3.2.5.2. In most cases the criticisms have been accepted and remedial action taken:

- In most of the other cases (35 cases), the Member States are taking the requisite remedial measures, whether it be reforming management procedures (interministerial French circular on aid for the public storage of milk), establishing the necessary management and control instruments (olive oil and land registers in Greece - 5 cases), financial measures (recovery, rejection of aid applications), or amendments to legislation (abolition of deductions on direct agricultural aid in Greece - 14 cases).
- However, in some cases, the Member States (France, United Kingdom) stress that, although the Court's findings are justified, they require no remedial action, for example in the case of overstatements that are so minor as to come within the tolerance limit or errors that have no real financial impact.

3.2.5.3. Questioning of the Court of Auditors' methods

Some Member States feel that the Court's findings need to be qualified, particularly as regards the overstatement of agricultural areas.

France, Sweden and Denmark argue that the measuring method used by the Court is different from that used to calculate aid. All three Member States stress that inspections should concentrate on farms rather than on individual plots of land (several errors affecting plots on one farm may well even each other out). For example, Sweden reports that, where inspections were carried out over an area of 155 000 hectares, a difference of only 0.8% was found compared with the declared surface areas. Extending this logic further, Sweden argues that it is difficult to draw general conclusions by extrapolation, particularly as regards the losses incurred or the extent to which overstatements are widespread. It also notes that the audits carried out were extremely limited in scope and in number (a few dozen plots at European level).

### **3.3. Structural measures**

Three main topics crop up in the Member States' replies to the Court's annual report.

#### *3.3.1. Implementation of controls - Regulation 2064/97*

The Court made a number of criticisms regarding the implementation of Regulation 2064/97 on the financial control by Member States of operations co-financed by the Structural Funds, in particular in its specific appraisal in the context of the Statement of Assurance and in Special Report No 10/2001.

In their replies, all the Member States stressed the very positive nature of this Regulation, which is designed to ensure that structural appropriations are used properly.

#### 3.3.1.1. Inspection target of 5% of expenditure

Most Member States consider that the 5% target for checks has been or will be met by the deadline in June 2002. Some of them, such as the United Kingdom, stress that they have gone even further than the statutory requirements. Others, such as Greece, criticised by the Court for failing to begin the required inspections in the spring of 2001, have promised that the inspections would be completed by the prescribed deadlines. Ireland has acknowledged the Court's criticism that its inspections did not cover payments to final beneficiaries. It has called in an independent auditor to carry out the missing inspections and, looking to the future, it has amended the instructions issued to the relevant departments.

#### 3.3.1.2. Quality of inspections and methods used

The Court noted problems with the interpretation of the Regulation with regard to the methods to be used (size and composition of the sample, risk analysis, inadequate documentation, etc.). Some Member States (Greece, Netherlands, United Kingdom, Sweden) admit that they have experienced difficulties as a result of the complexity of the Regulation, a certain lack of precision and also its retroactive nature. However, these Member States now consider that they are in a position to conduct the appropriate inspections or even to go beyond what is required by the Regulation (United Kingdom). Efforts have been made to clarify interpretation and supply information, in particular in the United Kingdom, France (circulars in 1998 and 2001), Spain, the Netherlands and Sweden.

In any event, many Member States have highlighted the need for closer Commission involvement, arguing that the Commission should provide them with assistance in the form of guidelines or interpretative notes to ensure that the rules are applied in a satisfactory and uniform manner (Germany, Greece, France, Netherlands, United Kingdom, Sweden).

#### 3.3.2. *Beginning of the 2000-2006 programming period*

The Court of Auditors felt that the introduction of a new legislative framework had not led to as much progress as expected, particularly as regards reductions in the time required to adopt programmes. In reply to this criticism, most Member States reported on how long it had taken to adopt programmes falling under their responsibility. Where they mentioned the reform itself, they expressed mixed views on the rules applicable to the 2000-2006 programming period.

##### 3.3.2.1. Evaluation of the new legislative framework

Some Member States feel that the new legislative framework has improved matters by taking on board the experience acquired in the 1994-1999 period. For example, the United Kingdom finds the rules simpler and clearer and considers the reduction in programmes of Community interest a step in the right direction. Portugal feels that the provisions on inspections have been improved. However, other Member States, including Austria and Denmark, are more reserved and share the Court's view that not all of the expected improvements have materialised, partly because of the persistent complexity of the legislation and the long discussions with the Commission prior to adoption of the programmes.

