

# Official Journal

of the European Communities

ISSN 0378-6986

C 92

Volume 45

17 April 2002

English edition

## Information and Notices

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## I

*(Information)*

## COURT OF AUDITORS

## OPINION No 2/2002

**on an amended proposal for a Council Regulation on the Financial Regulation applicable to the general budget of the European Communities***(pursuant to Article 248(4), second subparagraph, EC)**(2002/C 92/01)*

THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 45c(4) and Article 78h thereof,

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

Having regard to the proposal for a Council Regulation on the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup>,

Having regard to the request for an opinion on this proposal submitted by the Council to the Court of Auditors on 24 November, and received by the Court on 29 November 2000,

Having regard to the amended proposal for a Council Regulation on the Financial Regulation applicable to the general budget of the European Communities <sup>(2)</sup>,

Whereas this amended proposal introduces substantial modifications, in particular to Part 1, Title VIII, concerning external audit and the discharge,

Whereas the Council's aforementioned request for an opinion of 24 November 2000 also covers the substantial modifications made to the text during the course of the legislative procedure, since otherwise Article 279 of the Treaty establishing the European Community would be voided of its substance,

HAS ADOPTED THE FOLLOWING OPINION:

**Introduction**

1. On 8 February, 2002, the President of the Court sent a letter to the President of the Council announcing that the Court had decided to prepare observations on those parts of the amended proposal which concern directly its own operations, notably Title VIII, Chapter 1, Articles 138 to 145 of Part 1 dealing with external audit, and Title VII, Chapter 1, Articles 127 to 128 of Part 1 concerning the presentation of the accounts. These observations concern:

- the provisions concerning the Court's role as external auditor which repeat or extend in an unsatisfactory manner the provisions set out in the Treaty,
- Articles 143 to 145, which deal with the Court's annual report, special reports and opinions, and which provide for a procedure and timetable which are unworkable for the Member States, the Commission and the Court alike, and which will not allow the Court to issue in the time allowed useful reports to the discharge authority,
- the need to omit from the amended proposal any provisions which impose upon the Court obligations, notably in relation to the publication in its reports of Member State replies, which go beyond those provided for in the EC Treaty,

<sup>(1)</sup> Commission document ref. 2000/203 (CNS) — COM(2000) 461 final.

<sup>(2)</sup> Commission document ref. 2001/0318 (CNS) — COM(2001) 691 final.

— the timetable and procedure for the presentation by the Commission of first, provisional accounts and then final accounts, which can affect considerably the ability of the Court to carry out its role as external auditor, and which is inconsistent with the wish to accelerate production of the Court's annual report, and confuses responsibility of auditor and auditee.

2. The Court supports the objective of bringing forward the date of publication of the annual report, and improving the consideration given to the views of the Member States. However, it considers that the proposals made in Title VII and Title VIII are unlikely to be workable and are inconsistent with the Treaty in some respects.

### **Provisions in the amended proposal which repeat/explain the provisions of the Treaty**

3. In paragraph 44 of its Opinion No 2/2001 the Court pointed out that provisions which are set out in the Treaty concerning the Court's role as external auditor of the Community's finances do not need to be repeated and explained in the Financial Regulation. The Commission has, however, maintained its proposal, and indeed some new and important elements have been added, with results that are unsatisfactory in several respects not only for the Court but also for the Member States.

4. In some places, the paraphrasing of the Treaty in the amended proposal is wrong, with unsatisfactory consequences. For example, in Article 138 it is stated that 'The Court of Auditors shall conduct the audit of accounts provided for by Article 248 of the EC Treaty...'. But this is not what Article 248 says. Article 246 of the Treaty provides that the Court of Auditors 'shall carry out the audit', without limiting it to 'the accounts' <sup>(1)</sup>. Article 248(1) then provides that 'The Court of Auditors shall examine the accounts of all revenue and expenditure...'. This is part of its audit task. Article 248 requires the Court to undertake an audit which goes beyond the narrow concept of 'audit of accounts'. The words 'of accounts' in Article 138 should have been omitted.

5. Article 140(1) repeats part of Article 248(3) of the Treaty which provides that 'The audit in the Member States shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the national competent

departments' <sup>(2)</sup>, — text which has been added to that of the initial proposal. However, Article 140 then fails to go on to say that 'The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence' which is an important part of Article 248(3) of the Treaty.

6. Similar problems exist with Article 142 of the amended proposal, where Article 142(3) develops the second subparagraph of Article 248(3), setting out more specific obligations on Member State institutions to provide information to the Court.

7. Furthermore, Article 145 restricts 'observations' which the Court may make to the form of 'special reports', by omitting the word 'particularly' from the first paragraph, which is clearly intended to quote Article 248(4), second subparagraph, of the Treaty.

8. The Court, therefore, reiterates the point made in its opinion, that such provisions from the Treaty should not be repeated or extended in the Financial Regulation, so as to avoid any confusion about how the Court should exercise its responsibilities. The Financial Regulation cannot introduce new elements which either increase the Court's obligations or diminish its rights as provided for by the Treaty. On this basis, the following Articles should be omitted from the amended proposal: Article 138, Article 140 (part), Article 141 <sup>(3)</sup>, Article 142(1) to 3 and 6, Article 144, Article 145(1).

### **The procedure and timetable proposed for the annual report and special reports are unworkable**

#### **The annual report**

9. In Annex 1 is set out a series of timetables for the presentation of the accounts and for the annual report of the Court. It includes the timetable of the current Financial Regulation, that of the initial proposal of the Commission, and that of the amended proposal, and, finally, a new proposal of the Court which is designed to overcome the difficulties posed by the proposals of the Commission.

