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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL AND THE COURT OF AUDITORS**

Synthesis of the Commission's management achievements in 2008

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1. INTRODUCTION

In line with Article 274 of the EC Treaty, the Commission takes overall responsibility for implementing the EU budget. This is one of the most important tasks entrusted to the European Commission, as the EU budget is an important tool for delivering the Union's policies, and the effectiveness of EU spending can have a key influence on the EU's ability to fulfil the expectations of its citizens.

The operational implementation of the budget is delegated by the College to the Directors-General, who, as "authorizing officers by delegation" (AOD), are responsible for the sound and efficient management of resources and for ensuring adequate and effective control systems in their services.

Directors-General report on the performance of their duties in the **annual activity report (AAR)**¹, which includes a signed declaration of assurance focusing on their responsibilities as AODs and covering the legality and regularity of financial transactions. This is the **main vehicle through which they document their accountability to the College**. The content of these reports is discussed with the Commissioner(s) responsible before signature by the Director-General.

By adopting this Synthesis Report, the Commission assumes its political responsibility for management by its Directors-General and Heads of Service, on the basis of the assurances and reservations made by them in their annual activity reports. It also identifies key management issues to be addressed as a matter of priority, which have been identified in the AARs (even if they have not required a reservation), and defines lines of action to address identified weaknesses.

This is the last Synthesis Report adopted during the mandate of this Commission. The aim of obtaining an unqualified statement of assurance by the European Court of Auditors (ECA) has mobilized energies and focused attention on fundamental issues such as simplifying legislation, implementing an integrated internal control framework, strengthening the Commission's supervisory role in shared management of EU funds, and working towards an agreement on a common approach to tolerable risk.

The Commission is satisfied that, although there is still room for improvement, in the last five years significant progress has been achieved in the management of funds in important areas of EU expenditure, in particular cohesion, research, and agriculture. This progress has been possible thanks to far-reaching changes to management and control systems, working methods, and culture.

¹ Article 60 of the Financial regulation

2. STRENGTHENING THE FOUNDATION OF ASSURANCE

2.1. Enhancing control mechanisms to ensure legality and regularity of transactions Commission-wide

In 2008, the Commission delivered on the commitments undertaken in the 2007 Synthesis Report as regards measures to strengthen control mechanisms to ensure legality and regularity. It considers that steady improvements are being made in effective risk management. In October 2007 the Commission adopted a Communication revising the Internal Control Standards and underlying framework², replacing the original 24 for 16 **internal control standards for effective management**. The new system entered into force on 1 January 2008. For the first time, Commission services were explicitly required to draw a conclusion on the effectiveness of their internal control systems in the annual activity reports. Almost all services included a **specific conclusion on the overall effectiveness** of their internal control system and where relevant identified actions to address weaknesses.

These actions concern both Commission services and implementing partners (notably the Member States) and a strong impetus was given in this area in February 2008 with the adoption of the "**Action Plan to strengthen the Commission's supervisory role under shared management of structural actions**"³. The most recent report on this plan's implementation was published in early 2009⁴. Its main conclusion was that substantial progress has been made. Highlights of the report indicate that the Commission has:

- adequately supervised the procedure concerning annual summaries by issuing clear guidance and by dealing with cases of non-compliance (an assessment also made by the ECA in its annual report);
- demonstrated a more rigorous response to the detection of systems deficiencies by the adoption of 10 formal decisions to suspend interim payments (as compared to 1 in 2007);
- demonstrated its capacity to report accurately and in a timely way on the corrections resulting from its own control and audit activity through the transmission of quarterly reports on financial corrections;
- significantly increased the volume of financial corrections relating to 2000-2006 programmes and projects applied in 2008 for ERDF, ESF and Cohesion Fund – from 288 million EUR in 2007 to over 1,5 billion in 2008;
- carried out the planned actions to make first-level management checks more effective, including targeted audits, issuance of guidance notes, training and seminars.

² Communication to the Commission: SEC(2007) 1341.

³ COM(2008) 97, 18.2.2008.

⁴ COM(2009) 42, 3.2.2009.

In 2008, the Commission also conducted an analysis of the **impact of the "Action Plan towards an Integrated Internal Control Framework"**⁵, adopted in early 2006 as part of the Commission's strategy to obtain an unqualified DAS. The final report was published in February 2009⁶. The Communication noted significant progress in strengthening internal control systems during this Commission's mandate.

An essential element in building reasonable assurance is the **role of the internal audit function**. In 2008, an external quality assessment of the Commission's Internal Audit Service (IAS) was completed, certifying that its audit activity within the Commission generally complies with the Standards and Code of Ethics of the Institute of Internal Auditors. Following this certification, actions were taken to enhance the IAS's effectiveness, among which a more detailed definition of the audit universe, a quantitative assessment of the audit coverage, and intensified planning and risk assessment in favour of a single audit approach and establishment of an audit report users' group that developed a revised internal audit reporting template, as well as a fully fledged vocational training programme for internal auditors.

As regards the control culture, in 2008, the Commission's **Audit Progress Committee (APC)** was able to ascertain that Commission services continue to make good progress in implementing strong systems of internal control. The number of critical recommendations issued by the IAS went down to zero in 2008 (from 6 in 2007). Also, the acceptance of IAS recommendations in 2008 was almost 100%. Although a positive trend in their follow-up was evident, timely implementation of "critical" and "very important" recommendations is still an important challenge.

The APC regularly examined the follow-up given to audit recommendations and drew the attention of the responsible Commissioners and, where necessary, of the College, to abnormal delays and residual risks not adequately addressed.

The Commission will continue to give the highest priority to evaluating the implementation of internal control and addressing identified weaknesses in a timely manner.

The Commission has instructed all its services to ensure the speedy and effective implementation of all accepted audit recommendations, with special attention on those considered "Critical" or "Very Important".

2.2. Improving the clarity and coherence of the Annual Activity Reports (AAR)

Following up on the conclusions of the 2007 Synthesis Report, for the 2008 Annual Activity Reports (AAR) the Secretariat-General and the Directorate-General for Budget took further steps to ensure that reports and declarations presented a consistent assessment of supervisory and control systems, with clear explanations made of the reasons and control processes leading to the absence, presence or removal of reservations.

⁵ COM(2006) 9 and SEC(2006) 49

⁶ COM(2009) 43, 4.2.2009.

In early 2009, in preparation for the formal peer-review exercise, central services held bilateral meetings with Directorates-General that had reservations in the past and/or might have reservations in 2008, in order to promote harmonised approaches in presenting the evidence underlying the decision to lift or make a reservation.

During the peer-review exercise a number of issues were identified which might affect the quality of the evidence offered by AARs, in particular the presentation of results of ex-ante and ex-post controls as a basis for the assurance.

Although the efforts made so far to ensure a consistent level of quality of AARs are bearing fruit, it seems pertinent to carry out an analysis of all the factors which condition the quality of AARs, in order to better target the support that central services can offer, as well as the measures that should be taken by the individual Directorates-General and Services.

The Commission has instructed the Secretariat-General and the Directorate-General for Budget to carry out an assessment of the factors affecting the quality of AARs and to promote measures to improve their quality in time for the report on 2009 activities.

3. ASSURANCE GATHERED THROUGH THE ANNUAL ACTIVITY REPORTS AND RESERVATIONS MADE BY THE DIRECTORS-GENERAL

Having examined the Annual Activity Reports, in particular the declarations signed by each Director-General, the Commission notes that **they all indicated reasonable assurance** as to the adequate use of resources and on the fact that the implemented control procedures give the necessary guarantees concerning the legality and regularity of the underlying transactions. Some Directors-General disclosed residual weaknesses and made reservations in their AAR, **without calling into question the overall level of assurance given.**

At the close of the reporting exercise, there were 15 reservations made Commission-wide. This is a reduction with respect to the same period last year and would seem to confirm the steady downward trend in the number of reservations entered (17 for AAR 2007, 20 for AAR 2006). The scope of the reservations in shared management also showed some reduction (fewer programmes and Member States covered).

In total, 12 Directors-General expressed reservations in 2008 (13 in 2007) with three having two reservations each. Four reservations made in 2007 could be lifted. As was the case in 2007, the majority of the reservations entered in 2008 concerned either the quality of Member States' control systems or errors detected at beneficiary level. Seven reservations were based on issues having an impact on the reputation of the service or the Commission.

The results of the analysis of the AARs, as well as the reservations and the assurance obtained by the Directors-General, are examined in this section and, where relevant, put in perspective against the assessment of the European Court of Auditors for 2007⁷.

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This Synthesis Report follows the new structure of the 2007 annual report of the ECA..

3.1. Cohesion, agriculture and natural resources

3.1.1. Cohesion

Cohesion policy represents one of the core policies of the EU, implemented with the Member States under 'shared management'. In 2008, the Commission has delivered on its commitment to carry out ongoing and new actions in the "**Communication on an action plan to strengthen the Commission's supervisory role under shared management of structural actions**" (see section 2.1 above).

Furthermore, as a result of the actions taken by the Commission over the last years, the ECA considered in its annual report 2007 that some **improvements** had been achieved in the control systems of the cohesion policy area. Whereas in its report for 2006 the Court gave a "red light" to both systems and transactions for expenditure in structural actions, in 2007 it gave a "yellow light" to the control systems⁸.

