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I

(Information)

COURT OF AUDITORS

SPECIAL REPORT No 13/2000

on the expenditure of the European Parliament's political groups, together with the European Parliament's replies

(submitted pursuant to Article 248(4)(b) EC)

(2000/C 181/01)

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INTRODUCTION

The regulatory and budgetary frameworks

1. The members of the European Parliament may, pursuant to Articles 29 and 30 of the Institution's rules of procedure ⁽¹⁾, either organise themselves into political groups (referred to hereafter as 'groups') or remain non-attached. The Parliament grants to non-attached groups and members an annual allocation of appropriations to cover their secretarial expenses and administrative operating expenditure (referred to hereafter as 'operating expenditure'), their political activities and their information activities. Until 1998, the appropriations for operating expenditure and those for political activities came under two distinct budget headings, namely headings 3 7 0 5 and 3 7 0 6 of the Parliament's budget. Since 1999, these two headings have been brought under a single heading (3 7 0 7). Appropriations for information activities come under heading 3 7 0 8. *Table 1* shows the figures for appropriations and payments from 1994 to 1998. In 1998, these appropriations totalled approximately ECU 34 million.

2. The transfer and use of appropriations are governed by rules adopted by the Parliament's Bureau, pursuant to Article 22(2) of the Parliament's rules of procedure ⁽²⁾. These rules have been amended several times, in particular in 1992, as regards information activities, so as to take account of a ruling by the Court of Justice prohibiting the financing by the Parliament of any kind of election campaign ⁽³⁾. It was last amended in December 1998 not only because appropriations for administrative expenditure and political activities were brought under a single budget heading but also with a view to improving the management of all of these appropriations.

3. The distribution of appropriations between non-attached groups and members is decided each year following a proposal from the Conference of Presidents ⁽⁴⁾ and the Bureau ⁽⁵⁾. The distribution formula for operating expenditure and for political activities takes into account the number of members and the languages used by each group ⁽⁶⁾. Appropriations for information activities are divided up proportionately between all of the members. *Table 2* shows the distribution of appropriations between the various groups during the financial year 1998.

Table 1

Expenditure by the European Parliament's political groups - payments made

(Mio EUR)

1	2	3
Budget heading	Year	Payments by the Parliament during the financial year
3 7 0 5 Secretarial expenses and administrative and operating expenditure	1994	10,3
	1995	11,9
	1996	12,3
	1997	12,5
	1998	12,8
	<i>Sub-total</i>	59,8
3 7 0 6 Political activities	1994	5,5
	1995	6,6
	1996	6,8
	1997	6,9
	1998	7,1
	<i>Sub-total</i>	32,9
3 7 0 8 Information activities	1994	5,0
	1995	14,3
	1996	14,3
	1997	14,3
	1998	14,3
	<i>Sub-total</i>	62,4
Total 3 7 0 5, 3 7 0 6 et 3 7 0 8	1994	20,8
	1995	32,9
	1996	33,4
	1997	33,8
	1998	34,2
	Grand total	155,1

Source: Revenue and expenditure accounts, Vol. III, Section 1, Parliament.

Table 2

Expenditure by the European Parliament's political groups — Distribution of appropriations in 1998

1	2	3	4	5	6	7	8	9
	3 7 0 5		3 7 0 6		3 7 0 8		Total	
	ECU	%	ECU	%	ECU	%	ECU	%
PSE - Group of the Party of European Socialists	4 355 530	33,7	2 517 537	34,9	4 882 668	34,0	11 755 735	34,1
EPP - European People's Party (Christian Democrats)	3 679 551	28,5	2 130 777	29,5	4 126 198	28,7	9 936 526	28,8
UPE - Union for Europe Group	1 105 778	8,6	611 686	8,5	1 283 706	8,9	3 001 170	8,7
ELDR - Group of the European Party of Liberals, Democrats and Reformers	958 486	7,4	520 877	7,2	939 856	6,5	2 419 219	7,0
GUE - Confederal Group of the European Unitary Left - Nordic Green Group	741 291	5,7	401 442	5,6	779 393	5,4	1 922 126	5,6
GREENS - Group of the Greens in the European Parliament	631 533	4,9	334 781	4,6	641 853	4,5	1 608 167	4,7
ARE - Group of the European Radical Alliance	495 790	3,8	247 713	3,4	458 466	3,2	1 201 969	3,5
I-EON - Group of Independents for the Europe of the Nations	462 632	3,6	224 586	3,1	412 620	2,9	1 099 838	3,2
Sub-total groups	12 430 591	96,2	6 989 399	96,8	13 524 760	94,1	32 944 750	95,4
Unattached	493 821	3,8	230 265	3,2	848 163	5,9	1 572 249	4,6
Total	12 924 412	100,0	7 219 664	100,0	14 372 923	100,0	34 516 999	100,0

Source: The groups' accounts.

4. The appropriations are paid over to the groups at the beginning of the financial year, into bank accounts they have opened specifically for this purpose. The president of each group is responsible for the use of these funds. The groups have organised themselves into one or more national delegations, depending on the political situation in the Member States concerned, and have very often delegated part of the management of the appropriations to these delegations. No later than the 30th of June following the financial year concerned, each group must send to the President of the Parliament a report on the use of the funds which, in the case of information activities, must include a certificate issued by an approved external audit body. In the case of non-attached members, the funds are made available according to the principle of the payment or reimbursement of expenditure by the Parliament's administration on the basis of supporting documentation submitted by the members.

5. The appropriations referred to above provide additional resources for the groups. The fact is that the Parliament finances directly from appropriations under Titles 1 and 2 of its budget (7) the staff, premises, equipment and other resources which are necessary for the day-to-day operations of the groups.

The Court's previous audits

6. The European Court of Auditors presented in its Annual Report concerning the financial year 1989 (8) the findings of an audit of the groups' expenditure on information over the 1986-1989 period. This audit highlighted weaknesses in internal

management procedures, the lack of a uniform system of accounts, shortcomings in the work of the external auditors responsible for checking the groups' accounts, cases of confusion between information expenditure and everyday expenditure and ineligible expenditure in respect of election campaigns.