<sup>(1)</sup> This is true of the English language version, although the French language version of this Article does so in spite of the content of Article 248.

<sup>(2)</sup> Whereas the French text of Article 140(1) of the FR proposal repeats word for word Article 248(3) of the Treaty, the text in English, 'In the Member States the audit shall be carried out in conjunction with national audit institutions, or where they do not have the necessary powers, with the national departments responsible', shows differences resulting from translation. This illustrates the danger of repeating or paraphrasing text extracted from the Treaty.

<sup>(3)</sup> The Court pointed out in its Opinion No 2/2001 that this Article (formerly Article 126 of the initial proposal) is 'too detailed and out of date'. The Commission has not explained why it has been maintained.

10. The initial proposal of the Commission for the new Financial Regulation maintained the timetable of the current Financial Regulation for the annual report, i.e. preliminary observations of the Court to be transmitted to the institutions by 15 July, and transmission of the final report by 30 November. The new element was the introduction of a procedure for obtaining Member States' replies. The Court, in its Opinion No 2/2001, observed that including this provision for treating Member States' replies would make it very difficult to preserve the timetable (1).

11. The amended proposal of the Commission now brings forward the timetable by one month. The preliminary observations of the Court are to be transmitted to the institutions by 15 June instead of 15 July, and the final report is to be transmitted to the institutions by 31 October instead of 30 November. The Court supports the accelerated timetable for producing the annual report, but notes that achieving this will require a consistent approach throughout the text of the Financial Regulation.

12. Under the new proposals the Commission would be required to send to the Member States, immediately after 15 June, those observations concerning Member States in which the Member States are identified. These observations would have to be sent to the Member States in their own languages, which means that the observations would have to be translated. It takes time to prepare translations after adoption by the Court of preliminary observations, so that there would inevitably be a delay before the Member States receive them in their own languages, which is unlikely to be before the beginning of July. The Member States then have until 31 August to send replies to the Commission. The Court currently experiences difficulties in obtaining replies to sector letters in the two months currently agreed.

13. Supposing that all the 15 Member States' replies are received by the Commission by 31 August, it has only one month to translate the replies, analyse them, and prepare its comments on them, at the same time as it is completing the contradictory procedure with the Court on the preliminary observations. It should be noted that the advanced timetable is such that the Commission and the Court will have to conduct their contradictory discussions on the preliminary observations during July and August, i.e. before the Member States' replies are received. It will not be possible to wait for the replies of the Member States before the contradictory discussions between the two institutions because that would make physically impossible the task of producing the final text of the Court's report, and the Commission's replies, in all the Community languages by the prescribed deadline. The Commission will not, therefore, be able to take into account the Member States' replies in its draft answers submitted to contradictory discussion. It should be underlined that allowing a reasonable period for contradictory discussions is essential to avoid needless contradictions between the report and the replies based on avoidable misunderstandings, which only complicate the task of the discharge authorities.

14. Thus it is not just the Court, but also the Member States and the Commission that will find the timetable unworkable. Indeed, in order to maximise the time available for completing its annual audit work, particularly on the accounts (see paragraphs 21 to 23) and other aspects of the statement of assurance, the Court suggests that its preliminary observations be presented on 1 July rather than 15 June. This is still consistent with producing the final annual report on 31 October.

### Special reports

15. Similar problems concern Article 145, which deals with the procedure for special reports. First, it should be noted that there is some very poor drafting which confuses matters, notably the repetition in the third and sixth subparagraphs of the text in paragraph 2 concerning the adoption of the special report by the Court, and the incorrect reference to the transmission of the special report (instead of the preliminary observations) to the Member States in the fourth subparagraph of paragraph 2. Leaving such matters to one side, the procedure proposed is unworkable.

16. Member States are given one and a half months (approximately six weeks) to reply to observations in preliminary observations that are sent to them. The Commission is to transmit 'without delay' these replies to the Court, together with its remarks. Because the Commission will need some time to translate, analyse and consolidate its remarks on the Member States' replies, it will scarcely have time to do this before it should produce, within two and a half months, its own final replies. Again, the Member States' replies are divorced from the contradictory discussion between the Court and the Commission, which is highly unsatisfactory.

### ***The Financial Regulation cannot impose obligations on the Court which go beyond the provisions of the Treaty***

17. The only provision in the EC Treaty for the publication by the Court in the *Official Journal of the European Communities* of replies to its observations is in Article 248(4), first subparagraph, where it is provided that the replies 'of the institutions' to the observations of the Court in connection with its annual report shall be published in the *Official Journal*. The Treaty makes no provision in respect of special reports or opinions. Nowhere in the Treaty is provision made for the Court to publish the replies of the Member States, either in connection with the annual report or with special reports. A Council Regulation may not impose such an obligation on the Court (see paragraph 2).

(1) Comments to Article 128(2), Opinion No 2/2001 (OJ C 162, 5.6.2001).

18. The initial proposal of the Commission provided in relation to both the annual report and special report procedures for Member State replies to the preliminary observations which concerned them to be sent to the Commission, and for the Commission to transmit these replies with its remarks to the Court. No provision, however, was made for the replies of the Member States to be published by the Court in the Official Journal as part of the report. The wording of Article 143 in the amended proposal relating to the annual report is ambiguous, and should explicitly restrict the publication of replies to those of the institutions. In the amended proposal in Article 145(2), eighth subparagraph concerning the special report procedure it is expressly provided that should the Court decide to publish a special report in the Official Journal, the report 'shall be accompanied by the replies of the institutions concerned or of the Member States in question'. The underlined text is new, and constitutes a substantial modification to the initial proposal. The Court has not been consulted on this text. This modification directly affects the rights and obligations of the Court as an institution, and as the external auditor of the Communities: by increasing the obligations on the Court concerning the publication of replies, it restricts the rights of the Court to decide what, apart from the replies of the institutions, should be published. As the modification goes beyond what is provided for in the Treaty, it should be deleted. Indeed, the Court of Justice stated clearly in its judgment on the *Ismeri* case that the Court is not bound by the Treaty to publish the replies of parties other than the institutions <sup>(1)</sup>.