Nevertheless, the level of **errors** in expenditure declared by the Member States and reimbursed by the Commission in the programmes covered in the chapter "Cohesion" led to the Court's giving this area a "red light" for transactions - the only remaining "red light" in its 2007 report.

The corrective measures taken by the Commission in 2008 have led to an increase in **financial corrections**:

- As regards the European Regional Development Fund (ERDF) and Cohesion Fund, financial corrections in 2008 amounted to € 1 041 million (€ 368 million related to the 1994-1999 period and € 673 million related to the 2000-2006 period). At the end of 2008, 103 procedures (covering approximately 145 programmes) were in progress for the 2000-2006 programming period, for which the estimated amount of financial corrections is approximately € 950 million, and 55 procedures (covering approximately 58 programmes) were in progress for the 1994-1999 programming period, for which the estimated amount of financial corrections is approximately € 1.2 billion.
- In 2008, financial corrections for the European Social Fund (ESF) amounted to €521.7 million (€ 25.7 million related to the 1994-1999 period and € 496 million related to the 2000-2006 period). Moreover, at the end of 2008, a further 14 financial correction procedures are in the pipeline for the period 1994-1999 (estimated amount of supplementary correction of € 387 million) and 13 additional procedures have been launched for the period 2000-2006 (estimated amount of supplementary correction of €257 million based on pre-suspension letters sent to Member States by the end of 2008). As a consequence of the precautionary approach in 2008, interrupted payments amounted to EUR 1.3

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A "green light" means that the error rate for the area of expenditure as a whole lies below the level of materiality (2%) and that the ECA considers existing supervisory and control systems to be effective; a "yellow light" means that the error rate lies between 2% and 5% and supervisory and control systems are deemed partially effective; a "red light" means that the error rate lies above 5% and the Court considers supervisory and control systems ineffective. Source: "Information Note: Annual Report on the 2007 EU Budget", ECA, page 6.

billion for all operational programmes in reserve. The interruption of some payments has led to a very low materiality of the risk.

When significant deficiencies are identified, the Directors-General in charge of the structural funds systematically make a reservation, unless there is reliable audit evidence that an action plan to remedy the weaknesses is being implemented effectively by the national authorities and first results have been produced.

In its Report on the implementation of the Action Plan, the Commission has recognised that the Action Plan addresses both the causes and effects of the high rate of error found by the European Court of Auditors in structural actions expenditure but that further time is needed before the impact of the actions can be measured by a reduction of the error rate at the level of interim reimbursements.

The following is a brief summary of the reservations made by Directors-General in the area 'Cohesion':

- Concerning the **European Regional Development Fund (ERDF)**, the Director-General for **Regional Policy** entered a reservation for four Member States (Belgium, Germany, Italy, and Spain) and for 21 INTERREG programmes. He also expressed a reservation on the management of the Cohesion Fund in the road sector in Bulgaria, for reputational reasons (see section 4.2 below).
- As regards the **European Social Fund (ESF)**, the Director-General for **Employment, Social Affairs and Equal Opportunities** issued a reservation for seven Member States (Spain, the United Kingdom, France, Italy, Poland, Belgium and Luxemburg), one less than in 2007.

3.1.2. *Agriculture and natural resources*

As to the chapter 'Agriculture and Natural Resources', the ECA report 2007 gave a 'yellow light' to both systems and transactions. However, the Court gave a "green light" for the expenditure under European Agricultural Guarantee Fund (EAGF), which represents 85% of total agricultural expenditure⁹.

Here, as in the cohesion area, the Commission's enhanced control activities have led to concrete results: in 2008, corrections by the Commission and Member States in the area of agriculture amounted to EUR 1.3 billion.

The Commission has followed up on the issue of the conservation of fisheries resources, which was singled out as a point of concern in the Synthesis Report 2007. It secured i.a. the adoption by the Council of innovative and tough new rules to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing and of new conservation measures, and launched an unprecedented and successful control campaign to protect the sensitive blue-fin tuna stocks.

⁹ The Court also gave a green light to revenue, economic and financial affairs and administrative expenditure. This means that for around 45% of total Community expenditure the Court gave a green light.

Given the serious shortcomings of the CFP as highlighted by the Court of Auditors in 2007, the Commission launched a full review of the policy in order to prepare the ground for a far-reaching reform. A Green Paper was published in the spring of 2009, launching the public consultation on the CFP reform.

The following is a brief summary of the reservations made by Directors-General in the area 'Agriculture and Natural Resources':

- For the first time since a reservation was made in 2002, the Director-General for **Agriculture and Rural Development** was able to lift his reservation relating to the implementation of IACS in Greece as Commission audits confirmed that Greece had complied with its action plan and created a new, operational Land Parcel Identification System. In his 2007 annual activity report he made a reservation on expenditure in Rural Development as a whole because he had no reasonable assurance that the control statistics and error rates reported by the Member States were reliable. For 2008 he entered a reservation limited to the expenditure in axis 2 of rural development ('improving the environment and the countryside'), because the control statistics reported by Member States and verified and validated by the certification bodies show an error rate (3.8%) significantly above the materiality threshold currently used by the ECA. He also entered a reservation in relation with management and control systems for SAPARD in Bulgaria and Romania (see 4.2 below).
- The Director-General for **Maritime Affairs and Fisheries** entered a reservation concerning the eligibility of costs in direct centralised management reimbursed to Member States for expenditure in the field of control and enforcement of the Common Fisheries Policy. The identified weakness relates to public procurement carried out by a Member State.
- The Director-General for **Environment** was able to lift the reservation entered in the 2007 AAR relating to eligibility of expenditure claims from grant beneficiaries, in light of the implementation of the action plan, the increase in the number of audit reports and payments audited, and the sharp decrease in errors detected.

The Commission is committed to continued improvement of shared management under its control, and to supporting the competent authorities in the Member States by providing i.a. guidance notes, training and advice.

The Commission has shown its strong political commitment to reducing the residual error rate and, where necessary, suspending payments and making financial corrections, to show that the EU budget is being managed rigorously. It will strive for a coherent approach to managing weaknesses encountered in the different programmes falling under this heading, including closing older ones and improving the completeness and reliability of the reporting on recoveries, in particular as regards the data provided by the Member States.

3.2. Research, Energy, and Transport

For the **Framework Programme 6 (FP6)**, which accounts for the vast majority of final payments against cost claims in 2008, the Directorates-General involved

(Enterprise and Industry, Energy and Transport, Information Society and Media, and Research) have defined a common audit strategy covering the period 2007-2010. This aims to assess the legality and regularity of transactions through the identification and correction of systematic errors in the largest beneficiaries coupled with random and risk-based sampling of the remaining beneficiaries.

By the end of 2008, the management processes required to implement the multiannual-control strategy are largely in place. The strength of the audit effort has been maintained in line with the initial targets foreseen. For example, DG Research is poised to exceed its target to complete 750 FP6 audits over the four-year implementation period; current plans foresee a total of 896 audits.

Reservations were made by each of the four **Research family** services due to the rate of residual errors affecting **cost claims in the 6th Framework Programme**. The joint audit strategy is part of the internal control system which aims to achieve a 2% residual risk level over the programming period; however, at the halfway stage of the implementation of the strategy the services reported cumulative error rates in excess of 2%.

A key component of this strategy was that systemic errors detected would be corrected across non-audited contracts for the same beneficiary. However, the services reported a significant number of contracts for which such errors still need to be quantified, corrected and the amounts recovered. They therefore made reservations on the accuracy of cost claims.

A mid-term review of the audit strategy has been completed confirming that the principles of the FP6 audit strategy are sound and that its implementation is progressing well. However, it needs to be reinforced in a number of areas, such as the process leading to the correction of systematic errors, and further efforts will be made to simplify eligibility rules to reduce the risk of error.

The Commission has made considerable efforts to improve its management of the research policy within the limits of the applicable legal and financial framework. Reporting on 2008 activity, reservations were expressed once again by the responsible Directors-General as regards Framework Programme 6.

The Commission will work to attain a level of residual error conducive to an unqualified DAS in the research area. Nevertheless, despite the harmonised approach adopted and the first results of the mid-term review, there are signs that the common multi-annual audit strategy might not be sufficient to meet the objectives of reducing the overall level of error below the currently accepted threshold of materiality (2%).

The Commission therefore reiterates its call for a common understanding of the concept of tolerable risk of error, and will make proposals accordingly, on the basis of its Communication of 16 December 2008.

The Director-General for **Enterprise and Industry** was able to lift a reservation, entered in 2007, regarding beneficiaries of grants involved in European Standardisation.

3.3. External aid, development and enlargement

The reservation entered by the Director-General for Enlargement regarding management of pre-accession assistance in Bulgaria is the only one affecting the expenditure under the Chapter "**External Aid, Development and Enlargement**" (see also 4.2).

As regards the other activities under this chapter, the Commission will continue monitoring and improving the implementation of the framework agreements on financial and contractual procedures signed, inter alia, with a number of UN agencies¹⁰ and the World Bank¹¹. It will also continue its efforts towards greater transparency of end beneficiaries, provided that the rules concerning the respect of personal data and of security requirements are respected. Efforts to better use and share audit results within the RELEX-family will continue.