The field and scope of the audit

7. The audit concerned the reliability of the accounts, and the legality/regularity and some aspects of the financial management of expenditure by the groups and non-attached members. It covered the arrangements applicable until the end of 1998. Changes to the rules, applicable as from 1999 (see paragraph 2), were taken into account in the Court's observations and recommendations. The audit comprised an examination of the regulatory and budgetary frameworks, an assessment of the internal control systems and external audit arrangements, and tests in respect of transactions for the financial year 1998 which covered each of the groups which existed in 1998. The audit also covered the Parliament's administrative departments in the case of non-attached members' expenditure (which accounted for less than 5 % of total appropriations) and revealed in this connection situations which were similar to those of the groups.

OBSERVATIONS ON THE REGULATORY AND BUDGETARY FRAMEWORKS

Clarity of the rules

8. The rules for using funds for operating expenditure and political activities lay down the procedures and formulae for distributing appropriations, plus some general provisions concerning the implementation of expenditure and the presentation of the accounts by the groups. They lay down no instructions or explicit limit as regards the nature of the expenditure which may be financed using these appropriations. It follows that the notion of political activity as such and the forms it may take are not defined. According to the wording of the budget, political activities financed with these appropriations should be 'supplementary' in nature. However, no criterion is provided to enable a clear distinction to be made between these activities and activities which are part of members' usual duties as elected representatives.

9. The aim of the appropriations for operating expenditure allocated to non-attached members is unclear. No definition has been given of the nature of the expenditure that may be refunded to non-attached members so as to enable a distinction to be made between this category and expenditure which is usually already covered by the allowances paid to these members. The areas concerned are the secretarial allowance intended to cover expenditure incurred when recruiting or employing the services of parliamentary assistants and the general-expenses allowance intended to cover expenses resulting from parliamentary activities⁽⁹⁾.

10. Information activities may, according to the rules, be organised in cooperation with third parties provided that the principle of joint signing on equal terms is observed⁽¹⁰⁾. This principle is not formally defined. In practice, the aim was to ensure that partners' involvement was conspicuously indicated: the placing and size of the logo (and/or name) of the group and its partners had to be given equal treatment. The rules do not stipulate the procedure for financing joint measures of this kind, in particular with a view to guaranteeing transparency as regards their overall cost and the way expenditure is to be divided up between the group and its partners.

11. Information activities may not include any form of election campaign at the European, national, regional or local levels. However, the rules adopted in 1992 do not provide any guidance as to the criteria to be applied in order to establish whether or not a measure amounts to an election campaign. Only on 26 February 1999, once the rules had been amended, did the Presidents of the groups adopt joint guidelines for interpreting this ban⁽¹¹⁾.

Existence of separate rules and budget headings

12. The existence of two sets of rules (i.e. one for operating expenditure and political activities and another for information

activities) and of several budget headings (three up until 1998; two since 1999) may be justified on the basis of the previous situation⁽¹²⁾. Thus far, this situation has never been called into question because of differences in the distribution formulae for the appropriations concerned, which favour some groups more, in particular as a consequence of the number of languages used by their members (see paragraph 3). Nevertheless, it creates complications which are out of proportion to its objectives, requiring separate accounts to be kept for activities between which no genuine difference ultimately exists.

13. The fact is that the distinction between political activities and information activities seems highly theoretical since, due to the groups' role and as confirmed by comments in the budget, their information activities are political in nature. In practice, and even if some groups have defined certain guidelines for making the distinction⁽¹³⁾, the Court observed that the charging of expenditure by the groups to either budget heading seemed on occasion to be determined more by the availability of the funds than by a genuine difference in the nature of the activities.

14. The existence of two sets of rules engenders a risk that the most stringent rules (those governing information activities), which require a clear link to be established between the activity financed on the one hand and the Community and its policies on the other, and which do not allow appropriations to be made available to political groupings, will simply be circumvented.

Checking compliance with the rules

15. It is difficult to check certain rules governing information activities, such as the ban on organising any measures to provide information in the run-up to the European elections⁽¹⁴⁾. These measures often take forms (e.g. pamphlets, brochures, posters and other means of publicity) where checks are straightforward only in respect of the date they were manufactured or invoiced, and not of the period for which they were used. Furthermore, the rules make no provision for recent technological developments, such as the creation by most of the groups of Internet websites, which are permanent in nature and which are very often linked to those of similar political groupings. Access to and development of these sites are not suspended during the period covered by the ban.

16. Similarly, checks in respect of the ban on financing election campaigns at the national, regional or local levels are complicated by unfamiliarity with the Member States' various election timetables.

17. A more general question may also be asked, regarding the distinction between information and election propaganda and the use in any election campaign (European or otherwise) of forms of information which have been published in advance.

Volume of and rules for the distribution and carrying-over of appropriations

18. The formulae for distributing appropriations for operating expenditure and information activities, which take particular account of the languages used by the groups, imply that belonging to a group provides entitlement to a volume of appropriations per member which is substantially greater than the amounts allocated to non-attached members. This explains the composition and *modus operandi* of certain groups, within which the national delegations, which are sometimes made up of very few members (or even a single member), enjoy such autonomy in the pursuit of their activities and in the use of their share of the appropriations⁽¹⁵⁾ that the very notion of a group, as defined in Article 29(1) of the Parliament's rules of procedure⁽¹⁾, may be called into question.

19. The appropriations are paid to the groups in full at the beginning of the financial year. Appropriations for information activities may be carried over to the following financial year. Although this procedure is not automatic, the groups have nevertheless employed it systematically. Appropriations for operating expenditure and political activities may be carried over automatically from one financial year to the next. Although the groups have interpreted this provision as an unlimited entitlement to carry appropriations over, in practice there have been only a few cases of appropriations being carried over beyond a single financial year. However, by analogy with the Financial Regulation⁽¹⁶⁾, the Court considers that this provision allows for an entitlement to be carried over only to the following financial year. The Court also observed that, during the 1994 to 1998 period, appropriations which were not used by the end of the financial year very often amounted to the equivalent of six to nine months' expenditure. As a matter of principle, the fact that such large amounts are permanently available means there is a risk of poor management of appropriations unless these amounts are justified by a corresponding volume of commitments.

The groups' legal status and area of activity

20. The groups are Parliament bodies and, in accordance with the Parliament's rules of procedure⁽¹⁾, they play an important role as regards the powers and internal *modus operandi* of the Institution. This important role contrasts with the absence of detailed provisions defining the precise nature of political activities and information activities, the groups' legal status and the nature and scope of any work they may do independently of the Parliament's internal *modus operandi*.