19. Under existing arrangements, Member States are informed about observations of the Court which directly concern them, and are requested to provide their comments to both the Court and the Commission, mainly through the sector letter procedure <sup>(2)</sup>. This procedure enables Member State positions to be taken into account both by the Court and the Commission when finalising the text of a report and the replies of the Commission. This ensures that for the replies to its annual and special reports the Court has one interlocutor only, the Commission, which is the institution responsible under the Treaty for the implementation of the budget.

<sup>(1)</sup> Judgment of the Court of Justice of 10 July 2001 in Case C-315/99 P, *Ismeri Europa v Court of Auditors*, [2001] ECR I-5281, point 27: 'It should be noted that, under the provisions applicable to its proceedings, the Court of Auditors is not bound to submit draft reports to third parties under the same conditions which apply in the case of Community institutions or to publish the replies of those concerned following publication of its reports. The procedure provided for under Article 188c(4) of the EC Treaty (now, after amendment Article 248(4) EC) and Article 206 of the Treaty is intended to contribute to improving the financial management of the Community by providing for reports to be transmitted to the institutions and for the latter to respond to them. Involvement of third parties in that procedure would not contribute to attainment of the objective pursued'.

<sup>(2)</sup> 'Sector letters' are used by sectors of the Court to communicate potential observations to auditees, before their final adoption by the Court itself. All sector letters and replies from the Member States are copied to the Commission. This procedure has been confirmed and developed through the Contact Committee of the Presidents of the Court and the Supreme Audit Institutions (SAIs) of the Member States (see the Declaration on the Court of Auditors adopted by the Nice Conference).

### ***The provisions concerning the presentation and publication of the accounts***

20. In its Opinion No 2/2001 the Court pointed out in its comments on Article 118 (Article 128 in the amended proposal) that:

'The provisional financial statements are exhaustive and consistent documents, and are duly drafted by the stipulated deadlines. They are provisional only in that the Commission has not yet formally adopted them and that they may, where appropriate, be subject to corrections proposed by the Court. However, the Court's task cannot under any circumstances involve helping the Commission to draft the final consolidated financial statements. This responsibility, of an administrative and accounting nature, lies solely with the Commission and is incompatible with the Court's external control responsibility.'

However, the amended proposal does not make clear what is the nature of the provisional accounts and takes no account of the Court's opinion. The Court's experience in recent years is that the accounts which the Commission presents under the existing Financial Regulation on 1 May, and which are supposed to be final accounts at that stage, are incomplete and contain significant errors, and that, in addition to the corrections proposed by the Court, the Commission continues to propose modifications until a corrected set of accounts is finally issued in September/October <sup>(3)</sup>.

21. The accounts to be presented for audit on 31 March should be complete, properly drawn up accounts approved by the Commission. There must be no confusion in the Financial Regulation about the roles of the auditee and the auditor with regard to the preparation of the accounts. Therefore all reference to 'provisional' accounts should be deleted.

22. On further reflection, it also seems inadvisable to provide in the Financial Regulation for a date for the eventual issuing of corrected accounts. The essential need is for such accounts to be produced in time for the Court to take account of them before finalising its statement of assurance, a matter which can be agreed between the Court and the Commission. If, however, it is decided to include such a date in the Financial Regulation it should not be later than 31 July.

23. The drafting of Article 128 of the amended proposal, which provides for the Court's statement of assurance to be published in the Official Journal together with the final consolidated accounts by 31 October at the latest, has not been sufficiently coordinated

<sup>(3)</sup> This procedure is not provided for in the current Financial Regulation, where there is only provision for the final accounts to be presented by 1 May. In practice, the Commission has issued corrected final accounts after requesting the Court's agreement to do so.

with Articles 143 and 144, which provide for the Court of Auditors to transmit the annual report and the statement of assurance by the same date to the discharge authorities and to the other institutions. It is reasonable for the statement of assurance itself to be published with the final consolidated accounts. But the statement should also be published in the Official Journal at the same time as the annual report which contains all the supporting material to the statement of assurance. Indeed, the best solution would be for the final consolidated accounts, the statement of assurance, and the annual report to be published in the Official Journal on the same day, in the same edition. It would, however, not be feasible to publish the annual report in the Official Journal on 31 October while maintaining the rest of the timetable.

24. Article 128, therefore, should be modified to provide that the final consolidated accounts should be published in the Official Journal together with the statement of assurance and the annual report of the Court <sup>(1)</sup>. Given the complications involved in the Official Journal publication of these documents in all Community languages, and with the replies placed alongside the observations, it would be advisable not to specify a specific date, in accordance with the provisions of Article 143 for the annual report.

### **Conclusion**

25. The Court repeats its argument set out in Opinion No 2/2001 that, to avoid restrictive and controversial interpretation of the

provisions of the Treaty concerning the Court's role and responsibilities as external auditor of the Community's finances, the provisions of the Treaty should not be repeated or extended in the Financial Regulation (see paragraphs 3 to 8).

26. Also, in light of the above observations, for reasons both of timetable and compatibility with the Treaty, the Court considers that the proposal to include formally the obtaining of Member States' replies in the procedure for the annual and special reports should be dropped. Reliance should continue to be placed on the sector letter procedure to obtain the position of the Member States on the audit findings of the Court (see paragraphs 9 to 19).