### 3.3.2.2. Compliance with the five-month deadline for adopting programmes

A number of Member States admit that they failed to meet the prescribed deadline (Denmark, Netherlands, United Kingdom), having sometimes exceeded it by several months.

However, these countries have pointed to two reasons for the delays that are not their responsibility. The Member States most critical of the new legislative framework claim that some of the delays that occurred were caused by the complexity of the rules. Another reason cited is the length of the discussions with the Commission required to finalise programmes.

Some Member States, such as the United Kingdom and Spain, have taken pains to explain the under-utilisation of appropriations in 2000, stressing for example that the adoption and implementation of programmes took longer than expected. However, the United Kingdom feels that this situation will be rectified and will not disrupt the entire 2000-2006 programming period, whereas Spain considers that the late payments for programmes adopted in 2000 pose a real financial problem.

### 3.3.3. *Specific appraisal in the context of the Statement of Assurance*

The Court's audit focused on both systems (implementation of Regulation 2064/97, see above) and transactions.

The Member States have replied to 24 of the 41 errors notified to them. Many of these errors concern the ineligibility of expenditure and breaks in the audit trail or inadequate documentation. In more than a quarter of cases, the Member States contest all or some of the Court's conclusions, refusing to acknowledge the errors in question either because they reject the accuracy of the facts or they do not share the Court's interpretation of the applicable rules.

However, in most cases the Member States have - after verification - accepted the Court of Auditors' conclusions and taken appropriate action. These cases fall into two categories: corrections or recoveries where payments have been made in error; and the reform of management systems that caused the problem, particularly where the error detected was a direct consequence of flaws in that system's operation.

## 3.4. **Other chapters**

### 3.4.1. *Administrative expenditure*

Some Member States have raised the question of personnel expenditure for different reasons:

- Reminder of specific budgetary concerns: France reiterates its position regarding the staff of the decentralised bodies (definition of a minimum management framework) and the European Schools (justified in some cases).
- Representation within the institutions: Germany believes that its nationals are under-represented in the Community civil service because recruitment procedures do not match the expectations of Germans (open competitions, timetable for recruitment). Germany regrets that the Commission has not taken this factor into account in its proposed reform and would like to see a quota system established.

- Community public service: Sweden wants the automatic increase in salaries as well as the job for life for officials abolished.

#### *3.4.2. Internal policies*

Expenditure under these policies falls under the exclusive responsibility of the Commission and is therefore the subject of very few observations. Nevertheless, the United Kingdom was keen to lend its support to the Court of Auditors' recommendations on research policy, in particular as regards the harmonisation of administrative and financial procedures and the tightening of controls. However, it regrets that the Commission's reply, stating that measures are planned as part of the future framework programme, fails to set precise objectives or deadlines for implementing the planned reforms.

#### *3.4.3. External action*

The United Kingdom expressed interest in this chapter, picking up on the Court of Auditors' criticisms, while acknowledging that the Commission's efforts (elimination of commitments outstanding, recasting of the Financial Regulation) should help improve the situation. The United Kingdom also took the opportunity to ask the Court to extend the scope of its investigations, which, in 2000, were restricted to the TACIS programme. For its part, France encourages the Commission to continue the process of decentralising its resources.

#### 4. CONCLUSION

1. First of all, the Commission would stress the improvement in the quality of replies from Member States, which have demonstrated their concern to use the Court of Auditors' annual report as a tool for improving financial management, and also their determination to take full account of the observations and recommendations addressed to them.

The Commission believes that this trend towards greater involvement of the Member States is a necessary one. Although the ultimate responsibility for executing the Community budget rests with the Commission, those in charge of implementing the common policies also bear a management responsibility. This point has been given increasing prominence by the Court of Auditors, which in its annual report tends to distinguish more clearly between the roles of the individual players.

As the Court's observations become more individualised, it is natural that they should elicit a precise response from the organisations directly responsible. In scrutinising the use of Community funds, it is necessary to pinpoint precisely where the problems lie in order to envisage possible solutions.

The recasting of the Financial Regulation plays a vital role here. The aim is to provide a clear and consistent legislative framework for involving the Member States in the replies to the Court of Auditors' annual report. By focusing more sharply on the different facets of the management of the Community budget, the annual report and the replies to it will become more effective diagnostic tools as part of the budgetary control exercised by the discharge authority.