21. The groups have no legal personality and therefore may not acquire rights or enter into commitments. In relations with third parties outside the Parliament, decisions taken by the groups to use the funds (for example when signing employment, rental or purchasing contracts) are considered to have been taken with the

Parliament's authority and to engage its responsibility⁽¹⁷⁾. In the case of other decisions of a political nature, the groups are not regarded as authorised representatives of the Parliament and responsibility falls on the members who make up the groups. In the case of political and information activities, it seems difficult to make such a distinction between financial and political aspects, which raises the question of responsibility for these activities.

22. Neither the Parliament's rules of procedure⁽¹⁾ nor the rules governing the use of the appropriations⁽²⁾ covered by this report define or delimit the activities which the groups may carry out independently of the Institution's internal *modus operandi*. In most cases, the groups have granted considerable autonomy to their national delegations which frequently conduct political and information activities jointly with affiliated political bodies. Shortcomings in the rules and this means of organisation give rise to a lack of clarity as regards the respective roles and activities of the groups, of their national delegations, or even of the political groupings which are linked to them.

OBSERVATIONS ON THE INTERNAL CONTROL SYSTEM

23. At first sight, the facility for financing appropriations allocated to the groups seems to resemble a facility for paying a subsidy to an external body. However, in actual fact, it is a delegation of the implementation of these appropriations to internal Parliament bodies, which should therefore comply with the regulatory framework applicable to budgetary expenditure. However, the groups, which enjoy considerable autonomy in their financial management, do not apply the Financial Regulation, the corresponding implementing arrangements or the Parliament's rules of procedure when implementing their budgets.

24. Some groups have nevertheless formalised internal rules and instructions, which are similar to those contained in the regulations applicable to the Community budget, for example as regards delegating the power of signature, the commitment, authorisation, validation and disbursement of expenditure, the nature of the supporting documents, the type of contract or repayment scales. In most other cases, the written internal rules are, to a great extent, inadequate, or even completely non-existent.

25. The decentralisation of the implementation of appropriations to the national delegations, which sometimes have only a few members of staff, or even a single member, is often inadequately monitored by the groups' authorities. In many cases, these national delegations enjoy such independence in their use of funds that the group is unable to supervise their financial activities in any meaningful way.

26. The degree of interest shown by the groups' authorities and by those responsible for their general secretariat in the inspection of financial management varies and is insufficient in the case of approximately half of the groups. The temporary status ⁽¹⁸⁾ of the staff employed in the groups' general secretariat is unlikely to ensure in all cases that the staff responsible for financial management carry out independent and effective checks as to whether expenditure complies with the regulations. In this respect, it must be noted that the uniform internal rules governing the management of appropriations for information activities ⁽²⁾ allow for the refusal of payment only in cases where funds are unavailable.

OBSERVATIONS ON THE EXTERNAL AUDIT ARRANGEMENTS

27. Until the end of 1998, only the rules governing information activities provided for an external audit to be carried out by an approved body. The terms in which it was couched, however, were ambiguous since they refer to 'a certificate as to the regularity of the accounts' and the standardised specimen certificate ⁽¹⁹⁾ contains only a declaration of the regularity of the transactions in respect of some aspects of the rules, namely the capping of operating expenditure and the ban on purchasing immovable property or office furniture. The new provisions ⁽²⁰⁾, which now apply also to operating expenditure and political activities, are even less satisfactory since they mention a *certificate...that the accounts are properly kept*. It would be more appropriate to instruct the auditor to provide a certificate of the reliability of the accounts and of the regularity of the operations financed.

28. Although they were not expressly required to do so until the end of 1998 ⁽²¹⁾, the groups also submitted their accounts of operating expenditure and political activities to external audit. However, some groups did not send the accounts certified by the external auditor to the President of the Parliament. The fact that the regulations are silent as regards the eligibility criteria for expenditure explains why the audit was restricted to the reliability of the accounts and to the acceptability in accounting terms of the documents in support of the expenditure.

29. As the external auditors' current remit is merely to audit the appropriations in question, they do not usually possess sufficient information on the general running of the Parliament, and in particular on any other resources the Parliament places at the disposal of the groups and the members, for them to be alive in their work to certain particular risks. Furthermore, the audits are carried out only in respect of the groups' general secretariat, not of the administrative structures of the national delegations in the Member States, even though, as was explained earlier, they play an important role in the use of the funds. In practice, the possibility of checking that the operations financed actually took place is accordingly reduced.

30. Differences were observed in the nature and scope of the audit procedures employed by the various auditors. In view of the findings of the Court's audit, which are set out below, the effectiveness and usefulness of these external audits, which have not generally yielded significant observations, are debatable given the circumstances.

31. The external auditors' certificates accompany the annual reports which the groups send to the President of the Parliament, who forwards them to the Committee on Budgetary Control. As the Court observed in its Annual Report concerning the financial year 1989 ⁽²²⁾, there was a failure to follow the procedure requiring ⁽²³⁾ the Committee on Budgetary Control to draw up for the Parliament's Bureau a comprehensive report on the extent to which appropriations have been used in compliance with the regulations in the field of expenditure on information activities.

OBSERVATIONS ON THE KEEPING OF THE ACCOUNTS AND THE FINANCIAL STATEMENTS

32. The accounting practices of the majority of the groups do not call for extensive comment by the Court. Nevertheless, in certain cases, significant shortcomings and anomalies were uncovered:

- in some cases expenditure was decided, carried out and entered in the accounts by the same persons, acting alone;
- the connection between the transactions, the supporting documentation and the entries in the accounts was not made sufficiently clear by means of adequate references;
- advance payments and cash withdrawals were immediately entered as final expenditure;
- cash withdrawals were recorded in suspense accounts with no possibility of identifying the transactions concerned.

33. In one group the annual accounts for the financial year 1998 were only submitted after a considerable delay and with numerous transactions which had been in abeyance for some time still left on suspense accounts, which was indicative, in this case, of a lack of rigour in the keeping of the accounts.

34. The lack of clarity in the arrangements for keeping the accounts and presenting the financial statements led to differences in interpretation and practice between the groups. Some groups thus introduced cash basis accounting and others accruals basis accounting. In addition, some groups drew up a statement of assets and liabilities showing, in particular, their immovable property, accounts receivable and debts. Others drew up a financial balance sheet showing only their cash deposits and liquid assets as at the end of the financial year.