27. The Court also proposes that the procedure and the timetable for the accounts should be modified to ensure that the accounts presented for audit are exhaustive and consistent documents approved by the Commission (see paragraphs 20 to 24).

28. With these amendments, the Court considers that bringing forward the timetable so that preliminary observations are transmitted to the Commission on 1 July and the final annual report of the Court is transmitted to the discharge authorities and the other institutions by 31 October, is feasible. The fourth column of Annex 1 sets out the complete proposed timetable.

29. Accordingly, the Court presents redrafts for the text of Article 127, 128 and 138 to 145 of the amended proposal. These are set out in Annex 2.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 21 February 2002.

*For the Court of Auditors*

Juan Manuel FABRA VALLÉS

*President*

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<sup>(1)</sup> This is, in fact current practice: the annual report of the Court including the statement of assurance, and the final consolidated accounts, are published on the same day in the Official Journal, although in different editions.

## ANNEX I

## TIMETABLE FOR THE PRESENTATION OF THE CONSOLIDATED FINANCIAL STATEMENTS AND FOR THE ANNUAL REPORT

Description	Current Financial Report	Initial proposal	Amended proposal	The Court's proposal
The accounting officers of the other institutions forward their accounts to the Commission's accounting officer (Article 127(1))	1 March	1 March	1 March	1 March
Consolidation of the provisional accounts <sup>(1)</sup> by the Commission and forwarding of these to the Court (Article 127(2))	1 May	1 April	31 March	31 March
The Court makes its observations on the provisional accounts <sup>(1)</sup> of the institutions (Article 128(1))	—	15 July	15 June	1 July
Forwarding to the other institutions of the preliminary observations with a view to the annual report (Article 143(2))	15 July	15 July	15 June	1 July
The Commission sends the Member States identified in the report the observations that concern them (Article 143(3))	—	As soon as possible after 15 July	As soon as possible after 15 June	—
The other institutions forward their final accounts <sup>(1)</sup> to the Commission's accounting officer (Article 128(2)) <sup>(2)</sup>	—	5 September	31 July	15 July
The Member States send their replies to the Commission (Article 143(4))	—	30 September	31 August	—
Approval of the final consolidated accounts <sup>(1)</sup> by the Commission and forwarding of these to the Court (Article 128(3))	—	30 September	15 September	—
The Commission sends the Court of Auditors its replies and those of the Member States, accompanied by its comments (Article 143(4))	31 October <sup>(3)</sup>	31 October	30 September	30 September <sup>(3)</sup>
Publication of the final consolidated accounts <sup>(1)</sup> along with the statement of assurance (Article 128(4))	— <sup>(4)</sup>	30 November	31 October	With the annual report: see line below
Forwarding of the annual report to the other institutions, with the Court ensuring publication thereof in the Official Journal (Article 143(7)) (date of publication in the Official Journal not specified)	30 November	30 November	31 October	31 October

<sup>(1)</sup> The notions of 'provisional' and 'final' accounts should be abolished.

<sup>(2)</sup> Generally speaking, the other institutions would have no significant corrections to make.

<sup>(3)</sup> Only the replies from the Commission and the other institutions.

<sup>(4)</sup> No specific date for publication of the final consolidated accounts in the Official Journal.

## ANNEX II

Commission's amended proposal (COM(2001)691 Final)	Court's proposed modifications	References to text
<p style="text-align: center;">Title VII</p> <p style="text-align: center;"><b>PRESENTATION OF THE ACCOUNTS AND ACCOUNTING</b></p> <p style="text-align: center;">CHAPTER 1</p> <p style="text-align: center;"><b>PRESENTATION OF THE ACCOUNTS</b></p> <p style="text-align: center;"><i>Article 127</i></p> <p>1. The accounting officers of the other institutions and bodies referred to in Article 190 shall send to the Commission's accounting officer, by 1 March of the following year at the latest, their provisional accounts together with the report on budgetary and financial management during the year.</p> <p>2. The Commission's accounting officer shall consolidate the provisional accounts and shall send to the Court of Auditors, by 31 March of the following year at the latest, the provisional accounts of each institution and body referred to in Article 190 together with the provisional consolidated accounts.</p> <p>He shall also send the report on budgetary and financial management of each institution and body referred to in Article 190 to the European Parliament, the Council and the Court of Auditors by the same date.</p> <p style="text-align: center;"><i>Article 128</i></p> <p>1. The Court of Auditors shall, by 15 June at the latest, make its observations on the provisional accounts of each institution and body referred to in Article 190 so that they can make the corrections considered necessary for drawing up the final accounts.</p> <p>2. Each institution and body referred to in Article 190 shall draw up its final accounts and send them to the Commission's accounting officer by 31 July of the following year at the latest with a view to drawing up the final consolidated accounts.</p> <p>3. After approving the final consolidated accounts, the Commission shall send them to the European Parliament, the Council and the Court of Auditors by 15 September of the following year at the latest.</p>	<p style="text-align: center;">Title VII</p> <p style="text-align: center;"><b>PRESENTATION OF THE ACCOUNTS AND ACCOUNTING</b></p> <p style="text-align: center;">CHAPTER 1</p> <p style="text-align: center;"><b>PRESENTATION OF THE ACCOUNTS</b></p> <p style="text-align: center;"><i>Article 127</i></p> <p>1. The accounting officers of the other institutions and bodies referred to in Article 190 shall send to the Commission's accounting officer, by 1 March of the following year at the latest, their <del>provisional</del> accounts together with the report on budgetary and financial management during the year.</p> <p>2. The Commission's accounting officer shall consolidate the <del>provisional</del> accounts and shall send to the <u>European Parliament, the Council and the</u> Court of Auditors, by 31 March of the following year at the latest, the <del>provisional</del> accounts of each institution and body referred to in Article 190 together with the <del>provisional</del> consolidated accounts <u>approved by the Commission</u>.</p> <p>He <del>It</del> shall also send the report on budgetary and financial management of each institution and body referred to in Article 190 to the European Parliament, the Council and the Court of Auditors by the same date.</p> <p style="text-align: center;"><i>Article 128</i></p> <p>1. The Court of Auditors shall, by <del>15 June</del> <u>1 July</u> at the latest, make its <u>preliminary</u> observations on the <del>provisional</del> accounts of each institution and body referred to in Article 190 <del>and on the consolidated so that they can make the corrections considered necessary for drawing up the final accounts.</del></p> <p><del>2. Each institution and body referred to in Article 190 shall draw up its final accounts and send them to the Commission's accounting officer by 31 July of the following year at the latest with a view to drawing up the final consolidated accounts.</del></p> <p><del>3. After approving the final consolidated accounts, the Commission shall send them to the European Parliament, the Council and the Court of Auditors by 15 September of the following year at the latest.</del></p>	<p><i>See paragraphs 20 and 21</i></p> <p><i>See paragraphs 20 to 22</i></p> <p><i>See paragraphs 14 and 20 to 22</i></p> <p><i>See paragraphs 20 to 22</i></p> <p><i>See paragraphs 20 to 22</i></p>