2. It is precisely in order to make maximum use of the Member States' replies that the Commission wishes to launch a discussion based on the national contributions it has received. Although the replies often vary, a number of salient points can be detected:
  - The replies to the annual report from both the Member States and the Commission reveal major disagreements between the auditor and the auditees, as evidenced by the diverging views on many of the errors and the fact that the Commission too does not share all of the Court's views and feels that some errors should not have been included. This state of affairs is unsatisfactory, as it may obscure the analysis and evaluation of the management of Community appropriations. The Commission would therefore like to see some thought given to defining a more common approach, particularly on what constitutes an error, in particular by laying down principles which prevent any subsequent disagreement. This could be done in whatever forum the institutions concerned consider the most appropriate and should involve the Member States and the Court of Auditors.

In any event, this agreement on errors should form part of the wider debate on the methodology for the Statement of Assurance, following on from the discharge procedure for 2000.



- Some Member States have sent the Commission specific recommendations on certain common policies. These suggestions will be examined to determine whether they can be incorporated into the proposed reforms which the Commission wishes to undertake. This is the case for example in research policy or the reform of the common organisation of the markets in fruit and vegetables and sheepmeat and goatmeat. In the last two cases, Member States can present their proposals to the management committees.
- The Commission has also taken note of the desire expressed by a number of Member States to tighten up the machinery for ensuring satisfactory implementation of Community legislation. In shared management areas, the Commission believes that discussions and consultations should be launched on how to strengthen powers to conduct inspections and impose penalties, which in the medium term could lead to practical proposals based on existing mechanisms, where appropriate.
- Finally, a number of Member States have pointed out that some of the flaws in the implementation of legislation in the Member States may result from the complexity of the European legal framework. To some extent the Commission shares this view and is endeavouring to resolve the question of complexity. It has already launched major initiatives in this field. The Commission already set up a simplification committee composed of Member States' representatives at the end of 2000 and had even earlier carried out studies for which it invited the Member States to present their simplification proposals. These activities will be further encouraged and expanded and have already produced results such as the reform of legislation on the IACS and simplification of procedures for small amounts. Moreover, commitments have already been made to provide a framework for a legislative activity and specifically to take on board the concern for simplicity<sup>1</sup> - a factor which the Commission takes into account in exercising its regulatory powers.

The Commission therefore feels that this very broad objective of simplification should be discussed in greater detail to determine whether the Member States are calling into question particular common policies or whether their suggestions are aimed more generally at the exercise of legislative power by the Community. The Commission will consult the Member States on this broad question of the simplification of legislation in order to obtain a more precise idea of their expectations. The fact is that this matter extends far beyond the framework of the replies to the Court of Auditors' annual report and, before any initiative is taken, the Member States' positions and expectations must be clarified. On the basis of

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<sup>1</sup> Since the Edinburgh European Council in 1992, the need to legislate better, i.e. to have clearer and simpler texts that correspond to best legislative practice, has been recognised at the highest political level. The Council and the Commission have taken a number of measures to meet this need, which was confirmed once again by Declaration No 39 on the quality of the drafting of Community legislation, attached to the Final Act of the Treaty of Amsterdam. Following this Declaration, the three institutions involved in the procedure for adopting Community instruments, Parliament, the Council and the Commission, laid down common guidelines designed to improve the quality of the drafting of Community legislation in the Interinstitutional Agreement of 22 December 1998.

their contributions, an initial analysis could be conducted, if appropriate within the same forum set up to address the question of errors.

- According to some Member States, this supposed complexity causes divergences in the interpretation and implementation of Community legislation and is hence the source of many of the Court of Auditors' observations. This being so, the same Member States feel that the Commission should step up its coordination, scrutiny and assistance to the Member States.

The Commission already makes a major effort to clarify interpretation and provide assistance, in particular through the management committees, whose role is precisely to support the implementation of the common policies. The Commission is of course willing to provide any assistance which the Member States may require to ensure the proper and efficient application of legislation. However, this can be done only within the existing framework for each of the common policies, through direct relations between the national authorities and the relevant Commission departments.

The Commission sees a number of problems in a more general approach of stepping up its involvement in monitoring the proper implementation of European legislation by national authorities. First, each sector has its own specific features, which do not necessarily lend themselves to an approach based on very broad principles. Second, there are major drawbacks in adopting a general approach, for example the question of compliance with the principle of subsidiarity and the danger of introducing yet more complexity. Finally, the Commission would point out that its resources allow it to carry out only isolated measures in response to specific requests from the Member States.