35. Frequent shortcomings were observed concerning supporting documents, whether this concerned accounting documents in the strict sense (contracts, invoices, etc) or documentation of the activities to which the expenditure was linked (purpose of meetings, list of the persons invited, brochures, etc). Moreover, the absence of rules on keeping documents and statements of accounts raises a general problem of control, in particular in the case of the dissolution, or a change in the composition, of the groups.

36. In the absence of explicit provisions, only a limited number of groups kept an inventory or equivalent record of the movable property acquired with their appropriations. In the case of the other groups there is no assurance, therefore, of any protection for this property, particularly in those cases where the group is dissolved or its composition changes, or where non-attached members are not re-elected.

37. On 26 May 1993, in line with the Court's proposal in its Annual Report for the financial year 1989 ⁽²⁴⁾, the groups adopted a uniform system of accounts for operations concerning information activities. This step was not followed in the case of operations relating to administrative expenditure and political activities, with the result that, in the case of these types of expenditure, there is no uniform presentation of the relevant financial statements. This shortcoming was rectified, however, during the review of the rules by the Bureau of the European Parliament at the close of 1998.

38. The absence of sufficiently clear rules on the charging of expenditure, both to the accounts and to the budget, is detrimental to the informative value of the financial statements. Apart from the fact that, as noted above, the distinction between political activities and information activities is largely theoretical, expenditure is entered sometimes on the basis of the type of expenditure and sometimes on the basis of its purpose. In practice, the Court noted rather frequently that expenditure relating to similar actions was entered under different headings in the accounts, or that expenditure concerning one and the same action was spread over several headings. The new rules, which have been applicable since 1999, are no improvement in this respect.

39. There are also limits to the informative value of the annual reports on the use of the appropriations due to the fact that, in practice, they do no more than present the financial statements and that, contrary to what one would expect, they do not include any explanation of the main activities for which expenditure was incurred during the financial year.

40. In several cases the Court noted problems with the reliability of the financial statements sent by the groups to the President of the Parliament. The group which submitted financial statements containing numerous suspense accounts (see paragraph 33) presented expenditure which had already been settled and which, in the main, consisted of claims on a fund created for the financing and adjustment of salaries (see paragraph 58), as appropriations committed. Moreover, the external auditor added reservations to

his certificate because of a lack of supporting documentation and the volume of the amounts still to be settled on the suspense accounts. In addition, he clearly excluded from his audit certificate the 'justification' for the system of remuneration financed from the abovementioned fund. Another group submitted financial statements containing relatively few details and not those certified by the external auditors, which were more informative, in particular in respect of the group's financial operations with related organisations. In addition, considerable funds, held in reserve by this group in a foundation - a genuine subsidiary of the group - are not included in its financial statements. Due to a problem in the design of its accounting system, a third group's financial statements did not show the total expenditure of its national delegations. In the case of a fourth group, a general problem with entering expenditure in the accounts and in the budget had a negative impact on the reliability of the information on expenditure.

OBSERVATIONS ON THE LEGALITY/REGULARITY OF THE OPERATIONS

41. The absence of explicit provisions in the rules concerning administrative expenditure and expenditure on political activities does not imply, in the Court's view, that the use of these funds should remain completely at the discretion of the groups. The expenditure must remain within reasonable limits which are appropriate to the *modus operandi* and the activities of internal Parliament bodies. The wording of the budgetary authorisations and the comments on them confirm this analysis. The Court therefore considered that the obligation to demonstrate a link with the role and *modus operandi* of the Parliament and the bans on financial participation in election campaign activities and on the transfer of funds to third parties also apply, *de facto*, to the use of these appropriations. This analysis is confirmed by the changes introduced by the new rules which have been in force since 1999 ⁽²⁵⁾.

Supporting documentation

42. Significant anomalies in respect of accounting documents were found in 50 % of the groups. In general, these take the form of a frequent absence of contracts (employment, services and rental contracts), of order forms or delivery slips, of invoices, pay slips or fee claims, mission orders, tickets, of the authorisation of payment by the recipient of a service or proof of payment in cases of reimbursement. These anomalies were all the more significant in one group, where a not inconsiderable amount of the expenditure was made from the group's account by means of banker's cards and was entered in the accounts without supporting documents, simply on the basis of the statement issued by the bank.

43. Some appropriations were paid over to national delegations without justification as far as the nature and cost of the actions carried out or planned was concerned. It is sometimes difficult, in view of the nature of the national delegations in question, to know whether or not they are indistinguishable from the related political organisations.

The link between the groups' activities and the role and modus operandi of the Parliament, its political groups and their members

44. In the case of a majority of the groups, it is frequently difficult to establish whether expenditure has a clear connection with the role and *modus operandi* of the Parliament, of the group or of its members, on account of the absence of adequate information on the purpose of the action. This difficulty arises, in particular, in the case of entertainment expenses spent on behalf of the group and for which there is often a complete absence of information in respect of the persons invited and the subject of the meeting. It also arises in the case of expenditure in connection with the activities of some national delegations, on which no information is available.

45. The general absence of clear internal rules, in particular concerning the delegation of powers and authorisation of expenditure, the deficiencies in respect of supporting documents and the high degree of decentralisation in the use of appropriations all contribute to making it difficult to ascertain whether there is a clear link between an item of expenditure and the group's activities.

Funds and resources placed at the disposal of political groupings

46. Some groups used part of their appropriations to finance European political parties or other related groupings. In 1998, a total of approximately ECU 1 400 million was paid to the latter in the form of dues, subsidies, repayments of building loans or contributions to administrative costs. This amount does not reflect the entirety of the financial support enjoyed by European political parties, which also use offices and staff financed directly from the Parliament's budget and placed at the disposal of the groups.

47. The Court is aware that, since the entry into force of the Treaty of Amsterdam, Article 191 of the Treaty establishing the European Community recognises the importance of political parties at European level and that thought is currently being given to a legal statute for European political parties. Nevertheless, the Court considers that aid for the financing of European political parties, as for other similar groupings, cannot be taken from appropriations which are intended for the activities of the groups.