3.4. Education and Citizenship

In 2007 the Director-General for **Communication** made a reservation regarding deficiencies of the DG's internal control system in the absence of ex-post controls. Following the setting up a centralised ex-post control unit in this Directorate-General, a high level of (mainly formal) errors in transactions was detected, leading the Director-General to introduce a new reservation for 2008. A number of measures are described in detail in the AAR's action plan and it seems reasonable to expect that the problem will be solved by end of 2009.

The other reservation entered by the Director-General for Communication has been described in section 4.4.

The Director-General for **Justice, Freedom and Security** entered a reservation regarding the delays in the implementation of the Schengen Information System II (SIS II), an IT tool for exchanging information among the law-enforcement bodies of the Member States. The reservation is made for reputational reasons, as the problems have actually been identified at the level of the contractor. The Commission is following the issue closely and will continue to report regularly to the European Parliament and the Council.

The Director-General for **Justice, Freedom and Security** lifted the two reservations made in 2007 concerning the implementation, under shared management, of the European Refugee Fund, as he judged that controls and reinforcement of systems in the Member States were sufficiently advanced. For the period 2008-2013 a new basic act covering the European Refugee Fund III addresses the issues identified for the previous Fund.

As a result of significant deficiencies in recording assets related to material infrastructure and IT projects, the Accountant was not in a position to validate the **local accounting system of DG JLS** in 2008 but an Action Plan to remedy this deficiency has been put in place in January 2009.

¹⁰ Financial and Administrative Framework Agreement/ FAFA
¹¹ Trust Fund and Co-Financing Framework Agreement

In the area of Education and Culture, concerning centralised indirect management through National Agencies, although the overall assurance on the control system is satisfactory, the analysis of the ex-post declarations for 2007, together with the results of monitoring visits during 2008, revealed that insufficient or ineffective primary or secondary controls exist in a limited number of cases in the implementation of the Youth in Action Program. These cases are closely monitored and appropriate follow-up measures are taken as and when needed.

The Commission is aware of the weaknesses identified in the areas under Heading 3 of the financial framework. It will continue to closely follow developments relating to the reservation on SIS II, in particular, and more generally on the development of large-scale IT systems.

3.5. Economic and Financial Affairs

In the AAR 2006 and 2007, the **Director-General for Economic and Financial Affairs** included a reservation due to the fact that an ex-post control had identified a potential problem with the implementation of 'additionality' requirements in the programme Growth & Employment Initiative (1998-2002) run by an external implementing body. The preliminary findings pointed to weaknesses in the control system of that external body, which were considered serious enough to justify a reservation. Following the results of the ex-post control report, the internal control systems of both the external implementing body and the responsible Commission service have been revised in depth. Detailed guidelines for "additionality" were developed and provided to the implementing body, which has confirmed their application in writing as of 2008. Moreover, an agreement has been established with the external body, detailing the monitoring and controls to be carried out by it with respect to the implementation of the facility

While the control framework currently in force is considered appropriate for ensuring the sound management of budgetary appropriations, its effectiveness when implementing the new Community programmes in relation to the setting of additionality requirements has not yet been tested.

For this reason, the Director-General for **Economic and Financial Affairs** entered a reservation in his 2008 report, on the possibility that the new mitigating controls put in place following the results of the ex-post control report are not fully effective for the new programme. This will be confirmed in 2009.

The Commission supports the decision by the Director-General for Economic and Financial Affairs to concentrate resources on improving the control structure in place for the management of the new financial programme for the same financial activity to remedy weaknesses identified for the previous financial programme. In 2009 assurance will be sought via a specific internal audit assignment and ongoing monitoring by the operational services.

4. CROSS-CUTTING ISSUES

4.1. IT systems

The APC has drawn the attention of the College to the need to review compliance with the Commission's communication on IT governance¹² and interoperability¹³. The APC also worked on the basis of several IT-related audits discussed in 2008, and called attention to the implementation of the Commission Decision on IT security¹⁴.

Developing efficient, cost-effective and user-friendly IT tools that are adapted to specific needs while ensuring their inter-operability and security across the Commission remains a high priority. To succeed in this endeavour, the Commission is attaching particular attention to adequate training for its staff and a robust governance of IT developments. Efforts should also be pursued to improve management of projects and service providers, in order to ensure that IT systems support effectively and efficiently the implementation of EU policies.

4.2. Implementation of programmes in Bulgaria and Romania

Rigorous controls by the Commission have brought to light some irregularities in the management of pre-accession funds – in Bulgaria since 2007 and in Romania in 2008.

The Director-General for **Enlargement** therefore maintained his reservation already made in 2007 regarding critical systems weaknesses in the management of PHARE funds by two payment agencies in Bulgaria. Two other Directors-General have entered reservations linked to problems in connection with management of pre-accession funds in 2008: the Director-General for **Regional Policy**, as regards management and control systems for the Cohesion Fund in the road sector in Bulgaria, and the Director-General for **Agriculture and Rural Development**, as regards management and control systems for SAPARD in Bulgaria and Romania.

The Director-General for **Agriculture and Rural Development** reports important IACS control deficiencies in Romania and Bulgaria leading to high error rates. The authorities of these Member States have been requested to draw up an action plan to address these deficiencies.

The Directorates-General for **Regional Policy**, **Employment, Social Affairs and Equal Opportunities**, for **Justice, Liberty and Security**, and for **Maritime Affairs and Fisheries** signalled issues in their AARs in relation with management and control in Bulgaria for the programming period 2007-2013; however, none of the problems flagged warranted a reservation in their 2008 reports.

The relevant Directorates-General will continue to closely coordinate their actions in relation to management of EU funds in Bulgaria and Romania. .

¹² SEC(2004)1267.

¹³ SEC(2004) 1265.

¹⁴ C(2006) 3602.

In co-operation with the national authorities, the Commission will continue to support the reform efforts being made in Bulgaria and Romania to ensure that all the underlying problems are solved and the management of all EU funds is conducted in strict respect of all applicable rules and procedures.

4.3. Annual summaries and national declarations

The Commission continued to analyse annual summaries received from Member States (2008 was the second year that the national authorities were required to furnish annual summaries for expenditure under 'shared management') and to inform the European Parliament, working to maximise their added value in terms of providing increased assurance on management and control systems in the Member States.

An interim evaluation shows that for both the 'Cohesion' and the 'Agriculture and Natural Resources' areas, most Member States seem to have complied or mainly complied with the minimum requirements of the legislation and as set out in the Commission's guidance notes. These summaries could provide true added value for the management and control of EU expenditure if they are of the appropriate scope, approach and timing, and carried out according to international standards¹⁵.

In addition, some Member States (the Netherlands, Denmark, Sweden and the United Kingdom) provide national declarations, thereby increasing their accountability for the use of EU funds, although the Commission points to the differences between them which restrict comparability and the assurance that can be obtained.

The Commission considers that the submission by the Member States of **annual summaries** reinforces their accountability for the use of EU funds and contributes to its own assurance. It will draw on the lessons learned to adapt, if necessary, the guidelines for the next round of summaries, will continue offering support to the Member States, and calls on them to append an overall assurance statement as recommended by the Commission.

The Commission encourages all Member States to follow the example of those that already provide **annual national declarations**.

4.4. Compliance with applicable legislation on intellectual property rights

The Director-General for **Communication** has entered a reservation, on reputational grounds, in view of the possible infringement of copyright for activities of Commission services, in view of the risk that copyright and related rights might not have been acquired for certain communication products.

Given the overall presence of electronic communication media, these activities may have an impact in all Member States, where differences still exist in national copyright legislations. Since there is no collective management of copyrights at European level, owners of rights have to be identified in each Member State, often at

¹⁵ Opinion Nr. 6/2007 of the European Court of Auditors. For Cohesion Policy only 7 Member States included an overall assurance statement for 2008.

different levels (collecting societies, publishers or broadcasters, authors or other persons who have a right on the content).

The Commission will regularly assess whether the measures taken are sufficient to mitigate the risks in a complex and rapidly changing technological and legal environment. An **action plan** will be prepared before the end of 2009, including all necessary measures, from awareness raising and training to the drafting of common guidelines.

5. CONCLUSIONS

- The efforts made in moving towards an unqualified DAS have had a largely positive effect on the institution: they have focused minds and channelled energies, leading to a major change in the management and control systems, working methods and culture in the Commission.
- The Commission will continue to monitor closely the implementation of all action plans accompanying reservations, and pay special attention to recurring ones.
- The Commission will continue its work on effective external communication on control-related issues with both final beneficiaries and national authorities. Better information is necessary in order to reduce errors and misunderstandings.
- The Commission will continue to demonstrate the effectiveness of its own controls, including full reporting on the correction of errors, also for those relating to payments of previous years.
- The Commission reiterates its intention to continue requiring recovery of undue payments. It notes that from 2007 to 2008 the amounts recovered were doubled, reaching a total of EUR 3 billion. It will take actions to ensure that Member States fulfil their obligations concerning the quality of reporting on recoveries and financial corrections.
- The Commission will encourage Member States to include an overall assurance statement in their annual summaries for funds implemented in shared management. The Commission will assess how additional assurance can be gained from the national management declarations.
- The Commission believes that a tolerable risk approach represents a sound and efficient stewardship of EU funds. It presented a communication on this issue in December 2008 using structural funds and rural development as illustrative examples. The examples will be further developed and extended into concrete proposals for tolerable risk levels as soon as possible. Proposals for research, transport, energy, external aid, development and enlargement, and administration will be submitted for consideration by the Budgetary Authority in 2010.