Commission's amended proposal (COM(2001)691 Final)	Court's proposed modifications	References to text
<p>4. The final consolidated accounts shall be published in the <i>Official Journal of the European Communities</i> together with the statement of assurance given by the Court of Auditors in accordance with Article 248 of the EC Treaty, Article 45c of the ECSC Treaty and Article 160c of the Euratom Treaty by 31 October of the following year.</p> <p style="text-align: center;">Title VIII</p> <p style="text-align: center;"><b>EXTERNAL AUDIT AND DISCHARGE</b></p> <p style="text-align: center;">CHAPTER 1</p> <p style="text-align: center;"><b>EXTERNAL AUDIT</b></p> <p style="text-align: center;"><i>Article 138</i></p> <p>The Court of Auditors shall conduct the audit of accounts provided for by Article 248 of the EC Treaty, Article 45 of the ECSC Treaty and Article 180 of the Euratom Treaty.</p> <p style="text-align: center;"><i>Article 139</i></p> <p>1. The European Parliament, the Council and the Commission shall inform the Court of Auditors, as soon as possible, of all decisions and rules adopted pursuant to Articles 9, 13, 18, 22, 23, 26 and 36.</p> <p>2. The institutions shall send to the Court of Auditors any internal rules they adopt in respect of financial matters.</p> <p>3. The Court of Auditors shall be informed of the appointment of authorising officers, internal auditors, accounting officers and imprest administrators and of delegation decisions under Articles 51, 61, 62, 63 and 85.</p> <p style="text-align: center;"><i>Article 140</i></p> <p>1. The audit carried out by the Court of Auditors shall be based on records and, if necessary, performed on the spot. Its purpose shall be to establish that all revenue has been received and all expenditure incurred in a lawful and proper manner having regard to the provisions of the Treaties, the budget, this Regulation and all other acts adopted pursuant to the Treaties. It shall also establish that the financial management has been sound. The audit in the Member States shall be carried out in conjunction with the national audit institutions or, where they do not have the necessary powers, with the national departments responsible.</p>	<p>4. The <del>final</del> consolidated accounts shall be published in the <i>Official Journal of the European Communities</i> together with the <del>annual report of the Court of Auditors and the</del> statement of assurance given by the Court of Auditors in accordance with Article 248 of the EC Treaty, Article 45c of the ECSC Treaty and Article 160c of the Euratom Treaty; <del>by 31 October of the following year.</del></p> <p style="text-align: center;">Title VIII</p> <p style="text-align: center;"><b>EXTERNAL AUDIT AND DISCHARGE</b></p> <p style="text-align: center;">CHAPTER 1</p> <p style="text-align: center;"><b>EXTERNAL AUDIT</b></p> <p style="text-align: center;"><i>Article 138</i></p> <p><del>The Court of Auditors shall conduct the audit of accounts provided for by Article 248 of the EC Treaty, Article 45 of the ECSC Treaty and Article 180 of the Euratom Treaty.</del></p> <p style="text-align: center;"><i>Article 139</i></p> <p>1. The European Parliament, the Council and the Commission shall inform the Court of Auditors, as soon as possible, of all decisions and rules adopted pursuant to Articles 9, 13, 18, 22, 23, 26 and 36.</p> <p>2. The institutions shall send to the Court of Auditors any internal rules they adopt in respect of financial matters.</p> <p>3. The Court of Auditors shall be informed of the appointment of authorising officers, internal auditors, accounting officers and imprest administrators and of delegation decisions under Articles 51, 61, 62, 63 and 85.</p> <p style="text-align: center;"><i>Article 140</i></p> <p>1. <del>The audit carried out by the Court of Auditors shall be based on records and, if necessary, performed on the spot. Its purpose shall be to establish that all revenue has been received and all expenditure incurred in a lawful and proper manner having regard to the provisions of the Treaties, the budget, this Regulation and all other acts adopted pursuant to the Treaties. It shall also establish that the financial management has been sound. The audit in the Member States shall be carried out in conjunction with the national audit institutions or, where they do not have the necessary powers, with the national departments responsible.</del></p>	<p><i>See paragraphs 23 and 24</i></p> <p><i>See paragraphs 3 to 8 Also, the words 'of accounts' are too restrictive, indeed incorrect.</i></p> <p><i>See paragraphs 3 to 8, in particular paragraph 5</i></p>