48. One group, which has set up a foundation (see paragraph 40) under its own control, transfers part of its appropriations to it every year, i.e. approximately ECU 720 000 million in 1998. At the end of 1998 this foundation's assets totalled more than ECU 10 million, consisting mainly of bank deposits and stock exchange investments, the yield from which - approximately ECU 730 000 in 1998 - served to finance its activities. The funds thus placed in reserve are not mentioned in the group's balance sheet.

49. The Court also found some cases where staff paid by the groups were working for outside organisations, such as a national political party, an association liaising with political parties in non-Member States or a newspaper or magazine.

50. Some groups made a financial contribution to national political parties in the form of actions which had allegedly been organised jointly. Apart from the fact that the actions in question showed no sign of being 'joint' in nature, the contributions from the groups were paid in the absence of any information on the overall cost of the operations and on the distribution of the expenditure and whether it had actually been incurred in every particular. Consequently, the risk that such operations may constitute financial support for the political parties in question cannot be excluded.

Activities organised in cooperation with third parties

51. In 50 % of the groups cases were discovered where the principle of joint signing on equal terms was not complied with in respect of various actions (meetings, round table discussions, publications, posters, etc) conducted in cooperation with European political parties or national political groupings. In the absence of the name and logo of the group and of the Parliament, these actions are equivalent to actions conducted by the political groupings in question.

Financial participation in election campaign activities

52. The Court found some cases of direct financial participation in election campaigns, either for European Parliament elections or elections in the Member States. In addition, the actions of the political groupings which received funds or benefited from the groups' other resources, as revealed above, were in principle, of course, part of the preparation of such election campaigns.

Activities normally covered by other allowances

53. A considerable part of the appropriations of one group was used to finance expenditure which is normally covered by the secretarial and general expenses allowances received by the members of Parliament, i.e. parliamentary assistants' travelling and overnight expenses and operational expenditure of the MEPs' constituency and other offices in the Member States. Similar cases, more isolated however, were also revealed in several other groups.

Expenditure of a private nature

54. Cases of expenditure were found which were of a manifestly private nature, i.e. equipment installed in a private vehicle and residence, documentary research work carried out with a view to the publication of a book, subscriptions to magazines or travelling expenses. There is also a risk of other forms of private

appropriation, in particular on account of the frequent inadequacy of controls on entertainment expenses and the general absence of an inventory of office furnishings and equipment financed from the groups' funds and installed, in part, in the national delegations or in the MEPs' constituency offices.

Staff management

55. The Parliament places approximately 530 temporary staff at the disposal of the groups, whose salaries and associated costs are financed directly from the appropriations under Title 1 of its budget. Using the appropriations that are the subject of this report, the groups may take on extra staff according to their individual requirements. It is difficult to say how many of these supplementary staff there are exactly, but they can be estimated at a total of sixty persons ⁽²⁶⁾, plus a certain number of persons recruited on an occasional basis, to which it is difficult to put a figure.

56. For the majority of the groups, the management of the staff paid directly by the groups shows a lack of transparency and reveals anomalies similar to those the Court uncovered in connection with expenditure resulting from the recruitment and employment of parliamentary assistants ⁽²⁷⁾. This arises firstly from the multiplicity of contractual arrangements which may be for paid employment or for the supply of services. These various arrangements do not necessarily reflect a difference in the actual nature of the relationship, as the staff are generally placed in the position of an employee of the group. In many contracts the validity of certain clauses, with regard to labour law and the tax and social arrangements, is doubtful. In some cases contracts do not exist and remuneration or fees are often paid in the absence of any pay slip or fee claim. The groups are not obliged to submit the contracts to the Parliament and the latter therefore does not carry out any controls, even though these contracts are deemed to have been concluded on the basis of a mandate from the Parliament and the latter can therefore be held responsible ⁽²⁸⁾.

57. Some of the staff employed by the groups are posted in the Member States to the national delegations. The Court discovered, in respect of all the groups, that staff, or bodies, paid by the groups (within the framework of employment contracts or contracts for the supply of services) were receiving, at the same time, parliamentary assistants' pay, which was paid into the MEP's secretarial allowance. This contravenes the rules, which stipulate, as the Court underlined in its Special Report on MEP's expenses and allowances ⁽²⁹⁾, that the two roles are incompatible. There is no evidence that these staff and bodies actually performed services for the benefit of the groups. In fact, a part of the groups' resources is therefore being used in this manner to supplement the MEPs' allowances. There is also a risk that other staff paid by the groups, posted to the national delegations, are not in fact acting as assistants to the MEPs.

58. One group granted supplementary remuneration to its staff, who were mostly temporary staff already in the Parliament's pay, in the form of special and end-of-year bonuses. No written rules had been drawn up in respect of the criteria for, and scales of, these payments and considerable disparities were noted between the amounts paid to the various persons concerned in the absence of any pay slip. Another group has set up a fund which is financed in part by 'voluntary' payments of part of their salaries by temporary members of staff who are also being paid by the Parliament. The objective of this fund is to reduce the differentials between the salaries of the various categories of temporary staff and to take on extra staff. These structures are irregular, since no group has the power to adjust the remuneration of temporary members of staff under contract to and in the pay of the Parliament. Another effect this has is to encourage tax evasion.

OBSERVATIONS ON THE FINANCIAL MANAGEMENT

59. A prerequisite for sound financial management is that, firstly, the legality/regularity of the transactions must be assured. The anomalies exposed by the Court above consequently also have an impact on the financial management, as the funds were used for purposes which are not authorised by the rules.

60. Generally speaking, the groups have failed to introduce rules and mechanisms to ensure the principles of sound financial management are applied. In particular, the distribution of the appropriations, in the form of non-repayable grants, among the national delegations, the absence of a prior authorisation mechanism for operations, the absence of rates and scales of pay and the non-application of procedures to open the awarding of contracts to competition are not such as to ensure that the expenditure is always in accordance with the principles of sound financial management.

61. These weaknesses did not lead to poor overall use of the funds but some of the transactions examined by the Court give rise to reservations in respect of compliance with the criterion of economy. For example, the reimbursement scales for mission expenses are more generous in some groups than those applicable to the staff of the European Institutions. In the Court's opinion, however, these latter scales are perfectly adequate, under normal circumstances, for the groups' requirements. The conditions under which meetings, often referred to as 'study days', are organised by the groups away from the places where the Parliament conducts its official work should also be reviewed, in particular in view of the massive presence of the groups' staff and, in some cases, of the fact that these activities are not directly connected with the groups' work in the strict sense of the word. The Court also observed several cases of expenditure which did not seem useful or reasonable.