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This is the last Synthesis Report adopted by this Commission. Modernizing its systems to ensure the highest standards of stewardship of EU funds including the legality and regularity

of transactions has been one of its top priorities. Between 2004 and 2009, the European Commission has consolidated the reform begun in 2000, an achievement which will have lasting consequences.

The work done in the last five years has led to significant improvements in the management of the EU budget and this work will be continued, in particular in dealing with the problems highlighted by the reservations of the authorizing officers by delegation.

The Commission considers that the internal control systems in place, with the limitations described in the 2008 AARs, provide reasonable assurance that the resources assigned to its activities have been used for their intended purpose and in accordance with the principles of sound financial management. It also considers that the control procedures put in place give the necessary guarantees concerning the legality and regularity of underlying transactions for which the Commission takes overall responsibility pursuant to Article 274 of the EC Treaty.

Annex 1: Other cross-cutting management issues

1. HUMAN RESOURCES

In April 2007, the Commission presented its "screening" of its human resources and committed itself to maintain stable staffing for the period 2009-2013 (after all enlargement-related personnel are integrated) and to meet new staffing needs in key policy areas exclusively through redeployment. The report also contained an analysis of the Commission's overhead. It was welcomed by the Parliament and an update was presented in April 2008. A follow-up report was prepared in early 2009.

In 2008, the Commission made a particular effort to meet the challenges presented by the financial and economic crisis by re-deploying staff to the departments charged with the management and follow-up of the crisis, and the implementation of the European Economic Recovery Plan (in particular the Directorates-General for Competition, Internal Market, Economic and Financial Affairs). The Commission is satisfied that its flexibility and the commitment of its staff made it possible to respond to the crisis in a swift and effective way.

During 2008, the Commission undertook two further screening exercises to find ways of rationalizing human resources between Headquarters and Delegations, in the external relations field, and also in terms of its external communication activities. The downward trend in the number of people working in administrative and support functions is confirmed, despite slight increases for certain specific functions (financial management and inter-institutional cooperation). The various aspects of this review are currently being assessed by the services concerned.

As regards recruitment, following selection procedures carried out by the European Personnel Selection Office (EPSO), in 2008 Institutions were able to draw on reserve lists amounting to 78% of the published target number of laureates (70% in 2007). Notwithstanding this improvement, a programme for fundamental reform, the EPSO Development Programme (EDP), was formally agreed by all Institutions in 2008. The Programme contains 22 recommendations for action which focus on speeding up and streamlining selection and introducing greater predictability for laureates and Institutions on the availability and management of reserve lists. Implementation will be achieved progressively over the period 2008 to 2010.

Regarding the recruitment of staff from the EUR-12 countries, the targets for the period to end-2008 were exceeded for both administrator and assistant grades. A significant proportion of staff were however recruited as temporary agents (22% for EUR-10 and 41% for EUR-2). At 1 January 2009, recruitment of EUR-15 was blocked for 18 services at AD level and 12 at AST grade pending fulfilment of their quotas. Taking account of the competitions underway, the service responsible judged that the number of EUR-12 nationals passing competitions should be sufficient to meet recruitment needs.

2. ETHICS

In 2008, a Communication from Vice-President Kallas to the Commission¹⁶ outlined a series of actions to enhance the environment for professional ethics in the Commission; these covered the clarification of rules and their application, as well as awareness raising and the issuance of a Statement of Principles of Professional Ethics to apply Commission-wide.

Also in 2008, Internal Audit Service (IAS) concluded its audit of ethics in the Commission. The objective of the audit was to assess the adequacy of the overall design of the ethics framework of the Commission; and whether the Commission's ethics framework has been implemented effectively in the services selected for this audit: ADMIN, SG, OIB, RTD, INFSO, and TRADE.

The scope of the audit covered the framework, rules implementation and monitoring of ethics focussing on risks concerning conflict of interest, procurement, grant management in research, and non financial risks such as misuse of insider information. The scope did not cover the Code of Conduct of the Commissioners, the Lobby Register, or the ethical content of EU policies.

The IAS recognized that the process of implementing and adapting the ethics framework is evolutionary and the Commission has acted proactively on ethics and awareness raising in recent years. The overall conclusion of the audit was that the basic elements of a proper ethics culture are covered by the existing Commission ethics framework, which is based on an appropriate balance between, on the one hand, trust in the integrity and sense of responsibility of staff and, on the other hand, instruments facilitating ethics management, so that, in general, there is limited need for additional rules.

3. SECURITY

Since the start of the present Commission a series of initiatives have been taken to improve the quality of service in internal security, in view of the challenges posed by the global security situation, the developing policy competences of the Commission and the increased size and complexity of the institution.

An information note from Vice-President Kallas and the President, addressed to the College under the title, "Review of security policy, implementation and control within the Commission", which covered physical security as well as security of information, was adopted in 2008.

¹⁶ SEC(2008) 301, 5.3.2008.

Annex 2: Overview of reservations 2004 – 2008

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
AGRI	2	1. Expenditure for rural development measures under Axis 2 (improving the environment and the countryside) of the 2007-2013 programming period. 2. Management and control system for SAPARD in Bulgaria and Romania.	2	1. Insufficient implementation of IACS in Greece. 2. Exactitude of rural development control data of Member States giving a first indication of the error rate in this policy area.	1	1. Insufficient implementation of IACS in Greece.	2	1. Preferential import of high quality beef ("Hilton" beef) – risk of non-respect of product definition. 2. Insufficient implementation of IACS in Greece.	3	1. EAGGF Guidance: MS control systems. 2. Insufficient implementation of IACS in Greece. 3. Preferential import of high quality beef ("Hilton" beef) – risk of non-respect of product definition.
REGIO		1. Reservation on ERDF management and control systems for the period 2000-2006 in: 1) Belgium (5 programmes) 2) Germany (2 programmes) 3) Italy (12 programmes) 4) Spain (13 programmes) 5) INTERREG (21 programmes).	2	1. Reservation concerning the ERDF management and control systems for the period 2000-2006 in: 1) The CZECH REPUBLIC (for the three OP Infrastructure, Industry and Enterprise and the Joint Regional Programme and the SPD Objective 2 Prague) 2) FINLAND (Operational Programmes Eastern, Northern, South and West)	2	1. Reservation concerning the management and control systems for ERDF in United Kingdom - England (West Midlands; London; North West; North East; Yorkshire and the Humber and East (URBAN II programme only)) and Scotland (West and East Scotland) 2. Reservation concerning the management and control systems for ERDF in the INTERREG programmes (except IIIB North West Europe and Azores, Canaries, Madeira)	3	1. Management and control systems for ERDF in UK-England. 2. Management and control systems for ERDF in Spain. 3. Management and control systems for the Cohesion Fund in Spain.	3	1. Management and control systems for ERDF in one Member State. 2. Management and control systems for the Cohesion Fund in one Member State - 2000/06. 3. Management and control systems of ISPA in one candidate country.

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
REGIO		2. Management and control system of the Cohesion Fund for the road sector in BULGARIA in 2008.		3) GERMANY (for OP Saarland (objective 2), OP Mecklenburg-Vorpommern (objective 1), OP Hamburg (objective 2) and URBAN II Neubrandenburg in Mecklenburg-Vorpommern) 4) GREECE (on control of state aid schemes) 5) IRELAND (for the four mainstream operational programmes) 6) ITALY (OPs Calabria, Puglia, Lazio, Sardinia and Urban II Taranto) 7) LUXEMBOURG (for the SPD Objective 2 - reservation concerning non respect of public procurement rules, namely direct awarding of work contracts without call for tenders)						

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
REGIO				8) POLAND (for the Regional Operational Programme (IROP), the SOP Improvement of Competitiveness of Enterprises (SOP ICE) and SOP Transport) 9) SLOVAKIA (for the two OP Basic Infrastructure and Industry and Services) 10) SPAIN (reservation for 14 Intermediate Bodies (with an impact on 21 OPs for the parts linked to public works) for which a procedure of suspension of payments has been launched, plus the OP "<i>Sociedad de la Informacion</i>" and the 10 URBAN programmes) 11) 51 INTERREG programmes (i.e. 81 programmes, less 3 OPs IIIB North West Europe, III B Canaries, Acores, Madeira and III B Atlantic Space, where DG Regional Policy has carried out audit work						

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
REGIO				with satisfactory results, and further 27 OPs where national audit reports indicates satisfactory results) 2. Reservation concerning the management and control systems for the COHESION FUND (period 2000-2006) in: - Bulgaria (National Roads Infrastructure Fund), - the Czech Republic, - Slovakia, - Hungary (environmental sector) and - Poland.						
EMPL	1	Management and control systems for identified ESF Operational Programmes in Spain, United Kingdom, France, Italy, Poland, Belgium and Luxembourg (quantification: 41 million €, 0.6%).	1	Management and control systems for identified ESF Operational Programmes in - Spain, - United Kingdom, - France, - Italy, - Slovakia, - Portugal, - Belgium and - Luxembourg.	1	Systèmes de gestion et de contrôles de programmes opérationnels du FSE en Espagne, en Ecosse (objectifs 2 et 3, UK), en Suède (objectif 3 en partie), en Slovaquie, en Slovénie, en Lettonie et dans les régions Calabre et Lazio (IT).	1	Systèmes de gestion et de contrôle des programmes opérationnels en England (UK).	1	European Social Fund - Member states' management and control systems of some operational programmes.