Commission's amended proposal (COM(2001)691 Final)	Court's proposed modifications	References to text
<p>2. In the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in Article 142, all documents and information relating to the financial management of the departments or bodies subject to its audit. It has the power to make enquiries of any official responsible for a revenue or expenditure operation and to use any of the auditing procedures appropriate to those departments or bodies.</p> <p>In order to obtain all the necessary information for the performance of the task entrusted to it by the Treaties or the acts adopted pursuant to them, the Court of Auditors may be present, at its request, during the audit operations carried out within the framework of the implementation of the budget by, or on behalf of, any Community institution.</p> <p>At the request of the Court of Auditors, each institution shall authorise financial institutions holding Community deposits to enable the Court of Auditors to ensure that external data tally with the accounts.</p> <p>3. In order to perform its task, the Court of Auditors shall notify the institutions and authorities, to which this Regulation applies, of the names of the members of its staff who are empowered to audit them.</p> <p style="text-align: center;"><i>Article 141</i></p>	<p><del>2. In the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in Article 142, all documents and information relating to the financial management of the departments or bodies subject to its audit. It has the power to make enquiries of any official responsible for a revenue or expenditure operation and to use any of the auditing procedures appropriate to those departments or bodies.</del></p> <p>In order to obtain all the necessary information for the performance of the task entrusted to it by the Treaties or the acts adopted pursuant to them, the Court of Auditors may be present, at its request, during the audit operations carried out within the framework of the implementation of the budget by, or on behalf of, any Community institution.</p> <p>At the request of the Court of Auditors, each institution shall authorise financial institutions holding Community deposits to enable the Court of Auditors to ensure that external data tally with the accounts.</p> <p>3. In order to perform its task, the Court of Auditors shall notify the institutions and authorities, to which this Regulation applies, of the names of the members of its staff who are empowered to audit them.</p> <p style="text-align: center;"><i>Article 141</i></p>	<p><i>See paragraphs 3 to 8, in particular paragraph 5</i></p>
<p>The Court of Auditors shall ensure that all securities and cash on deposit or in hand are checked against vouchers signed by the depositories or against official memoranda of cash and securities held. It may carry out such checks itself.</p> <p style="text-align: center;"><i>Article 142</i></p>	<p><del>The Court of Auditors shall ensure that all securities and cash on deposit or in hand are checked against vouchers signed by the depositories or against official memoranda of cash and securities held. It may carry out such checks itself.</del></p> <p style="text-align: center;"><i>Article 142</i></p>	<p><i>Too detailed and out of date. Inappropriate precision of one particular task of the Court.</i></p>
<p>1. The Commission, the other institutions, the bodies administering revenue or expenditure on the Communities' behalf and the national audit institutions or, where they do not have the necessary powers, the national departments responsible and the final beneficiaries of payments from the budget shall afford the Court of Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its task. They shall place at the disposal of the Court of Auditors all documents concerning the award and performance of contracts financed by the Community budget and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents relating thereto, all documents relating to revenue and expenditure, all inventories, all organisation charts of departments, which the Court of Auditors considers necessary for auditing the budgetary and financial outturn report on the basis of records or on the spot and, for the same purposes, all documents and data created or stored on a magnetic medium.</p>	<p><del>1. The Commission, the other institutions, the bodies administering revenue or expenditure on the Communities' behalf and the national audit institutions or, where they do not have the necessary powers, the national departments responsible and the final beneficiaries of payments from the budget shall afford the Court of Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its task. They shall place at the disposal of the Court of Auditors all documents concerning the award and performance of contracts financed by the Community budget and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents relating thereto, all documents relating to revenue and expenditure, all inventories, all organisation charts of departments, which the Court of Auditors considers necessary for auditing the budgetary and financial outturn report on the basis of records or on the spot and, for the same purposes, all documents and data created or stored on a magnetic medium.</del></p>	<p><i>See paragraphs 3 to 8, in particular paragraph 6</i></p>