CONCLUSIONS AND RECOMMENDATIONS

62. The lack of clarity in the rules and procedures applicable to the groups in respect of the eligibility of their expenditure, the frequent absence of any satisfactory system of internal control

and the weaknesses of the present external audit system have contributed to the considerable problems discovered by the Court in respect of the legality/regularity of the transactions. There is no guarantee that the funds were always used in accordance with the principles of sound financial management. Obviously, this does not mean that all the expenditure by all the groups is affected by the anomalies described in this report. The fact is that the Court's audit revealed a situation full of contrasts, the problems described being more frequent in some groups - and some non-attached members - than in others.

63. Consideration must be given to clarifying the criteria governing the eligibility of expenditure by means of common rules applying to all the appropriations in question. The amendment made at the end of 1998 resulted in no appreciable improvement in this respect. Thought should be given to placing all the appropriations under a single budget heading, in particular so as to end the highly theoretical distinction between political and information activities. This would also facilitate accounting and auditing.

64. In view of the role ascribed to political parties at European level by Article 191 of the Treaty establishing the European Community and in view of the inclusion in the budget of a heading specifically for contributions to European political parties, consideration should also be given to drawing up transparent rules to be applied to the financing of these parties. This opportunity should also be used to clarify the role and activities of the groups while reaffirming that they are, primarily, internal parliamentary structures.

65. A way of organising the financial management must also be devised which, while leaving the groups their legitimate operational autonomy will ensure that an efficient system of internal control is put in place. This system should allow the rules governing the implementation of the Community budget to be applied in full and should, in the Court's view, lead, in particular, to the centralisation of the disbursement of and accounting for expenditure in the Parliament's administrative departments. Special

rules should be drawn up to regulate the making available and use of the appropriations allocated to non-attached members.

66. Clear rules must be laid down in respect of property and the inventory of goods acquired using the appropriations in question in order to ensure protection and optimum management of all assets, including financial assets, in particular where changes to the composition of a group occur or it is dissolved. Likewise, arrangements must be made for conserving the accounting records of dissolved groups.

67. In order to allow greater insight, primarily for the Parliament, into the use made of the appropriations, each group's annual report should include a sufficiently detailed and informative presentation of the objectives, the type and the cost of the main activities financed. The groups' certified accounts, which have been public since 1999, should be published in future.

68. To make it more effective, the external audit of all the groups should be entrusted, for a set period (for example, one parliament), to a single body selected by invitation to tender. The external auditor's remit should be clearly defined and explicitly include an audit of the regularity of the transactions, right up to the Member States. This external auditor should draw up a report on each group, every year, and submit it directly to the President of the Parliament.

69. The multiplicity of employment contracts and service contracts, which are quite frequently at odds with Community and national regulations, represent major risks with regard to the Parliament's legal responsibility. It is essential that consideration should be given, without delay, to clarifying the contractual relationship between the groups and their employees and service-providers. In order to ensure compliance with certain basic legal forms, a standardisation of the contracts should be undertaken under the supervision of the Parliament's secretariat, which should, in addition, automatically receive a copy of all the contracts concluded.

This report was adopted by the Court of Auditors in Luxembourg at the Court meeting of 25 May 2000.

For the Court of Auditors

Jan O. KARLSSON

President

NOTES

- (¹) OJ L 49, 19.2.1997, pp. 1 to 76. Rule 29(1) of Parliament's Rules of Procedure provides, 'Members may form themselves into groups according to their political affinities'.
- (²) The rules governing the use of funds placed at the disposal of the political groups for their secretarial expenses and administrative operating expenditure (3 7 0 5) and their political activities (3 7 0 6) were adopted by the Parliament's Bureau on 10 July 1986 (EP 107.858/BUR/Ann. II). These rules were amended by the Bureau on 14 December 1998 (EP 274.329/BUR) at the same time as these appropriations were brought under a single heading (3 7 0 7).
The rules amending the use of appropriations for information activities (3 7 0 8) were adopted by the Bureau on 28 January 1992 (EP 158.828/BUR/Ann. II). On 28 October 1993 (EP 175.829/BUR) the Bureau gave its agreement to the addition to these rules, as an Annex, of the joint text referred to as the 'gentlemen's agreement' which was adopted on 26 May 1993 by the Presidents of the political groups for the purposes of standardising internal rules and harmonising the systems of accounts and annual reports. These rules were amended by the Bureau on 14 December 1998 (EP 274.330/BUR).
- (³) Court of Justice, judgment of 23 April 1986, Case 294/83, the Green Group v Parliament.
- (⁴) The Presidents' conference is made up of the President of the Parliament and the Presidents of the groups. Two representatives of the non-attached members take part in the meetings but do not have voting rights.
- (⁵) The Bureau is made up of the President and the fourteen Vice-Presidents of the Parliament. The Quaestors are members of the Bureau in a consultative capacity.
- (⁶) The formula for distributing appropriations makes provision for:
— on the one hand, a lump sum per group (75 % of the groups' total appropriations for heading 3 7 0 5 and 85 % for heading 3 7 0 6), i.e.:
for groups with between 0 and 39 members: 1 unit,
for groups with between 40 and 79 members: 1,5 units,
for groups with between 80 and 119 members: 2 units,
for groups with between 120 and 159 members: 2,5 units,
for groups with between 160 and 199 members: 3 units,
for groups with between 200 and 239 members: 3,5 units,
— and, on the other hand, an amount to be distributed on a proportional basis (25 % of the groups' total appropriations for heading 3 7 0 5 and 15 % of the groups' total appropriations for heading 3 7 0 6) taking the number of members and the languages used by each group into account (the proportional sum per member is increased by 5 % per language up to a maximum of 11 languages).
- (⁷) The share of these other appropriations devoted by the Parliament to the operations of the political groups can be estimated, very roughly, at approximately EUR 80 million. The total annual expenditure by the Parliament in connection with the activities of the political groups would therefore be of the order of EUR 115 million, compared with a total budget for the Parliament of EUR 905 million in 1998 (i.e. approximately 13 %).
- (⁸) OJ C 313, Volume II, 12.12.1990, paragraphs 16.7 to 16.19.
- (⁹) See Special Report No 10/98, OJ C 243, 3.8.1998, p. 1.
- (¹⁰) The amended rules of 14 December 1998 (EP 274.329/BUR) now refer to the principle of joint signing on equal terms.
- (¹¹) The ban on election campaign activities has also applied, since the amendment to the rules on 14 December 1998 (EP 274.329/BUR), to the use of the appropriations under heading 3 7 0 7 for administrative and secretarial expenses linked to political activities.
- (¹²) The appropriations were entered in the Parliament's budget in successive stages, i.e.:
— as from 1972 for operating expenditure (3 7 0 5),
— as from 1974 for political activities (3 7 0 6) and
— as from 1982 for information activities (3 7 0 8).
- (¹³) The distinction made is that the information activities must be aimed at the public or opinion leaders while the political activities are aimed more at political concertation within the framework of parliamentary work.
- (¹⁴) Until the end of 1998 this period was four months. It was subsequently shortened to one month.
- (¹⁵) The groups distribute a variable part of the appropriations received from the Parliament in grants between the national delegations.
- (¹⁶) Article 7(7b).
- (¹⁷) This analysis was confirmed by a Court of First Instance judgment (Case T-162/89) of 22 November 1990.
- (¹⁸) Temporary and auxiliary staff and other staff under contract.
- (¹⁹) This type of certificate was adopted on 26 May 1993 under an agreement between the Presidents of the groups referred to as the 'gentlemen's agreement' (EP 175.892/BUR).
- (²⁰) Provisions adopted by the Bureau of the Parliament on 14 December 1998 (EP 274.329/BUR and EP 274.330/BUR).
- (²¹) The rules only stipulated that each group was to draw up rules concerning controls and checks on the accounts.
- (²²) OJ C 313, volume II, 12.12.1990, paragraph 16.18.
- (²³) Article 5(4) of the rules adopted by the Bureau of the Parliament on 28 January 1992 (EP 158.828/BUR/Ann. II).
- (²⁴) OJ C 313, volume II, 12.12.1990, paragraph 16.16 (a).
- (²⁵) The latter bans participation in any kind of election campaign.
- (²⁶) This estimate is based on the number of persons benefiting from a contract of a certain length in the course of 1998.
- (²⁷) See Special Report No 10/98, OJ C 243, 3.8.1998, paragraphs 1.32 to 1.38.
- (²⁸) Court of First Instance judgment of 22 November 1990 in Case T-162/89.
- (²⁹) See Special Report No 10/98, OJ C 243, 3.8.1998, paragraph 1.34.