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
MARE <i>(former FISH)</i>	1	Reservation on direct centralised management concerning the eligibility of costs reimbursed for expenditure in the area of control and enforcement of the Common Fisheries Policy , where the annual error rate detected by ex-post controls is higher than the 2% of the annual payments made for the MS programs and on a multiannual basis represents more than 2% of sample payments.	0		0		0		1	FIFG: Insufficient implementation of management and control systems for two national programmes in one Member State.
JRC	0		0		0	0	1	Status and correctness of the closing balance.	1	Cash flow - competitive activities.
RTD	1	Rate of residual errors with regards to the accuracy of cost claims in FP6 .	1	Reservation concerning errors relating to the accuracy of the cost claims and their conformity with the provisions of the Fifth Research Framework Programme (FP5).	2	1. Accuracy of the cost claims and their conformity with the provisions of FP5 research contracts. 2. Absence of sufficient evidence to determine the residual level of persisting errors with regard to the accuracy of cost claims in FP6 contracts.	1	Exactitude des déclarations de coûts et leur conformité avec les clauses des contrats de recherche du 5ème PCRD.	1	Frequency of errors in shared cost contracts.

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
INFSO	1	Rate of residual errors with regards to the accuracy of cost claims in FP6 .	1	Reservation concerning the rate of residual errors with regard to the accuracy of cost claims in Framework Programme 6 contracts.	3	1. Allocation of research personnel. 2. Errors relating to the accuracy of cost claims and their compliance with the provisions of the research contracts, FP5. 3. Absence of sufficient evidence to determine the residual level of persisting errors with regard to the accuracy of cost claims in Framework Programme 6 contracts.	2	1. Errors relating to the accuracy and eligibility of cost claims and their compliance with the provisions of research contracts under FP5. 2. Allocation of research personnel.	2	1. Frequency of errors in shared cost contracts 2. Research staff working on operational tasks.
ENTR	1	Rate of residual errors with regards to the accuracy of cost claims in FP6 .	2	1. Unsatisfactory functioning of the financing of European Standardisation. 2. Errors relating to accuracy and eligibility of costs claims and their compliance with the provisions of the research contracts under FP6.	2	1. Errors relating to accuracy and eligibility of costs claims and their compliance with the provisions of the research contracts under FP 5. 2. Unsatisfactory functioning of the financing of European Standardisation.	2	1. Errors relating to accuracy and eligibility of costs claims and their compliance with the provisions of research and eligibility of costs claims and their compliance with the provisions of the research contracts under the 5th Research Framework Programme. 2. Uncertainty regarding cost claims of the European Standardisation Organisations.	2	1. Frequency of errors in shared-cost contracts in the research area. 2. Uncertainty regarding cost claims of the European Standardisation Organisations.

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
TREN	1	Rate of residual errors with regards to the accuracy of cost claims in FP6 .	1	Erreurs concernant l'exactitude et l'éligibilité des déclarations de coûts et respect des termes des contrats du 5 ^e PCRD.	1	Erreurs concernant l'exactitude et l'éligibilité des déclarations de coûts et respect des termes des contrats du 5 ^e PCRD.	2	1. Risque de surpaiement concernant le 5 ^{ème} Programme Cadre. 2. Sûreté nucléaire.	4	1. Frequency of errors in shared cost contracts. 2. Contractual environment of DG TREN LUX. 3. Nuclear safety. 4. Inventory in nuclear sites.
EAC	0		0		1	Faiblesse des systèmes de contrôle constatées dans certaines Agences Nationales	2	1. Insuffisante assurance quant à la gestion à travers les agences nationales. 2. Insuffisante assurance quant à la fiabilité et l'exhaustivité des montants inscrits au bilan de la Commission et au compte de résultat économique.	0	
ENV	0		1	Eligibility of expenditures declared by beneficiaries of non-LIFE grants.	0		0		0	
SANCO	0		0		1	Insufficient assurance of business continuity of a critical activity.	1	Health crisis management.	0	

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
JLS	1	Delays in the implementation of the Schengen Information System II (SIS II).	2	1. Faiblesse des systèmes de contrôle et de gestion du Fonds européen pour les Réfugiés en Italie, pour les périodes de programmation 2000-2004, et 2005-2007. 2. Mise en œuvre incomplète des mécanismes de supervision de la Commission en gestion partagée pour le Fonds européen pour les réfugiés 2005-2007.	1	1. Faiblesse des systèmes de contrôle et de gestion du Fonds européen pour les Réfugiés en Italie, pour la période de programmation 2000-2004.	2	1. Insufficient number of ex-post controls missions and lack of a fully-fledged methodology in the area of direct management in 2005. 2. Management and control systems for the European Refugee Fund for the UK for 1002-2004.	2	1. Faiblesse des systèmes de gestion du Fonds européen pour les Réfugiés au Royaume-Uni et au Luxembourg. 2. Mise en œuvre encore incomplète des contrôles ex-post sur place.
ESTAT	0		0		1	Absence de garantie sur la régularité des paiements effectués en 2006 dans le cadre des conventions de subvention signées avec trois Instituts nationaux de statistiques pour lesquels des manquements ont été constatés en 2006.	0		2	1. Errors in the declaration of eligible costs in relation to grants. 2. Insufficient number of ex-post controls carried out in 2003.

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
ECFIN	1	Possibility that new mitigating controls put in place following an ex-post control report on funds managed by an external body entrusted with indirect centralized management are not effective.	1	Possibility that additionality requirements are not sufficiently met.	1	Possibility that additionality requirements are not sufficiently met	0		0	
TRADE	0		0		0		0		0	
AIDCO	0		0		0		0		0	
ELARG	1	Potential irregularities in the management of PHARE funds under extended decentralised management by two Bulgarian Implementing Agencies (named).	1	Potential irregularities in the management of PHARE funds under extended decentralised management by the following Bulgarian Implementing Agencies: - Central Finance and Contract Unit (CFCU) - Ministry for Regional Development and Public Works (MRDPW).	0		1	Legal status and liability of contractual partner in the framework of implementation of EU contribution to UNMIK Pillar IV in Kosovo	1	Gaps in Romania's and Bulgaria's capacity to manage and implement increasing amounts of aids

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
ECHO	0		0		0		0		1	Non respect of the contractual procurement procedures by a humanitarian organisation for projects funded by ECHO.
DEV	0		0		0		0		0	
RELEX	0		0		0		2	1. Insuffisances du contrôle et de l'information de gestion. 2. Insuffisances de la gestion administrative en délégations, et principalement au niveau de la mise en place et du respect des circuits financiers.	2	1. Internal control standards in Directorate K. 2. Internal control standards in Delegations.
TAXUD	0		0		0	0	1	Trans-European networks for customs and tax : availability and continuity	0	
MARKT	0		0		0		0		0	
COMP	0		0		0		0		0	

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
COMM	2	1. Lift the reservation from 2007 on the absence of a structured ex-post control system, but makes a follow-up reservation on the quality failings revealed by the controls . 2. Possible infringement of intellectual property rights by Commission departments.	1	Ex-post control system.	1	Ex-post control system.	1	Supervision (ex-post controls on grants)	2	1. Relays and networks - grands centres. 2. Functioning of Representations EUR-15.
ADMIN	0		0		0		0		0	
DIGIT	0		1	Inadequacy of the Data Centre building infrastructure in Luxembourg.	1	Business continuity risks due to inadequacy of the data centres building infrastructure.	1	Business continuity risks due to inadequacy of the data centres building infrastructure.	0	
PMO	0		0		0		1	Council's antenna for sickness insurance.	1	Council's antenna for sickness insurance.
OIB	0		0		0		1	Deficiency in OIB's contracts & procurement management.	0	
OIL	0		0		0		0		0	
EPSO	0		0		0		0		0	
OPOCE	0		0		0		0		0	

DG		Reservations 2008		Reservations 2007		Reservations 2006		Reservations 2005		Reservations 2004
BUDG	0		0		0		2	1. Accrual accounting for the European Development Fund. 2. Accrual accounting of the Community Budget - three local systems.	2	1. Accrual accounting for the Community and the EDF budgets. 2. Subsystems of SINCOM 2: accesses control.
SG	0		0		0		0		0	
BEPA	0		0		0		1	Weak general internal control environment	0	
SJ	0		0		0		0		0	
SCIC	0		0		0		0		0	
DGT	0		0		0		0		0	
IAS	0		0		1	Audit of community bodies (regulatory agencies).	1	Audit of community bodies (traditional agencies).	1	Audit of Community agencies.
OLAF	0		0		0		0		0	
TOTAL	15		18		20		31		32	

Annex 3: Multi-annual objectives

This Annex reports on the progress achieved in 2008 on the new and ongoing actions identified in the 2007 Synthesis Report to address major cross-cutting management issues. New actions introduced as a follow up to the 2008 Synthesis report are indicated in ***bold italics***.

(Initiatives stemming from previous years' Synthesis Reports, which were completed in 2007 or before, have been deleted from this table.)