Commission's amended proposal (COM(2001)691 Final)	Court's proposed modifications	References to text
<p>The first subparagraph shall also apply to natural or legal persons receiving payments from the Community budget.</p>	<p><del>The first subparagraph shall also apply to natural or legal persons receiving payments from the Community budget.</del></p>	<p><i>See paragraphs 3 to 8, in particular paragraph 6</i></p>
<p>2. The officials whose operations are checked by the Court of Auditors shall:</p>	<p><del>2. The officials whose operations are checked by the Court of Auditors shall:</del></p>	<p><i>See paragraphs 3 to 8, in particular paragraph 6</i></p>
<p>(a) show their records of cash in hand, any other cash, securities and materials of all kinds, and also the supporting documents in respect of their stewardship of the funds with which they are entrusted, and also any books, registers and other documents relating thereto;</p>	<p><del>(a) show their records of cash in hand, any other cash, securities and materials of all kinds, and also the supporting documents in respect of their stewardship of the funds with which they are entrusted, and also any books, registers and other documents relating thereto;</del></p>	
<p>(b) present the correspondence and any other document required for the full implementation of the audit referred to in Article 140(1).</p>	<p><del>(b) present the correspondence and any other document required for the full implementation of the audit referred to in Article 140(1).</del></p>	
<p>The information supplied under point (b) of the first subparagraph may be requested only by the Court of Auditors.</p>	<p><del>The information supplied under point (b) of the first subparagraph may be requested only by the Court of Auditors.</del></p>	
<p>3. The Court of Auditors shall be empowered to audit the documents in respect of the revenue and expenditure of the Communities which are held by the departments of the institutions and, in particular, by the departments responsible for decisions in respect of such revenue and expenditure, the bodies administering revenue or expenditure on the Communities' behalf and the natural or legal persons receiving payments from the budget.</p>	<p><del>3. The Court of Auditors shall be empowered to audit the documents in respect of the revenue and expenditure of the Communities which are held by the departments of the institutions and, in particular, by the departments responsible for decisions in respect of such revenue and expenditure, the bodies administering revenue or expenditure on the Communities' behalf and the natural or legal persons receiving payments from the budget.</del></p>	<p><i>See paragraphs 3 to 8, in particular paragraph 6</i></p>
<p>The national audit institutions or, where they do not have the necessary powers, the national departments responsible shall provide the Court of Auditors, at its request, with all the information they possess on operations financed or co-financed by the Communities and on the management and control of these operations.</p>	<p><del>The national audit institutions or, where they do not have the necessary powers, the national departments responsible shall provide the Court of Auditors, at its request, with all the information they possess on operations financed or co-financed by the Communities and on the management and control of these operations.</del></p>	
<p>4. The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner and that the financial management has been sound shall extend to the utilisation, by bodies outside the institutions, of Community funds received by way of grants.</p>	<p>4. The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner and that the financial management has been sound shall extend to the utilisation, by bodies outside the institutions, of Community funds received by way of grants.</p>	<p><i>This does not repeat or extend Treaty provisions about the role of the Court and therefore may be maintained.</i></p>
<p>5. Community financing paid to beneficiaries outside the institutions shall be subject to the agreement in writing by the beneficiaries or, failing agreement on their part, by the contractors or subcontractors, to an audit by the Court of Auditors into the use made of the financing granted.</p>	<p>5. Community financing paid to beneficiaries outside the institutions shall be subject to the agreement in writing by the beneficiaries or, failing agreement on their part, by the contractors or subcontractors, to an audit by the Court of Auditors into the use made of the financing granted.</p>	<p><i>This does not repeat or extend Treaty provisions about the role of the Court and therefore may be maintained. Text deleted not understandable.</i></p>
<p>6. The Commission shall provide the Court of Auditors, at its request, with any information on borrowing and lending operations.</p>	<p><del>6. The Commission shall provide the Court of Auditors, at its request, with any information on borrowing and lending operations.</del></p>	<p><i>See paragraphs 3 to 8</i></p>

Commission's amended proposal (COM(2001)691 Final)	Court's proposed modifications	References to text
<p>7. Use of integrated computer systems may not have the effect of reducing the access of the Court of Auditors to the supporting documents.</p> <p style="text-align: center;"><i>Article 143</i></p> <p>1. The annual report of the Court of Auditors provided for in Article 248(4) of the EC Treaty, Article 45c(4) of the ECSC Treaty and Article 160c(4) of the Euratom Treaty shall be governed by the provisions of paragraphs 2 to 7 of this Article.</p> <p>2. The Court of Auditors shall transmit to the Commission and the institutions concerned, by 15 June at the latest, any observations which are, in its opinion, such that they should appear in the annual report. These observations must remain confidential. Each institution shall address its reply to the Court of Auditors by 30 September at the latest. The replies of institutions other than the Commission shall be sent to the Commission at the same time.</p> <p>3. The Commission shall inform Member States without delay of the Court of Auditors' observations on the management of Community funds for which they are responsible under the rules applicable whenever the Member States referred to are identified in those observations.</p> <p>4. The Member States shall reply to the Commission by 31 August at the latest. The Commission shall transmit the reply, accompanied by its comments to the Court of Auditors, by 30 September.</p> <p>5. The annual report shall contain an assessment of the soundness of financial management.</p> <p>6. The annual report shall contain a section for each institution. The Court of Auditors may add any summary report or general observations which it sees fit to make.</p> <p>The Court of Auditors shall take all necessary steps to ensure that the replies of each institution to its observations are published immediately after the observations to which they relate.</p> <p>7. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 31 October at the latest, its annual report accompanied by the replies and shall ensure publication thereof in the <i>Official Journal of the European Communities</i>.</p>	<p>7. Use of integrated computer systems may not have the effect of reducing the access of the Court of Auditors to the supporting documents.</p> <p style="text-align: center;"><i>Article 143</i></p> <p>1. The annual report of the Court of Auditors provided for in Article 248(4) of the EC Treaty, Article 45c(4) of the ECSC Treaty and Article 160c(4) of the Euratom Treaty shall be governed by the provisions of paragraphs 2 to 7 of this Article.</p> <p>2. The Court of Auditors shall transmit to the Commission and the institutions concerned, by <del>15 June</del> <u>1 July</u> at the latest, any observations which are, in its opinion, such that they should appear in the annual report. These observations must remain confidential. Each institution shall address its reply to the Court of Auditors by 30 September at the latest. The replies of institutions other than the Commission shall be sent to the Commission at the same time.</p> <p><del>3. The Commission shall inform Member States without delay of the Court of Auditors' observations on the management of Community funds for which they are responsible under the rules applicable whenever the Member States referred to are identified in those observations.</del></p> <p>4. <del>The Member States shall reply to the Commission by 31 August at the latest. The Commission shall transmit the reply, accompanied by its comments to the Court of Auditors, by 30 September.</del></p> <p>5. The annual report shall contain an assessment of the soundness of financial management.</p> <p>6. The annual report shall contain a section for each institution. The Court of Auditors may add any summary report or general observations which it sees fit to make.</p> <p>The Court of Auditors shall take all necessary steps to ensure that the replies of each institution to its observations are published immediately after the observations to which they relate.</p> <p>7. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 31 October at the latest, its annual report accompanied by the replies <del>of the institutions</del> and shall ensure publication thereof in the <i>Official Journal of the European Communities</i>.</p>	<p></p> <p><i>See paragraph 14</i></p> <p><i>See paragraphs 9 to 14, 17 to 19, and 26</i></p> <p><i>See paragraphs 9 to 14, 17 to 19 and 26</i></p> <p></p> <p><i>See paragraph 18</i></p>
<p style="text-align: center;"><i>Article 144</i></p> <p>At the same time as the annual report referred to in Article 143, the Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.</p>	<p style="text-align: center;"><i>Article 144</i></p> <p><del>At the same time as the annual report referred to in Article 143, the Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.</del></p>	<p><i>See paragraphs 3 to 8, especially 8</i></p>