REPLIES OF THE EUROPEAN PARLIAMENT ⁽¹⁾

Parliament notes that the Court's objective was to undertake an overall review of the utilisation of the European Parliament's appropriations earmarked for the activities of the political groups and of the Non-attached Members.

Parliament notes that, in its conclusions and recommendations, the Court wanted to draw attention to the lack of clarity in the general rules and in the internal rules of the groups regarding the eligibility of expenditure and to the rather frequent absence of satisfactory internal control systems, as well as to the weaknesses of the current mechanisms for external audit (paragraph 62).

Accordingly, Parliament gave each group the opportunity to reply individually to the remarks which concerned them more specifically.

Parliament agrees with the Court that the political groups should enjoy operational autonomy and that this must be accompanied by the establishment of a regulatory budgetary framework which provides for clear, transparent and effective control.

However, Parliament does not consider that centralisation of payments and of accounting for expenditure in the Secretariat would be appropriate and effective (paragraph 65).

In agreement with the political groups, Parliament decided to refer the matter to the appropriate bodies in order to ensure that all the measures detailed below enter into force on 1 January 2001.

Amendment of Rules 29 and 30 of Parliament's Rules of Procedure

Paragraphs 20, 21, 22. The Committee on Constitutional Affairs will have to be consulted with a view to the amendment of Rules 29 and 30 of Parliament's Rules of Procedure.

The Rules will have to define the field of activity of the political groups as bodies of Parliament, 'lay down the mechanism for the dissolution of a group' and to specify the status of the Non-attached Members.

Amalgamation of Items 3 7 0 7 and 3 7 0 8 in Parliament's budget

Paragraphs 12, 13, 14, 38, 63. The Committee on Budgets will have to be consulted with a view to the amalgamation of Items 3 7 0 7 and 3 7 0 8 in Parliament's budget and to the amendment of the nomenclature.

Amendment of the internal rules governing the use of the budget

Paragraph 23. Parliament's Bureau will have to be consulted on the revision of the internal rules governing the use of Parliament's budget with a view to defining the rules applicable to the implementation of the new budget item created by the amalgamation of Items 3 7 0 7 and 3 7 0 8.

Adoption of new rules governing the use of the appropriations entered against the new budget item (formerly items 3 7 0 7 and 3 7 0 8) and the Annexes thereto (accounting plan, harmonised certificate, balance sheet and statement of expenditure)

The new rules will, in particular, have to clarify the following issues raised by the Court:

Type of expenditure

Paragraphs 8, 9, 41. The rules will have to stipulate clearly that the expenditure of the political groups must be connected with the activities and policies of the Union.

Under no circumstances will it be permissible for appropriations made available to the political groups and to the Non-attached Members to be used to finance activities specifically covered by other budget items.

Joint organisation - provision of funds

Paragraphs 10, 50, 51. In addition to the principles already established with regard to the funding of activities organised jointly, the new rules will have to specify the procedures for financial participation, account being taken of the overall budget for each activity or event which is jointly organised.

⁽¹⁾ Translator's note. No copy of the Court of Auditors report was available for use as a reference document when this text was translated. Any discrepancies result from this lack of background material.

A distinction will have to be drawn between the principle of joint organisation and the principle of the subsidy which is covered by specific provisions in the Financial Regulation.

Election campaign

Paragraphs 11, 15, 16, 17, 52. Parliament notes with satisfaction that the political group chairmen have adopted common guidelines for the interpretation of the notion of 'election campaign'. These guidelines will have to be included in the new rules and will have to be supplemented, with particular regard to the use of the new technologies.

However, Parliament, like the other institutions, cannot suspend its flow of institutional and political information so as to fit in with the timetable of elections in Member States for which the Member States themselves are responsible.

Carry-over to the following financial year

Paragraph 19. The new rules will have to beef up Article 4(3) of the current rules governing Item 3 7 0 8 concerning the carry-over of appropriations to the following financial year. The budget and financial statements of each group will have to indicate the precise situation of carry-overs of appropriations.