Internal control systems and performance management				
Subject	Objective	Initiative(s) to meet the objective	Responsible service(s) and timetable	Progress made in 2008
Internal control	1. Achieving an effective internal control system and ownership of internal control concepts and processes at all levels in each DG and service.	In October 2007 the Commission adopted a Communication revising the Internal Control Standards and underlying framework ¹⁷ , setting out 16 new internal control standards for effective management to replace the original set of 24 standards from 1 January 2008. Services may prioritise certain Standards with the aim of strengthening the basis of the annual declaration of assurance of the Directors-General. Furthermore the compliance reporting was simplified; moving from full reporting to exception based reporting on non-compliance.	All DGs	Continuous action In 2008, the Commission conducted an analysis of the impact of the "Action Plan towards an Integrated Internal Control Framework"¹⁸, adopted in early 2006 as part of the Commission's strategy to obtain an unqualified DAS. The final report was published in February 2009. The Communication noted significant progress in strengthening internal control systems during this Commission's mandate. Services reported on the effectiveness of the implementation of the prioritised standards for the first time in the 2008 Annual Activity Reports.

¹⁷ Communication to the Commission: Revision of the Internal Control Standards and the Underlying Framework: Strengthening Control Effectiveness, SEC(2007) 1341.
¹⁸ COM(2006) 9 and SEC(2006) 49.

Annual activity reports and Synthesis	2. Promoting Commission's accountability through annual activity reports and their synthesis solidly based on assurances from managers.	<i>Assessment of critical success factors affecting the quality of AARs and take appropriate measures (training for staff involved in the preparation of AARs, further improvement of Standing Instructions)</i>	BUDG and SG <i>By September 2009</i>	New action
		<i>To give the preparation of the AARs high priority, implementing the guidelines prepared by the central services</i>	All DGs <i>By April 2010</i>	New action
Risk management	3. Establishing effective and comprehensive risk management making it possible to identify and deal with all major risks at service and Commission level and to lay down appropriate action to keep them under control, including disclosing resources needed to bring major risks to an acceptable level.	The Commission will further embed risk management in its regular management process and integrate risk assessment in its internal control systems.	BUDG, with all DGs	Continuous action Three years after its adoption, DG Budget undertook a limited review of the operation of the Commission's risk management framework . This indicated that the framework is well established and is understood and applied by management and was taken as a starting point by services for developing their own more specific guidelines and tools tailored for their needs. The review revealed no reasons for major change but pointed to the need to define more clearly the handling of cross-cutting risks, an interest in sharing information across services on risk management generally and on critical risks in particular, and a requirement for specialist risk management training linked to individual services' activities.

Residual risk	4. Taking further the concept of residual risk		DG BUDG together with concerned services	Completed In December 2008 the Commission adopted its Communication "Towards a common understanding of the concept of tolerable risk of error", with which the Commission took forward a concept first introduced by the Court of Auditors in its Opinion 2/2004 (the "single audit opinion"). This tolerable risk approach is intended to ensure an appropriate balance between the risk of not detecting errors and the costs of control to ensure that control systems are cost effective. The illustrative case studies presented covered Cohesion Policy and Rural Development. They indicated that the Court's standard 2% materiality threshold may not be appropriate for these policies, for which risk is high, and that a cost-effective tolerable risk level may lie around 5% for both policies.
		<i>The Commission will study more policy areas and present concrete proposals for tolerable risk levels during 2010 as requested by the Discharge Authority.</i>	DG BUDG together with concerned services By end 2010	New action <i>The Communication mentioned above launched an inter-institutional debate on the tolerable risk of error and the Commission will study more policy areas and present concrete proposals for tolerable risk levels during 2010 as requested by the Discharge Authority.</i>
Governance				

Subject	Objective	Initiative(s) to meet the objective	Responsible service(s) and timetable	Progress made in 2008
Internal audit recommendations	5. Ensuring a smooth implementation of accepted internal audit recommendations	<i>New: Effective follow-up of critical and very important recommendations of IAS recommendations should be regularly monitored at senior management level, and fully integrated into regular management planning, especially the annual management plans.</i>	<i>All DGs concerned</i>	<i>New action</i>
Regulatory agencies	6. Clarifying the respective roles and responsibilities of Commission services and regulatory agencies.	The input of all institutions is necessary to negotiate a comprehensive framework, to clarify the respective responsibilities of the institutions and of the regulatory agencies. This framework would be applicable to the creation of future agencies and, at a later stage, to those already in existence.	All DGs concerned with the assistance of SG and DG BUDG. End 2009	Continuous action In a Communication of March 2008 ¹⁹ , the Commission drew attention to the lack of a common vision on the role and functions of regulatory agencies. It announced a horizontal evaluation of the regulatory agencies by the end of 2009, a moratorium on creating new agencies and a review of its internal systems governing agencies.
Reservations	8. Ensuring strong follow-up of action plans related to the expressed reservations, notably for the progress to be made in 2009.	Directors-General will report on progress to the respective Commissioner in the context of the regular follow-up meetings on audit and control. The ABM Steering Group will closely monitor and regularly report to the College on the implementation of the remedial actions	DGs concerned	Continuous action DGs report on the implementation of action plans in a given year in their annual activity report. This has been specifically mentioned in the standing instructions for the AARs.

¹⁹ Communication from the Commission to the European Parliament and the Council: "European Agencies – the way forward" - COM(2008) 135.

		that delegated authorising officers have committed to carry out in their annual activity reports.		DGs were also invited to mention the actions to be taken in the coming year as a follow up to previous reservations. This requirement was included in the guidelines for the 2009 AMPs. For all reservations, delegated authorising officers have laid down appropriate action plans to solve the underlying weaknesses. They monitored the implementation of action plans and reported to the Commissioner responsible. The implementation of all action plans has also been monitored by the ABM Steering Group which invited Directors-General to report regularly to the Group on the state of play of their action plans. An outcome of the peer review of the 2008 AARs is the that the conclusion drawn by the Authorising Officer by Delegation (AOD) needs to be convincingly argued and the building blocks for assurance should be presented in a complete and logical manner, particularly as regards error rates detected by controls. Also, services calculating error rates on the basis of controls performed on high-risk areas of their activities need to present results of controls in lower-risk fields to justify the conclusion that the global exposure was lower than materiality
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	<i>namely:</i>	<i>Close coordination of actions concerning management and control weaknesses identified for the EU funds implemented by Bulgarian and Rumanian authorities, in order to ensure that underlying problems are solved and the management of EU funds is conducted in strict respect of all applicable rules and procedures.</i>	ELARG, MARE, JLS, EMPL, AGRI, REGIO	<i>New action</i>
		<i>Set-up of an inter service group on copyright issues, to be led by DG COMM, to regularly assess whether the measures taken are sufficient to mitigate the risk in a complex and rapidly changing technological and legal environment.</i> <i>Preparation of an action plan before end of 2009, including all necessary measures, from awareness raising and training to the drafting of common guidelines.</i>	COMM, OPOCE, JRC, SG	<i>New action</i>
		<i>Focus the resources available on improving the control structure in place for the management of the financial programs. In 2009, assurance will be sought via a specific internal audit assignment and ongoing monitoring by the operational services.</i>	ECFIN, SG	<i>New action</i>
		<i>New: Closely follow-up the delays in the implementation of the Schengen Information System II.</i>	JLS, SG	<i>New action</i>

Financial management				
Subject	Objective	Initiative(s) to meet the objective	Responsible service(s) and timetable	Progress made in 2008
Integrated internal control framework	9. Enhancing accountability by establishing a comprehensive integrated internal control framework in line with the requirements set out in the ECA's opinions on 'single audit'.	Implementation of the action plan towards an Integrated Internal Framework.	All services	Completed: In its latest report on the Plan ²⁰ , the Commission reported that as at end-December 2008 the implementation of 13 actions was completed and that the three remaining actions could not be implemented or were being taken forward in other ways. The Communication noted significant progress in strengthening internal control systems during the mandate of the present Commission. A part of this positive impact was attributed to actions launched before 2005, but there was evidence that progress was significantly accelerated with the launch of the Action Plan in early 2006.
		<i>New: Reinforce the accountability of Member States for the use of EU funds by revising the guidelines for the annual summaries to draw on the lessons learned, and continue offering support to the Member States.</i>	REGIO, AGRI, JLS	<i>New action</i>

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Impact Report on the Commission Action Plan towards an Integrated Internal Control Framework - COM(2009) 43.

Ex-ante and ex-post controls	10. Improving the efficiency and strengthening accountability by ensuring proportionality and a sound balance between ex-ante and ex-post controls, and by further harmonization and better focus of ex-post controls.	Common guidelines on sampling methods and related level of confidence should be finalised.	Services concerned with the support of DG BUDG, ongoing	Completed Extensive guidelines on audit sampling in line with international auditing standards have been prepared in the Structural Funds to promote coherence in testing done by Member State audit authorities²¹. The Commission has provided guidance on best practice in the management of external audit framework contracts to ensure a consistency and high quality of audit results²². In the research area, the joint audit strategy set up in 2007 includes guidance on sampling. Based on the experience gathered from the research audit strategy and taking into account that not all elements of the approach are transposable to all areas, the Commission issued guidance to its services on sampling strategies in October 2008.
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²¹ Para 40 & 49 Opinion 02/2004.