Commission's amended proposal (COM(2001)691 Final)	Court's proposed modifications	References to text
<p style="text-align: center;"><i>Article 145</i></p> <p>1. In addition to the annual report, the Court of Auditors may also, at any time, submit observations, in the form of special reports, on specific questions. It may also deliver opinions at the request of any of the institutions.</p> <p>2. The Court of Auditors shall notify the institution concerned of all observations which are, in its opinion, such that they should appear in a special report. These observations must remain confidential.</p> <p>The institution concerned shall have two and a half months within which to inform the Court of Auditors of any comments it wishes to make on the observations in question.</p> <p>The Court of Auditors shall adopt the definitive version of the special report in question the following month.</p> <p>Where the observations referred to in the first subparagraph concern the management of Community funds for which the Member States are responsible under the relevant rules, the Commission shall send the special report to the Member States identified.</p> <p>The Member States shall send their replies to the Commission within one and a half months of the presentation of the observations in question. The Commission shall, without delay, transmit these replies to the Court of Auditors together with its remarks.</p> <p>The Court of Auditors shall adopt the definitive version of the special report in question the following month.</p> <p>The special reports, together with the replies of the institutions concerned or the Member States in question, shall be transmitted without delay to the European Parliament and the Council, each of which shall decide, where appropriate in conjunction with the Commission, what action is to be taken in response.</p> <p>Should the Court of Auditors decide to have any such reports published in the <i>Official Journal of the European Communities</i>, they shall be accompanied by the replies of the institutions concerned or of the Member States in question.</p> <p>3. The opinions referred to in paragraph 1 which do not relate to proposals or drafts covered by the legislative consultation procedure may be published by the Court of Auditors in the <i>Official Journal of the European Communities</i>. The Court of Auditors shall take its decision on publication after consulting the institution which requested the opinion or which is concerned by it. Opinions published shall be accompanied by any remarks by the institutions concerned.</p>	<p style="text-align: center;"><i>Article 145</i></p> <p>1. <del>In addition to the annual report, the Court of Auditors may also, at any time, submit observations, in the form of special reports, on specific questions. It may also deliver opinions at the request of any of the institutions.</del></p> <p>2. The Court of Auditors shall notify the institution concerned of all observations which are, in its opinion, such that they should appear in a special report. These observations must remain confidential.</p> <p>The institution concerned shall have two and a half months within which to inform the Court of Auditors of any <u>comments replies</u> it wishes to make on the observations in question.</p> <p>The Court of Auditors shall adopt the definitive version of the special report in question <u>within the month the following month the receipt of the replies of the institution concerned.</u></p> <p><del>Where the observations referred to in the first subparagraph concern the management of Community funds for which the Member States are responsible under the relevant rules, the Commission shall send the special report to the Member States identified.</del></p> <p><del>The Member States shall send their replies to the Commission within one and a half months of the presentation of the observations in question. The Commission shall, without delay, transmit these replies to the Court of Auditors together with its remarks.</del></p> <p><del>The Court of Auditors shall adopt the definitive version of the special report in question the following month.</del></p> <p>The special reports, together with the replies of the institutions concerned <del>or the Member States in question</del>, shall be transmitted without delay to the European Parliament and the Council, each of which shall decide, where appropriate in conjunction with the Commission, what action is to be taken in response.</p> <p>Should the Court of Auditors decide to have any such reports published in the <i>Official Journal of the European Communities</i>, they shall be accompanied by the replies of the institutions concerned <del>or of the Member States in question.</del></p> <p>3. The opinions referred to in paragraph 1 which do not relate to proposals or drafts covered by the legislative consultation procedure may be published by the Court of Auditors in the <i>Official Journal of the European Communities</i>. The Court of Auditors shall take its decision on publication after consulting the institution which requested the opinion or which is concerned by it. Opinions published shall be accompanied by any remarks by the institutions concerned.</p>	<p><i>See paragraph 7</i></p> <p><i>Consistency</i></p> <p><i>See paragraphs 15 to 16, 17 to 19 and 26</i></p> <p><i>See paragraphs 15 to 16, 17 to 19 and 26</i></p> <p><i>Unnecessary repetition</i></p> <p><i>See paragraphs 15 to 16, 17 to 19 and 26</i></p> <p><i>See paragraphs 15 to 16, 17 to 19 and 26</i></p>

**CORRIGENDA****Corrigendum to the annual report concerning the financial year 2000 — Report on the activities financed from the general budget, together with the institutions' replies**

*(Official Journal of the European Communities C 359 of 15 December 2001)*

(2002/C 92/02)

In the right-hand column of page 317, the text published as the Commission's reply to paragraph 7.16 is the reply to paragraph 7.17 (on the following page) and should be renumbered 7.17. The reply to paragraph 7.16 reads as follows:

7.16. COMMISSION'S REPLIES

The Commission has included this information in its definitive financial statements for the financial year 2000 to the end of September 2001.

The Commission is negotiating a new agreement with the Belgian State and the Berlaymont 2000 firm with a view to establishing the definitive renovation costs.'

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