External audit

Paragraphs 27, 31, 68. Parliament endorses the Court's observations concerning external audit.

It will draw up a list of external audit bodies. The groups will then select from that list the body they wish to undertake their audit. The body thus selected will receive explicit instructions from Parliament before issuing a certificate as to the reliability of the accounts and the regularity of the operations financed. Those certificates will have to be drawn up no later than 31 March in the year following the closure of the accounts for the financial year in question.

The groups will retain the possibility of having the reliability of the documents and the regularity of the operations financed monitored for internal purposes.

Cash or financial year accounting, retention of documents and inventory

Paragraphs 34, 35, 36. The new rules will lay down the accounting system to be used by each group, the system for the retention of documents – which will also cover the eventuality of the dissolution of the group – and the obligation to maintain an inventory of assets registered in Parliament's general inventory.

Contract of employment or for the provision of services

Paragraphs 55, 56, 57, 69. Parliament will lay down a general rule whereby the groups will be obliged to supply it with a copy, for information, of any contract concluded between a group and a third party. What is more, Parliament decided to amend the Rules governing payment to Members of the Secretarial assistance allowance. Those new rules, applicable on 1 January 2001, provide in particular for the publication of a list of assistants.

Along the lines of that decision, the new rules will have to lay down, in the case of contracts of employment or for the provision of services concluded by the groups, the obligation to supply the following documents:

- contract of employment
- copy of payslip
- proof of payment of social security contributions
- proof of social security and occupational accident insurance cover, and
- proof of the contract for the provision of services and copies of fee invoices.

Adoption of a financial regulation common to the groups in application of the rules governing the use of appropriations

Paragraphs 60, 61, 24, 25, 26, 42, 43, 44, 45. Parliament's Bureau will have to adopt a financial regulation common to the political groups in application of the rules governing the use of appropriations which, while taking account of the internal organisation of each group, will have to provide, *inter alia*, for the following elements:

- rules on the annuality of the budget, including the criteria for the carry-over of appropriations
- rules on the principle of sound financial management
- structure of the budget
- internal mechanisms and procedure for approval of the budget, as well as a description of control mechanisms
- criteria for the implementation of the budget and, in particular, procedures for the commitment of expenditure and for the delegation of power to commit expenditure
- procedure for clearing expenditure
- payment procedure

- imprest accounts
- awarding of contracts
- uniform accountancy criteria
- uniform inventory criteria
- procedure for the recovery of debts
- rules governing the submission of supporting documents
- rules governing the opening and management of current bank and post office accounts.

The Financial Regulation will have to lay down procedures for the management of appropriations devolved to national delegations. The scope of decentralised management entrusted to the national delegations will have to be strictly limited. Power to clear expenditure and power of payment will lie exclusively with the groups. They will be obliged to refuse payment, should commitments not comply with the rules in force.

European political parties and other political groupings

Paragraphs 46, 47, 64. Parliament's political authorities were able to have incorporated into the Treaty of Amsterdam Article 191 concerning European political parties. For a long time now, Parliament has been considering that Article, which is essential for the development of democracy at European level, may be implemented. (It adopted a resolution on the institutional status of European political parties on 10 December 1996 and made a token entry against Item 3 7 1 0 in Parliament's budget.)

For their part, the parliamentary groups concerned and the European political parties called on the European Commission to use its right to propose legislation so as to implement Article 191 of the Treaty. Parliament considers that it has done its utmost to ensure the successful application of Article 191.

Pending adoption of a statute for European political parties, and of procedures for funding them at European level, Parliament will have to establish the following transparency measures through the various sets of rules:

- contributions to European political parties paid by the parliamentary groups will have to be set out in their respective budgets, and the amount of those contributions will have to be capped,

- direct or indirect funding of parties, political groupings or organisations affiliated at national level will be prohibited.

European political parties which receive such contributions will have to publish their accounts and indicate their sources of funding.

Parliament will have to establish the limits of and conditions for the use of the technical facilities (conference rooms and interpretation) made available to the European political parties under the rules applicable to European political groups.

Expenditure by Non-Attached members

Paragraphs 49, 56. In the absence of a clear text of the rules specifying the nature of the expenditure which may be charged against the various budget headings for Non-attached Members, all that Parliament can do in respect of certain types of expenditure is ensure that such expenditure is authorised, monitored, entered in the accounts and paid in accordance with the provisions of the Financial Regulation. This applies particularly in the case of applications for reimbursement in respect of any kind of expenditure relating to the employment of staff.

Paragraphs 35, 42. As regards the observations relating to the expenses and the activities financed by means of Item 3 7 0 5 and 3 7 0 6 appropriations, it is sometimes difficult (in view of the existing text) to distinguish between expenditure relating to equipment and administrative costs (which should be charged to Item 3 7 0 5) and expenditure which should be financed out of the general expenditure allowance.

Parliament's staff therefore merely check whether or not the requested refunds (accompanied by supporting documents) are provided for in the accounting plan and whether or not the necessary appropriations are available.

The staff concerned will be asked to ensure in future that, for any reimbursement, they have in their possession not only the duly paid invoices but also documents to prove that the expenditure is in order.

Paragraph 36. A problem has recently been raised by Parliament's staff concerning the recording of movable property items financed by means of headings 3 7 0 5 and 3 7 0 6. However, no specific measures have yet been taken and a request will be made concerning the introduction of a system to remedy this shortcoming.

Paragraphs 44, 53. Item 3 7 0 8: on the basis of the invoices submitted and in the absence of a specific text on the nature of expenditure, it is on occasion very difficult to establish whether or not an item of expenditure has had a direct link with the role and the functioning of the European Parliament and whether or not the financing thereof out of budget heading 3 7 0 8 is justified.

However, the observation made in connection with the management of Items 3 7 0 5 and 3 7 0 6 as regards the future need for Members to present, in addition to paid invoices, documents indicating the nature of the expenditure or, in the case of information activities, the substance and the scope of the activity, is still valid for item 3 7 0 8.

Although Parliament's staff have hitherto merely checked whether or not expenditure which is eligible for reimbursement under the rules is accordance with the Financial Regulation, they will in future be responsible for making sure that they also have in their possession documents establishing the nature of the expenditure and confirming that it is in order.