²² Para 37 Opinion 02/2004.

Accounts	11. Increasing responsibility and accountability at the level of the Commission as a whole by the signing-off of the accounts by the Accounting Officer and by improved quality of financial information.	The Commission will further strengthen its accounting processes and systems to improve the quality of the financial information and the respect of deadlines.	All services, continuous action with the assistance of the services of the Accounting Officer	Continuous action The European Court of Auditors expressed in 2008 for the first time an unqualified opinion on the 2007 accounting data of the Commission. The Accountant's report on the validation of local systems for 2008 confirmed that these in general are steadily improving. All systems which were subject to an in-depth evaluation during 2008, except one, were validated. Data from the accounting system indicate that late payments are tending to stabilise in number and value. In the face of the current acute economic crisis, the Commission will aim, by 1 October 2009, to make first pre-financing payments within 20 days from the signature date of the contract and a 30-day time limit where 45 days currently apply for other payments.
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Human resources				
Subject	Objective	Initiative(s) to meet the objective	Responsible service(s) and timetable	Progress made in 2008
Simplification	13. Simplifying procedures to increase both efficiency and employee satisfaction.	Based on a collaborative effort and consultation of all Commission staff, DG ADMIN prepared a Communication to the College enshrining the key principles of the simplification drive and proposing a detailed plan with 85 actions, to be carried out within well defined deadlines. This Communication was adopted by the Commission on 4 July 2007 and its implementation is ongoing	DG ADMIN, ongoing	Completed A report to Commission (SEC(2008)2309/3) stated that 48 actions have been fully or partially implemented and 3 have been abandoned (out of 85 identified actions) by July 2008.
Staff skills	14. Aligning resources and needs better to make sure that staff have the skills and qualifications necessary to perform their duties, in particular in areas such as financial management, audit, science, linguistics and IT.	Following the conclusions of the evaluation on the Strategic Alignment of Human Resources, various measures were carried out in 2008.	DG ADMIN, ongoing	Continuous action HR scorecard per month HR report with HR metrics Start of a follow-up evaluation to review HR processes
		The Commission will identify any shortfalls and communicate its specific needs so that they are promptly taken into consideration and included in the	DG ADMIN and EPSO, ongoing tasks.	Continuous action DG ADMIN carried out a comparative study on remuneration in which an

		work -programme of the inter-institutional European Personnel Selection Office. Provision of specialised training and measures to improve the recruitment procedures and, in particular in areas where a shortage of skilled staff is identified.		assessment is also made of the competitiveness of the Commission for certain job profiles.
		The Commission will take measures to improve its Job Information System so that it enables the organisation to have a global view of its current human resources and to produce easily detailed analysis by corporate processes.	DG ADMIN in collaboration with DIGIT, SG and DG BUDG by end 2007.	Continuous action The e-CV project continued. In 2007, there were 3.250 e-CVs; by end 2008, here were 5.697. The matching tool to link job, vacancies and the electronic CVs was delivered for internal testing in December 2008.

Continuity of operations				
Subject	Objective	Initiative(s) to meet the objective	Responsible service(s) and timetable	Progress made in 2008
Business continuity	15. Ensuring that the Commission is able to maintain business continuity in case of major disruption to its activities	The Commission will address the issue of the suitability of the data centre hosting IT systems and ensure that current reflections on the best IT governance arrangements lead to operational conclusions in 2006.	DIGIT, OIB and OIL in 2006 and in 2007.	Continuous action A multi-annual (2006-2011) strategy to improve the housing conditions for the Data and telecom Centres of the Commission has been developed and approved. This should lead to the most critical IT equipments being moved into professional data centre type rooms in a phased approach and to the refurbishing of air conditioning and electrical infrastructure in the JMO Data Centre room. Contracts for the rent of two new data centre type rooms in Brussels and in Luxembourg were signed. For the one in Brussels, the move was completed in February 2007 and, for the one in Luxembourg, by March 2007. A second room in Luxembourg only became available in late 2007 and needed preparation, so that actual moves into them only began in the last quarter of 2008. Procedures to secure a supplementary room in Luxembourg were ongoing at the end of 2008.

Annex 4: Executive and Regulatory Agencies

(Council Regulation 58/2003 (Art 9.7))

In line with practice in most Member States, using agencies to implement key tasks has become an established part of the way the European Union works.

Executive agencies operate in a clear institutional framework, governed by a single legal base²³. Their tasks must relate to the management of Community programmes or actions, they are set up for a limited period and they are always located close to Commission headquarters. The responsibility of the Commission for executive agencies is clear: the Commission creates them, maintains "real control" over their activity, and appoints the director. Their annual activity reports are annexed to the report from their parent Directorate(s)-General. A standard financial regulation adopted by the Commission, governing the establishment and implementation of the budget, applies to all executive agencies. A revision of the working arrangements was also agreed in October 2007 with the European Parliament, with the aim to further facilitate inter-institutional cooperation in this field.

Six executive agencies have been created:

- the Executive Agency for Competitiveness and Innovation Programme (**EACI** – former IEEA)
- the Executive Agency for Health and Consumers (**EAHC** – former PHEA)
- the Education, Audiovisual and Culture Executive Agency (**EACEA**)
- the Trans-European Transport Network Executive Agency (**TEN-TEA**)
- the European Research Council Executive Agency (**ERC**)
- the Research Executive Agency (**REA**).

²³

Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003).

- **Four of these executive agencies were operational in 2008²⁴.** Their Annual Activity Reports, which were attached to those of their parent DG²⁵, did not indicate any particular control issues. The breakdown of staff employed in 2007 by these agencies was as follows:

	Seconded officials and temporary agents	Contractual agents	Other external agents	<i>Total</i>
EACI	22	47		69
PHEA	8	20		28
EACEA	85	277		362
TEN-TEA	32	67	7	106
<i>Total</i>	<i>131</i>	<i>366</i>	<i>17</i>	<i>514</i>

The screening of resources by the Commission of April 2007 suggested that there are no strong candidates for a new executive agency²⁶. If new needs appear, the starting point of the Commission will be to explore the option of extending the scope of an existing executive agency to cover a new programme.

The 29 **regulatory agencies** are independent legal entities and the 20 of these which receive funds from the European Union budget receive discharge directly from the European Parliament. In a Communication of March 2008 "EU agencies: the way forward"²⁷ the Commission drew attention to the lack of a common vision on the role and functions of regulatory agencies. It announced a horizontal evaluation of the regulatory agencies, a moratorium on creating new agencies and a review of its internal systems governing agencies.

It also proposed to undertake a horizontal evaluation of regulatory agencies which should be available by the end of 2009, as well as to set up an inter-institutional working group to agree ground rules to apply to all (this Group met for the first time on 10 March 2009).

²⁴ No AAR was prepared by the Research Executive Agency and the European Research Council Executive Agency (DG RTD and other research DGs) as these are expected to become completely self-supporting during 2009. During the transition, activities are shared between the agencies and the different directorates general responsible for the implementation of FP7.

²⁵ Executive Agency for Competitiveness and Innovation Programme (DG TREN, ENTR, ENV); Executive Agency for the Health and Consumers (DG SANCO); Education, Audio-visual and Culture Executive Agency (DGs EAC, INFSO, AIDCO); Trans-European Transport Network Executive Agency (DG TREN).

²⁶ SEC(2007) 530 "Planning & optimising Commission human resources to serve EU priorities".

²⁷ Communication from the Commission to the European Parliament and the Council: European Agencies – the way forward - COM(2008)135

To support the agencies, in June 2008 DG Budget published a Practical Guide on Community Bodies to document the basic budgetary and financial management processes and rules for the creation and regular operation of Community bodies and providing references to relevant key documents. A common website of the Commission and the regulatory agencies was created on the Commission's intranet to provide a platform for sharing documents of common interest.

The 'traditional' agencies are granted discharge by the Discharge Authority. All Agencies were granted discharge for 2007. CEPOL's accounts for 2007 have received a qualified opinion of the Court of Auditors and audits by the Court and the IAS identified serious financial management problems. The service responsible for the grant contribution to the College's running costs (JLS) reported that following the Court's and IAS findings, an OLAF investigation was launched and an action plan was developed to remedy the weaknesses identified. Faced with significant under-execution of the budget, the service reported it would make available only the funds strictly necessary to cover the College's fixed costs in the first part of 2009.

Annex 5: Negotiated procedures

1. LEGAL BASIS

Article 54 of the Implementing Rules of the Financial Regulation requires authorising officers by delegation to record contracts concluded under negotiated procedures. Furthermore, the Commission is required to annex a report on negotiated procedures to the summary of the annual activity reports referred to in Article 60.7 of the Financial Regulation.

2. METHODOLOGY

A distinction has been made between the 40 directorates-general, services, offices and executive agencies which normally do not provide external aid, and those three directorates-general (AIDCO, ELARG and RELEX) which conclude procurement contracts in the area of external relations (legal basis is different: Chapter 3 of Title IV of Part Two of the Financial Regulation) or award contracts on their own account, but outside of the territory of the European Union.

These three directorates-general have special characteristics as regards data collection (deconcentration of the services,...), the total number of contracts concluded, thresholds to be applied for the recording of negotiated procedures (€10 000), as well as the possibility to have recourse to negotiated procedures in the framework of the rapid reaction mechanism (extreme urgency). For these reasons, a separate approach has been used for procurement contracts of these directorates-general.

3. OVERALL RESULTS OF NEGOTIATED PROCEDURES RECORDED

3.1. The 40 directorates-general, services, offices, or executive agencies excluding the three "external relations" directorates-general

On the basis of the data received, the following statistics were registered: 105 negotiated procedures with a total value of € 91.107.841 were processed out of a total of 1230 procedures (negotiated, restricted or open) for contracts over 60 000€ with a total value of € 1.799.341.729.

For the Commission, the average proportion of negotiated procedures in relation to all procedures amounts to 8,54 % in number, which represents some 5,06 % of all procedures in value and seems quite reasonable.

An authorising service is considered to have concluded a "distinctly higher" proportion of negotiated procedures "than the average recorded for the Institution" if it exceeds the average proportion by 50%. Thus, the reference threshold for 2008 was fixed at **12,80%** (20,46% in 2007).

Some 13 directorates-general or services out of the 40 exceeded the reference threshold in 2008. Among those, it should be noted that 5 directorates-general

concluded only one or two negotiated procedures, but because of the low number of contracts awarded by each of them, the average was exceeded. In addition, 15 out of 40 directorates-general haven't used any negotiated procedure, including 4 DG that awarded no contracts at all. Furthermore, in terms of value 14 have recorded a substantially lower percentage of negotiated procedures than the Commission average.

Moreover, the assessment of negotiated procedures compared with the previous years (2006, 2007) shows an important decrease in the order of one third in number and 40% in terms of value.

3.2. The three "external relations" directorates-general

On the basis of the data received, the following statistics were registered: 168 negotiated procedures for a total value of contracts €117.778.412 were processed out of a total of 2362 procedures (negotiated, restricted or open) for contracts over 10 000€ with a total value of € 2.357.367.571.

For the three "external relations" directorates-general, the average proportion of negotiated procedures in relation to all procedures amounts to 7,11% in number, which represents some 5% of all procedures in value terms. Only one directorate-general slightly exceeds the reference threshold of 10,67% (average + 50%).

If compared with previous years, these directorates-general have registered a clear decrease in number of negotiated procedures in relation to all procedures.

4. ANALYSIS OF THE JUSTIFICATIONS AND CORRECTIVE MEASURES

Three categories of justifications have been presented by those directorates-general who exceeded the thresholds:

- **Statistical deviations** due to the low number of contracts awarded under all procedures.
- **Objective situations of the economic activity sector**, where the number of operators (candidates or applicants) may be very limited or even in a monopoly situation (for reasons of intellectual property, specific expertise, ...). Situations of technical captivity may also arise especially in the IT domain (exclusive rights connected to software or maintenance of servers hosting critical information systems, etc).
- **Additional services/works**, where it was either technically or economically impossible to separate these from the main (initial) contract, or **similar services/works** as provided for in the terms of reference.

Several corrective measures have already been proposed or implemented by the directorates-general concerned:

- Establishment of **standard model documents and guidance documents**.
- **Improvement in training provided and an improved inter-service communication**. In this context, the Central Financial Service organised in 2008 a series of workshops aimed at improving expertise in public procurement procedures and at providing a forum for exchange of experience and best practices between directorates-general and services. In addition, the architecture of the standard procurement training was reviewed in order to reinforce the practical training in procurement procedures preparation.
- **Improvement of the system of evaluation of needs** of directorates-general/services and an **improved programming** of procurement procedures. The Commission' horizontal services will continue their active communication and consultation policy with the other DGs along the following axes:
 - permanent exchange of information;
 - ad-hoc surveys prior to the initiation of market procedures;
 - reinforcement of the product management policy especially in the IT sector.
- **Phase-out from situations of technical captivity. The Commission started to study a methodological framework for assessing technical captivity in specific cases and provide tools to reduce future dependency.**
- **Reinforcement of internal structures and the application of control standards**. Procurement procedures will continue to be integrated in the regular reviews of the efficiency of internal control, including the analysis of possible dependence on certain contractors. In any case, control procedures need to be correctly documented in order to ensure a transparent audit trail.

**Annex 6: Summary of waivers of recoveries of established amounts receivable
in 2008**

(Article 87.5 IR)

In accordance with Article 87(5) of the Implementing Rules the Commission is required to report each year to the budgetary authority, in an annex to the summary of the Annual Activity Reports, on the waivers of recovery involving 100 000 € or more.

The following table shows the total amount and the number of waivers above 100 000 € per Directorate-General/Service for the EC budget and the European Development Fund for the financial year 2008.

EC budget:

Directorate-General/Service	Amount of waivers in €	Number of waivers
AIDCO	1.497.065,33	6
COMP	11.713.735,70	3
EAC	123.199,00	1
EACEA	497.001,12	2
ELARG	607.626,00	1
ENTR	111.650,00	1
ENV	231.383,16	1
MARE	249.800,61	1
INFSO	1.713.872,65	4
RTD	1.227.715,95	5
TREN	407.313,70	2
	18.380.363,22	27

European Development Fund:

Directorate-General/Service	Amount of waivers in €	Number of waivers
AIDCO	0	0

Annex 7: Compliance with payment time-limits and suspension of time-limits

(Article 106.6 IR)

Time-limits for payments are laid down in the Implementing Rules of the Financial Regulation²⁸ (hereinafter IR), and exceptionally in sector specific regulations. Under Article 106 IR payments must be made within forty-five calendar days from the date on which an admissible payment request is registered or thirty calendar days for payments relating to service or supply contracts, save where the contract provides otherwise. Commission standard contracts are in line with the time-limits provided for in the IR. However, for payments which, pursuant to the contract, grant agreement or decision, depend on the approval of a report or a certificate (interim and/or final payments), the time-limit does not start until the report or certificate in question has been approved²⁹. Under Article 87 of the Regulation of the European Parliament and the Council laying down general provisions on the European Development Fund, the European Social Fund and the Cohesion Fund, a specific rule applies: payments have to be made within two months³⁰.

Following the revised Implementing Rules, which entered into application on 1 May 2007, the compliance with payment time-limits was reported for the first time by the Services in the 2007 Annual Activity Reports³¹. Overall, the Commission improved its performance for payments over 2005-2007, in number and in value, even if the average time to pay has not significantly decreased. In 2008, late payments have stabilised in number and value, the average time to pay has been shortened by a half day.

The following table summarises the current situation concerning **payments made after the expiry of the time-limits** (hereafter late payments), as resulting from data encoded in ABAC:

	2005	2007	2008
Late payments in number	42,74%	22,57%	22,67%
Late payments in value	17,48%	11,52%	13,95%
Average time to pay ³²	49,13 days	47,98 days	47,45 days

²⁸ Commission Regulation (EC) No 2342/2002 of 23 December 2002 (OJ L 357, 31.12.2002, p. 1) as last amended by Regulation (EC) No 478/2007 of 23 April 2007 (OJ L 111, 28.4.2007, p. 13).

²⁹ Pursuant to Article 106(3) IR, the time allowed for approval may not exceed:
(a) 20 calendar days for straightforward contracts relating to the supply of goods and services;
(b) 45 calendar days for other contracts and grants agreements;
(c) 60 calendar days for contracts and grant agreements involving technical services or actions which are particularly complex to evaluate.

³⁰ Regulation (EC) No 1083/2006 of the European Parliament and of the Council laying down general provisions on the European regional Development Fund, the European Social Fund and the Cohesion fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

³¹ Based on available data in ABAC as of end of the financial year 2007.

³² Net delays.

The **cause of delays** includes inter alia the complexity of evaluation of supporting documents, in particular of technical reports requiring external expertise in some cases, the difficulty of efficient coordination of financial and operational checks of requests for payments, and managing suspensions.

As far as the **payment of interest for late-payments** is concerned, the Commission dealt with limited requests in the period 2005-2007. However, the amount rose significantly in 2008, probably due to the fact that as from 1 January 2008 payment of interest for late payments has been automatic and, in principle³³, no longer conditional upon the presentation of a request for payment.

	2005	2007	2008
Amounts of interest paid for late payments	230.736,58 €	378.211,57 €	576 027,10 €

*Calculation: 153 requests for interest / 90657 late payments = 0.168%

The Commission is committed to further improving the management of payments and instructs its Services to comply constantly with high performance standards, to assess the efficiency of its tools and to take appropriate corrective measures to ensure timely payments.

In the face of the current acute economic crisis, the Commission has recently adopted further measures, given the crucial importance of the need for increased fluidity of funds for all beneficiaries, and especially for SMEs and NGOs³⁴. Amongst other actions, the Commission will aim, by 1 October 2009, to make first pre-financing payments **within 20 days** from the signature date of the contract, grant agreement or decision compared with the statutory time-limit of 45 days (or 30 days for service and supply contracts). For all other payments the Commission will apply, from the same date, a 30-day time limit where 45 days currently apply. A third measure is to further promote the payments of flat-rates (a scale-of-unit cost) and lump-sums (fixed amount) to accelerate the payment of grants.

³³ With the exception of small amounts (200 euro in total or less).

³⁴ Communication from Mrs Grybauskaite in agreement with the President to the Commission: Streamlining financial rules an accelerating budget implementation to help economic recovery - SEC(2009) 477.